

The Nanny State

Notes for Speech to the Public Affairs
Association of Canada

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Introduction

It is a true pleasure to be invited to speak to you today on the growth of what some of us now refer to as the “Nanny State.”

As a philosophy and growing reality, Nanny Statism knows no bounds.

Perhaps the most literal example of this came last month when the Royal Calderdale Hospital in Halifax, England, banned visitors from cooing at babies in its nursery wards.

According to the hospital, cooing is a bad thing because it infringes on the babies human rights. A secondary reason given was to prevent the spread of infections.

This is of course an extreme example. The move has been criticized by health experts, parents and media in Britain.

However, the fact a major hospital would actually think this ban makes sense is an example of just how far we have allowed authorities to go to make rules ‘for our own good.’

I haven’t heard of baby cooing being banned in hospitals here in Canada, yet. However, our hospitals, health authorities and lobby groups are certainly at the forefront of pushing the boundaries in other ways.

Changing the roles and rules

As Reason Magazine’s Jacob Sullum notes, they have managed to create a fertile environment for the growth of the Nanny State. They’ve done this by convincing governments to change the role of public health from protecting people from each other to protecting people from themselves, says Sullum.

Their greatest success to date has been to use smokers as a test. Smokers have been used to convince governments it is possible to fool the media and public into believing these very different goals are actually one in the same thing.

Smoking is just the easiest target. It is a visible activity. It has long been considered a dirty habit

And smoking rates have declined to the point that smokers are now a minority.

Denormalization

The big breakthrough was the official “denormalizing” of the tobacco industry.

Now, before I go any further, let me be clear about two things: *Mychoice.ca* is funded by the Canadian Tobacco Manufacturers' Council. *Mychoice.ca* is not a voice for the tobacco industry.

We are an independent, registered non-profit organization. We are membership driven. Unlike many other associations, our members are not companies or other associations, but individuals.

In our first year of existence we have gained more than 23,000 members, and it is their interests that we pursue, whether it be government funding for cessation products, or fair taxation issues, or balanced laws, or respectful treatment.

Our concern about denormalization is not that it officially targets tobacco companies, but that in reality it targets ordinary smokers and makes it easier to treat them unfairly.

This tactic was specifically devised to allow proponents of tough new laws to portray anyone who criticized their plans as a puppet of Big Tobacco. It has made it possible for antismoking proponents to make all sorts of claims and allegations...without having to worry about any serious contradictions.

The “nanny staters” have been so successful that until now they have been able to undermine charities, Legions, ordinary pub owners, and ordinary smokers.

Smokers' concerns

But portraying these concerned groups as puppets of the tobacco industry is pure nonsense.

Smokers don't care about the tobacco companies. They care about being gouged by taxes. They care about having their bars and clubs taken away from them. They care about being threatened with reprisals by the health care system.

And, they care about being subjected to offensive government propaganda. A prime example of that propaganda was an Ontario government-funded TV ad that ran earlier this year that described smokers as smelling, and I quote, “like dog crap.”

Charities' Concerns

Charity bingos would be delighted to have entirely non-smoking facilities if they could make any money from them.

The only reason they are trying to speak out is because smokers make up the core of their clientele. Smokers won't go where they are not welcome.

Where total bans have already been implemented, there have been serious problems.

For example, a study in Ottawa last year revealed that even four years after it implemented its ban, charity bingo revenues were down by more than 37%.

Legions' and bar owners' concerns

Legions do not care about the tobacco industry. They care about surviving as clubs and respecting the rights of the veterans. They too know that smokers won't go where they are not welcome.

Bar owners don't care about the tobacco industry either – they care about staying afloat. They also have found that smokers won't go where they are not welcome.

Ask yourselves, honestly, does it make sense to claim that these groups do not have valid concerns and issues of their own?

Underhanded tactics

Yet the denormalization campaign has been so effective that, for the most part, the nanny staters have been able to stifle their voices.

In Ontario, they actually went as far as to dismiss charities and legions and bars and ordinary smokers as alarmist and propagandist while sitting on information that showed these groups were in fact raising very valid concerns.

They discredited honest people even though they knew these people were telling the truth.

It was not until three months after the Ontario government passed its law last June that it responded to a Freedom of Information request by *mychoice.ca* and released several rather key documents.

These documents, from the Ministry of Economic Development and Trade, warned that the Ontario Lottery and Gaming Corporation had, as of spring 2004, already lost \$131 million in revenues as the result of municipal smoking bans.

The documents also showed that a province-wide ban could cost this government corporation another \$250 million to \$350 million a year.

The Saskatchewan experience

If you are tempted to dismiss even these government reports, consider the following:

Saskatchewan, hailed as the first to pass a tough province-wide ban is now learning the hard way that total, no-choice bans have ramifications.

