

History of tobacco laws



Coffins of Black

In 1775, Percivall Pott, a surgeon at St. Bartholomew's Hospital in England, noticed a marked rise in cases of scrotal cancer in his clinic. His patients were mostly chimney sweeps, who spent a lot of time in contact with grime and ash. He noted that the minute invisible particle of soot could be found under their skin for days, and that scrotal cancer burst out of a superficial skin wound called a soot wart. Based on these observations, Pitt suspected that it was the chimney soot that caused the scrotal cancers. That would mean that the cancer was potentially preventable.

But removing the carcinogen was perhaps difficult to achieve. But with the embarrassing plight of chimney sweeps exposed, social reformers sought to create laws to regulate the occupation. The Chimney Sweepers Act was passed in 1788 to prevent master sweeps from using children under eight. In 1834, the age was increased to fourteen. By 1875, the use of young climbing boys was forbidden.

In 1761, an amateur scientist in London, John Hill, claimed that he had found one carcinogen – tobacco – could cause lip, mouth, and throat cancer.

In England, tobacco was rapidly escalating into a national addiction. Cigarette smoking soon spread through Europe and across the Atlantic to the United States. As cigarette consumption became a national addiction, it would be difficult to discern an association with cancer.

The Emperor's Nylon Stockings

In the United Kingdom, government statisticians alerted the Ministry of Health in January 1947 that an unexpected epidemic of lung cancer was emerging in the country: Lung cancer morbidity had increased fifteen-fold in the prior two decades. In February, the ministry asked the Medical Research Council to organize a conference of experts to study this inexplicable rise of lung cancer rates and to find the cause.

The experts at the conference pointed to every breathable form of toxin except cigarette smoke. Without any consensus, the council appointed Austin Bradford Hill, an eminent biostatistician, to devise a systematic study to identify the risk factor for lung cancer. Hill recruited Richard Doll, a 36-year-old medical researcher who had no experience in performing a study of this scale.

In the United States, a medical student name Ernst Wynder encountered a case of 42-year-old man who died of cancer of the airways of the lung. The man was a smoker with tar-stained bronchi and soot-blackened lungs. Wynder had never seen such a case before, so he applied to the medical school for money to study the connection between smoking and lung cancer. But he was bluntly told that the effort would be futile. He wrote to the U. S. Surgeon General, but was told that he could prove nothing. So Wynder approached his mentor Evarts Graham, the great heart surgeon in St Louis. Graham was a heavy smoker and didn't believe the connection between cancer and smoking. But he agreed to help Wynder with the study in part to disprove the link and lay the issue at rest.

The Case-Control Studies

In St Louis, Wynder and Graham followed a simple method. They recruited a group of lung cancer patients and a control group without cancer and asked them about their smoking habits. They used smokers to nonsmokers ratio within each group to determine the smoking-cancer connection.

In the UK, Doll and Hill followed a similar method in their study. They asked social workers in the hospital to interview the two groups of patients in and around London. To counteract biases, they included other questions such as how often they eat fried fish into the survey. By May 1, 1948, the result of their study was: The one and only statistical association with lung cancer was cigarette smoking. They published their study in September 1956.

Meanwhile, Wynder and Graham in St Louis had also arrived at the same conclusion. They published their studies a few months earlier.

The Prospective Cohort Study

It might appear that Doll, Hill, Wynder and Graham proved the link between lung cancer and smoking. But they had proved something else. In a case-control study, the risk is estimated post hoc – by asking lung cancer patients whether they had smoked. The interviewer could have unconsciously probed lung cancer patients about their smoking habits more aggressively than control group.

In the early 1940s, an Oxford geneticist named Edmund Ford faced a similar notion. The solution was to follow a cohort to capture the change over time. Doll and Hill followed Ford's work with deep interest. There was a centralized <https://assignbuster.com/history-of-tobacco-laws/>

registry of all doctors in Britain that could be used for a cohort study. Every time a doctor in the registry died, the registrar was noticed with a detail description of the cause of death. On October 31, 1951, Doll and Hill sent out survey letters to about 60, 000 doctors. About 41, 000 of them responded. Doll and Hill used the data to create a master list, dividing it into smokers and nonsmokers. Each time a death was reported, they found out the cause of death from the registrar's office.

Between October 1951 and March 1954, 789 deaths were reported, and 36 were attributed to lung cancer. All these 36 deaths had occurred in the smokers category, showing a strong correlation between lung cancer and cigarette smoking.

A thief in the Night

In 1956, the percentage of smokers in the US adult population had reached an all-time peak of 45 percent. Cigarette sales had climbed to stratospheric heights and the tobacco industry had transformed their advertising by targeting their advertising to selected segments of the population. By the early 1960s, an average American consumed eleven cigarettes per day, nearly one for each waking hour.

In the mid-1950s, public health organizations in America were undisturbed by the link between tobacco and cancer. But the tobacco industry was worried that the link would scare consumers away. In 1953, three years before Doll's prospective study was public, the heads of several tobacco companies met in New York to prepare a counterattack. They saturated the news media in 1954 with an advertisement titled "A Frank Statement,"

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obfuscating facts and creating doubts about the connection between lung cancer and tobacco. They had already formed a committee called “ Tobacco Industry Research Committee” (TIRC) to act as an intermediary between the hostile academy, the embattled tobacco industry, and the confused consumer. The director of the committee was Clarence Cook Little, who the Laskerites had deposed as president of ASCC.

Little was a strong proponent that lung cancer was hereditary. Studies had shown a strong correlation between smoking and lung cancer. But correlation, Little argued, could not be equated with cause. To counter that argument, Bradford Hill prepared a list of nine criteria that could prove a causal relationship. No single item in that list proved causality, but scientists could pick criteria from the list to strengthen or weaken the causal relationship.