Earlier this month, its Labour Minister, Deb Higgins, conceded that the ban might be to blame for ending 17 months of job increases and causing a net decrease in September.

Good guess, Deb. Other recent reports in the province show at least two dozen hotels have closed since the ban was implemented.

Provincial gaming revenues are down 32.8% and the Saskatchewan Gaming Corporation attributes this to the total smoking ban.

Charity bingo in Regina have lost 25% of their revenues since the ban came into force Jan. 1.

Preventing scrutiny

But let me return to the Ontario documents. Had they been publicly available prior to the Ontario bill's passage, it might not have been so easy for the nanny staters to claim that charities, Legions and bar owners were making up stories about how badly they would be hurt if they could no longer cater to their own smoking clientele.

The anti-smoking lobby would not have been able to so glibly brand these concerns as 'silly' – to use the favourite adjective of one nanny stater.

Just as importantly, had the Ontario documents been released earlier, it would have helped generate closer public scrutiny of other key claims used to justify total smoking bans.

The drain-on-health-care myth

The first of these claims is that smokers are a drain on healthcare and therefore a threat to the care of others. This trick was adopted despite a Health Canada study in 1997, which found that smokers actually contributed \$5.4 billion a year more into the health care system than they cost it.

It continues to be used today, even though the facts show smokers are still a net contributor. According to Health Canada, treating smoking related illnesses costs the national health care system \$3.5 billion to \$4 billion a year. Government accounts show the two levels of government that fund health care – federal and provincial – collect almost \$9 billion from smokers solely from tobacco taxes.

Smokers of course pay income taxes and health premiums, too.

Second hand smoke

The second claim is that secondhand smoke is such a major public health threat that it requires a zero-exposure policy.

Yet the World Health Organization and the British Medical Journal have both issued reports which demonstrate no statistically significant risk to non smokers who live with smokers.

That is not to say there are no risks with secondhand smoke under any circumstances.

But there is certainly reason to question if banning private clubs and separate designated smoking rooms is actually an appropriate response to the perceived risk.

Indeed, in a speech last year to the Ontario Tobacco Control Conference here in Toronto, the man credited with winning a total smoking ban in Ireland, gave us pause for thought on this point.

According to the transcript of the speech, which was given to an audience restricted to anti-smoking delegates, Dr. Fenton Howell, explained that he needed a statistic to help win the day so he commissioned a consultant to come up with a number of deaths among bar workers due to second hand smoke, and he then used the report without bothering to check to see if it was valid.

Perspective

Here at home, Health Canada's website now estimates that secondhand smoke contributes to 1,000 deaths a year, though this is based on theories, not actual cases.

The figure given for Ontario is 300. Remember, this is just a guestimate.

To put it into perspective, the Ontario Medical Association says smog will kill over 1,400 Torontonians prematurely this year, put over 3,900 people in hospital and prompt over 14,000 emergency room visits in this city alone.

Province-wide, the OMA says exposure to air pollution will result in almost 5,800 premature deaths.

Now stop and think about this for a moment.

It would seem from the numbers that breathing the air outside is far worse than being exposed to second-hand smoke inside a designated smoking room

Every living soul has to breathe our smog filled air. No choice in the matter.

But is this where government and public health attention is focused? No.

Instead, the nanny stater are focused on removing from smokers the right to make an informed choice about going to a smoking club or designated smoking room.

Informed choice

The nanny staters also want to deny workers the right to make an informed choice to work in such facilities.

Think about *that* for a moment. Why should waiters/waitresses not be allowed to make an informed choice about their jobs the way we allow others to do?

Construction workers put themselves at risk every day. Working in an underground mine carries risks. Working in a factory with chemicals carries risk.

With all these jobs, we try to establish safety levels, then allow our workforce to make informed choices and decisions regarding risk and income.

By the way, Ontario occupational health and safety laws permit the public and workers to be in environments that expose them to lead, asbestos, fuel fumes and dozens of other toxins provided those poisons do not exceed certain levels.

Second-hand smoke is not even covered by this act, yet an arbitrary decision has been made to declare this a zero exposure substance.

So, you can choose to work in an exhaust- filled underground parking garage.

But under total smoking ban laws, in the name of air quality safety, you can't have a cigarette in that very same underground parking garage.

Debate and scrutiny

Had the smoking issue been openly and sensibly debated, I believe most Canadians would now be alarmed at how much power governments are now giving themselves to intrude in our personal lives – and the lengths to which they are going to get their way.

But by silencing opposition, the nanny staters have managed to eliminate informed debate and genuine public scrutiny.

In my opinion, debate and scrutiny are the two checks and balances crucial to the prevention of bad laws being passed.

What we are trying to do is restore these checks and balances by raising the issues, as an association and as individual members. We are refusing to be silenced, and I think this is beginning to have an effect in terms of generating more even-handed, and even investigative media coverage of the issues.

Ending the monopoly

Of course, we have a long way to go. For years, tax-funded lobby groups and health coalitions that have sprung up to combat smoking have enjoyed a virtual monopoly in terms of advising governments and developing new laws and policies.

Governments have come to rely on these groups to do the leg work and to provide the justification for imposing new laws – and taxes.

Yes taxes. Let's not forget the \$9 billion in tobacco taxes I mentioned earlier.

Indeed, these groups recognized that they must work hard to keep governments happy by providing them with justifications for targeting smokers for cash grabs.

This very issue was discussed at last year's Ontario Tobacco Control Conference, and Vicki Francis, spokesperson for the Council for a Smoke-Free PEI explained the principle this way: "Every government in trouble has had one (a sales tax increase). We've paved the way by making it palatable to do that. And that's because we have health messaging, so the government feels freer to do that, and we keep at that."

Setting precedents

In addition to providing justification arguments, anti-smoking lobbyists have worked through hospital boards and health authorities to establish precedents that governments can then point to when imposing their own bans.

These started off gently – restricting smoking to separate designated rooms for patients, banning smoking nine metres outside of hospital entrances, that sort of thing. Who would argue with that?

They then worked on federal, provincial and municipal politicians. At first it involved limiting smoking to various areas. Then it steadily progressed to banning all indoor smoking and even in some jurisdictions, patio smoking.

To begin with, the more extreme bans were passed at municipal levels. When this proved too slow and spotty, attention was turned to getting province-wide bans.

Saskatchewan, Manitoba and New Brunswick passed total indoor smoking bans in 2004. Newfoundland implemented its ban this summer. Ontario and Quebec passed province-wide bans last June and intend to implement them next May 31.

More to come

But this is not the end of the story. The provincial laws only create minimum standards – local municipalities can still impose more intrusive and extreme laws. And so the next round of the nanny state campaign is already underway.

Hospital authorities in Cape Breton, Cambridge Ontario, and elsewhere have now banned smoking anywhere inside their hospitals or on their grounds, even in private cars parked on those grounds.

There are voices of reason surfacing in the debate. For example, B.C. Health Minister George Abbott had this to say about the notion of forcing patients onto the streets: "I think we need to be careful not to kill people in order to save them from themselves."

But such flashes of sanity are rare. More and more hospitals are imposing total indoor/outdoor/ private vehicle bans. Meanwhile, health authorities are working with friendly municipalities to get tougher laws.

Kingston, for example, bans smoking on all restaurant patios. Collingwood bans it in parks.

The idea is that eventually the government will adopt these bans province wide.

Even more extreme goals

Even that would not be the end of it.

Anti smoking advocates continue to use government funded strategy conferences to call for bans in hotel guest rooms, nine metres outside any doors, in private cars and even in private homes.

They look to precedents south of the border. California is now on its second attempt to ban smoking in cars. New Jersey is attempting to ban smoking while driving. In Boston, a housing court recently upheld the eviction of a couple who smoked in their condo, even though their lease did not require them not to smoke. A neighbour complained their apartment smelled.

Some US companies are now refusing to hire smokers, and one company – Weyco Insurance in Michigan – earlier this year fired four employees for refusing to quit smoking. They did not smoke at work, but did so at home, and were fired for it.

The health care issue

All of these measures are defended as being aimed at protecting the public good, but in reality they are setting precedents that establish the principle of giving governments or others the right to use legislative force to save people from themselves.

Now, stop and think where this all might ultimately lead.

If we establish the right of the nanny state to save people from themselves, then we also might be establishing the accompanying principle that those who refuse to be saved deserve fewer rights.

We have all heard stories from the US about private health management organizations finding ways to deny services to improve profits.

Here in Canada we have the ongoing debate over how to sustain our public health care service. We have had doctors refusing to accept patients who smoke.

Earlier this year the Canadian arm of Sanofi-aventis, the world's third largest pharmaceutical company, published a poll that purported to show a majority of Canadians support making smokers pay higher health care fees.

In Quebec City in August, a patient had to actually discharge himself from a hospital in order to have a smoke.

We don't even treat those using illegal drugs in such an uncompromising manner.

Universal access

The idea of universal access to public health care is just that – universal access. And, universal access is something in which Canadians take great pride. We covet the system. We proudly feel superior to our neighbours to the south who do not have such a system

Very simply, as long as universal access exists, it is critical that we come to terms with the fact that not all Canadians will engage in healthy endeavours and pursuits

And yet, there are some elements that seem to think that our health care system should only be there for the healthy.