In the February 1957, Ewart Graham died from bilateral bronchogenic carcinoma. Two weeks before he died, Graham wrote to his friend Alton Ochsner: “...bilateral bronchogenic carcinoma sneaked up on me like a thief in the night...You know I quit smoking more than five years ago, but the trouble is that I smoked for 50 years.” In 1954, in a book entitled Smoking and Cancer, Graham had wondered whether it was time for the US Public Health Service to at least issue a statement of warning.

A Statement of Warning

In the summer of 1963, a team of three men visited the laboratory of Oscar Auerbach in East Orange, New Jersey. Oscar Auerbach was a lung pathologist who believed that cancer grew from a precursor lesion - precancer - to its

full-blown form slowly, and methodically, over a long period of time. Long before lung cancer became symptomatic, he found, the lung tissues contained layers of precancerous lesions in various stages of development. He had recently completed a monumental study comparing lung specimens of nonsmokers and smokers, which was considered a landmark in the understanding of the genesis of lung cancer.

The three visitors were William Cochran, Peter Hamill, and Emmanuel Farber. They were three of the ten-member advisory committee appointed by the US surgeon general. The mandate (of the committee) was to review the evidence connecting tobacco to cancer so that the surgeon general could issue an official report.

US Surgeon General's Report

In 1961, the American Cancer Society, the National Tuberculosis Association and the American Heart Association had sent a joint letter to President Kennedy urging him to appoint a national commission to investigate the link between tobacco and cancer. Kennedy assigned it to his surgeon general, Luther Terry. Terry appointed ten members to his advisory committee. Each member brought insight to a unique piece of the puzzle. Piece by piece, a consistent picture emerged. The committee found the relationship between smoking and lung cancer was one of the strongest in history.

Luther Terry released his 387-page report on January 11, 1964. The report was released on a Saturday in part to minimize its effect on the stock market. It was front page news and a leading story on every television and radio stations in the United States and abroad.

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The FTC Action

The Federal Trade Commission (FTC) was a federal agency whose mandate was to regulate advertisements and claims made by various products. Given the link between cigarettes and cancer, as acknowledged by the surgeon general's report, the FTC recommended that cigarette makers would need to acknowledge this directly in advertising their products. The FTC recommended to imprint the message into the product itself. Cigarette packages and all advertisements were to be labeled with " Caution: Cigarette Smoking Is Dangerous to Health. It May Cause Death from Cancer and Other Disease."

The proposed action from the FTC spread panic through the tobacco industry. Rather than being regulated by the FTC, the tobacco industry voluntarily requested regulation by Congress.

In Congress, the FTC's recommendation was diluted as it changed hands from hearing to hearing, leading to an amended bill called " the Federal Cigarette Labeling and Advertising Act (FCLAA) of 1965. It changed the FTC's warning label to " Caution: Cigarette smoking may be hazardous to your health." The words cancer, cause, and deaths were removed from the original label.

Battle on Cigarette Advertising

In late 1966, a young attorney named John Banzhaf asked a local television station to provide airtime for anti-smoking announcements. The station refused. In the summer of 1967, Banzhaf filed a complaint with the FCC. The

FCC's fairness doctrine required public media to provide free air time to opposing viewpoints on controversial issues. The FCC announced responded that its fairness doctrine applied to the request for anti-smoking announcements. With the FTC consent, Banzhaf sued the TV station. The suit went to trial in 1968. The court ruled that "proportional airtime" had to be given to pro-tobacco and anti-tobacco advertising. In February 1969, the FCC announced that they would rigorously police the "proportional air time" clause. A barrage of anti-smoking advertisements appeared on television.

In late 1970, faced with the daily brunt of negative publicity, tobacco manufacturers voluntarily withdrew cigarette advertising from broadcast media.

Lawsuits Against Tobacco Manufacturers

Rose Cipollone started smoking when she was a teenager in 1942. She tried to quit, but relapsed later with greater dependency. In her quest for the "safe cigarette", she had switched brands and tried new filters periodically. In 1981, Cipollone was diagnosed with lung cancer. By August 1983, the cancer metastasized all over her body. She started chemotherapy, but had a poor response. She died on October 21, 1984 at age 58.

Marc Edell, a New Jersey attorney, heard of Cipollone's diagnosis in the summer of 1983. He sued for the Cipollones against three tobacco manufacturers whose products Rose had used - Liggette, Lorillard, and Philip Morris. In previous lawsuits against the tobacco companies, the tobacco industry had all declared victory. Edell acknowledged that Rose Cipollone had read the warning labels and knew of the risks of smoking. But what

matter was what the cigarette manufacturers knew, and how much of the cancer risk they had revealed to consumers. Edell asked the courts for unprecedented access to the internal files of the three tobacco companies. These documents showed that the tobacco companies knew smoking was linked to cancer, and the struggles within the industry to conceal the risks.

In 1987, after four long years, the court decided that Rose Cipollone was 80 percent at fault. Only Liggett was liable for the remaining 20 percent, as Rose Cipollone smoked their cigarettes before the 1966 warning labels. Lorillard and Philip Morris got off without punishment. The jury awarded \$400, 000 in damages to Antonio Cipollone.

Lawsuits by the States

In 1994, Mississippi was the first state to sue the tobacco industry to recover its public healthcare outlays linked to smoking. Several other states soon followed. Faced with the prospect of defending multiple actions nationwide, the four largest cigarette makers proposed a global agreement in June 1997. In 1998, 46 states signed the Master Settlement Agreement with the four companies. Since 1998, an additional 47 cigarette makers have joined the agreement, making it one of the largest liability settlements in the United States.