They believe it is justifiable to deny or limit health care to those who don't do what Nanny tells them.

If you don't believe me, I'd invite you to look through my emails from non-mychoice members who are constantly telling me that smokers should go to the end of the line.

Hopefully it will not happen.

But perhaps you can now understand why I am so concerned that the nanny staters have succeeded so well in falsely portraying smokers as health care leeches

Not just smokers

I have focused until now on smokers for two obvious reasons – my association represents smokers, and smokers are the Nanny Staters current prime target.

From experience, I know that there are some of you in this room who despite everything you have heard, will still be thinking “okay, but smoking is so bad, anything we can do to stop it is justified.”

Let me ask you, is this where you would draw the line? What about obesity?

Obesity stats

The US. Surgeon General has warned it is poised to overtake smoking as the number one killer and is the biggest health threat facing that country.

This July, Statistics Canada reported that:

- Obesity among our children has tripled in the last 25 years and that 500 thousand are now morbidly overweight. More than one million more are overweight.

- 5.5 million adults are now obese, and almost 8 million more are overweight.

Health Canada reports that at least 2 million Canadians already have diabetes and that adult-onset type-2 diabetes, which used to generally hit after 40 is now striking aboriginal children.

Ontario Health Promotion Minister Jim Watson’s first pronouncement on taking this new job this summer was, quote: “Fat is the New Tobacco.”

And earlier this month, the Ontario Medical Association – one of the most zealous anti-smoking groups in Canada – identified obesity as the new big threat. The opening sentence of the release read: “Ontario doctors are concerned that with rising child obesity rates we may be raising the first generation of children who will not live as long as their parents.”

That is a warning never made in regard to smoking.

Is it any wonder there are fears that because of the early onset of health problems from obesity, huge numbers of people will require a lifetime of treatment, causing health costs to go through the roof.

No difference

Our eating habits will never be treated in the same way as smoking, you say? Not everyone gets fat from fast food? Well actually not everyone dies from smoking either.

The point is that the nanny staters have moved the yard sticks. The issues now are whether a lot of people get sick, and how much they cost the health care system, and what can the nanny staters do to save these poor fools from themselves.

The health lobbyists are already switching their attention to food companies. They have websites that seek to denormalize fast food and snack food. We are seeing a proliferation of new studies that state obesity is becoming the new big threat to society.

We are even getting the cutesy reports, like the study that tells us neighbourhoods with more fast food restaurants have more obese children and adults.

The big question

So let me ask you, if obesity is going to be a bigger problem than smoking, kill more children and young and middle aged adults, and possibly break our health care system - why wouldn't the nanny staters apply the smoker precedents to unhealthy eaters ?

Why wouldn't fledging bans on advertising appear in various countries and then become standard bans?

Why wouldn't we first try to limit where restaurants can set up business? And how stores can display snack food? And limit to whom they are sold to and how they are packaged? Why wouldn't we wrap hamburgers in packages with graphic health warnings?

And when all this fails to wipe out obesity, why wouldn't we then place the overweight next to the smokers on the list of those who receive limited or fee-for-service care?

After all, they refused to live by nanny's rules?

Alcohol

But, let's not stop there. Once we have dealt with smokers and obesity, how about drinkers?

After all, alcohol is a common factor in violent crime, murder, spousal and child, abuse, traffic accidents and more.

Let me give you just one example from one study – though there are many more – men who drink to excess are six times more likely to abuse their children and three to six times more likely to abuse their spouses.

I am not passing comment on this claim, but merely pointing out that there are many studies that could be used in future to justify new restrictions on alcohol based on protecting the innocent, cutting costs and saving people from themselves.

No outright bans

Of course, in no instance would government actually ban tobacco, or fast foods, or booze.

Prohibition doesn't work. It's also a word that raises civil liberty groups' hackles.

And besides, what government would give up all those lovely tax revenues and hand over the business to the black market?

Obviously, it is much more fun to pass laws that allow you to really get into people's private lives to save them from themselves, and use those who refuse to listen to you as tax cash cows.

What governments should do

Governments *do* have a major role to play in public health. They have a duty to make sure we have clean air and water, and that we are protected as best as can be from viruses and bacteria and epidemics.

They should protect people from each other after engaging in honest debate to determine truly appropriate responses to demonstrable risks and avoid unintended negative consequences.

They also have an important job to do in educating people about the dangers of various choices they face and in promoting healthy lifestyles.

Conclusion

But our governments should seek to carry out these tasks with the minimum required intervention in our private lives. We need to do more to remind them of this.

Unless, that is, you relish the idea of living in a nanny state that would mean cradle-to-grave duties ranging from saving us as babies from those awful coochoo-coochoos ... to ensuring that we make all the choices we are told are best for us before we finally leave this mortal coil.

Thank you