

TO: Distribution
FROM: Roy E. Marden
SUBJECT: Brookings Conference - ETS

~~Jantz~~

DATE: May 20, 1987

AH
FN
No return

Hand -
Book looks a PR
Project that
is not necessary

The Brookings Institution/Harvard Institute for the Study of Smoking Behavior and Policy forum on the policy implications of the 1986 Surgeon General's Report on Involuntary Smoking was held Monday, May 18 at Brookings. The forum was attended by about 50 mostly anti-tobacco zealots, with two representatives from the TI.

The tone of the conference was set early by Tom Schelling, Director of the Harvard Institute, who labeled the treatment of smokers as pariahs "one of the most stunning changes in social phenomena in recent years". He hinted at support for a higher excise tax because the federal tax represents only about 16 percent of the price of a pack, and seemed to encourage audience participation that tended toward an indictment of smoking in general, rather than response to the Surgeon General's report, the expressed purpose of the forum. The comments of the audience followed this lead and on a couple of occasions attacked PM for its sponsorship of minority and cultural activities. Shelling did, however, sympathize with the Surgeon General's decision to speak at an AIDS hearing, rather than at this forum.

Bruce MacLaury, Brookings President, welcomed the audience by noting that the subject of the conference is a particularly difficult public policy issue in that it involves a conflict between personal freedoms and health considerations.

Per the attached agenda, following are highlights of some of the key aspects of the forum.

The Role and Response of Organized Labor

John Dunlop, former Secretary of Labor, presented a very fair treatment of the issue. Despite the marked shift against smoking in the workplace, it is not practical to legislate or regulate against such. While there is merit to limiting worker exposure to toxic substances, the diversity of workplaces, difficulty of implementation, utility of discipline, and cost lead to Dunlop's lack of enthusiasm for government intrusion in the workplace on the smoking issue. He was particularly galled by the proposed U.S. Gypsum policy.

2015018423

Ken Blaylock, President of the American Federation of Government Employees (AFGE), also gave an even-handed exposition of the issue. As president of the union that negotiated the GSA regs., Blaylock believes that smoking is only one of many hazards at the worksite that government should be investigating. While he continues to support H.R. 108, the Nonsmoking Workers Protection Act, he believes that a major part of the problem could be solved by education and adequate ventilation. In promulgating the regs. (for which AFGE has received very few complaints), the guiding philosophy was to try to resolve the problem at the lowest possible level.

Michael Forscey, General Counsel for the Tobacco Industry Labor - Management Committee, focussed on the passive smoking issue from the standpoint of collective bargaining agreements. If the goal is to protect non-smokers from smoke, that can be taken care of in collective bargaining; if the goal is to eliminate smoking, it is an entirely different matter. Forscey also discussed other aspects of the issue, including the need for ventilation improvement, the efficacy of having policy made at the local level, and the fact that most workers feel that smoking is far from the most serious problem. Forscey wondered why regulators and legislators have not taken steps against other harmful substances, and thinks that studies purporting to show that restricting smoking reduces employer costs are ineffective unless behavior out of work can be controlled. As with the U.S. Gypsum case, this is a dangerous precedent. Finally, Forscey emphasized that the Surgeon General's report did not break any new ground on ETS, at least from a regulatory standpoint.

Several remarks from the audience were particularly noteworthy. In response to a question as to whether the labor movement is singling out tobacco for concern, Blaylock indicated that tobacco is a social as much as a medical issue, since it really is no more serious than any other workplace hazard. Forscey noted that instances in which a non-smoking minority can dictate to a smoking majority are a direct violation of collective bargaining agreements.

Alan Engelberg of the AMA said that since smoking is known to be so harmful, why not just eliminate it and then focus on other hazardous substances. While Lee Fritschler of Brookings agreed, Dunlop argued that the issue is not whether smoking is harmful or not, but rather how to deal with it. He said it was nonsense to believe that you could solve another social problem with another piece of regulation. Blaylock reiterated his support for better ventilation systems.

2015018424

In response to a comment by Joe Cullen of the National Cancer Institute that society ought to focus on the risks of tobacco smoke since there is such a high degree of involuntary smoking, Dunlop argued that OSHA has limited resources to deal with this, and Forscey claimed it presumptuous to assume that many smokers want restrictions placed on smoking in order to convince them to quit.

The final series of commenters took their cue from the Salem witchhunts. Charles Duvall of the American Society of Internal Medicine claimed that the panel had been diversionary and that AIDS is not as important a "death threat" as cigarettes. Robert McCunney of Cabot Corporation said that with more than 60 carcinogens in tobacco smoke, it's a "smokescreen" to hide behind other workplace hazards; he put tobacco smoke in the same class as asbestos. Aaron Lightner of Citizens Against Tobacco Smoke waged his private battle with the tobacco industry, and asked what right it has to inflict harm on nonsmokers. Finally, Blaylock reiterated his call for a study of all health hazards, including tobacco smoke, asbestos and formaldehyde, setting some standards, and not making smokers pariahs.

The Role and Response of Management

Gerald Blakeley, Chairman of Inncorp Management Corporation, spoke to audience preferences when discussing anti-smoking rules put into place by corporate America, calling it "an idea whose time has come". Calling the tobacco issue much more important than the asbestos situation, he was optimistic about further legislation/regulation. He labelled as "ridiculous" claims by PM that smoking restrictions are discriminatory because a larger percentage of minority groups choose to smoke as compared to the white population. (Nesson agreed).

Charles Nesson, Professor of Law at Harvard, indicated that while warning labels might protect manufacturers from liability claims, "second-hand smokers" would be able to successfully sue the manufacturers due to the involuntary nature of their smoking. He expects to see relatively quick activity by the airlines, and some judicial action this year.

Terry Bean, Vice President-Human Resources, Federal Express, discussed the January 1988 smoking ban to be imposed at his company. Claiming that the right of employees to a non-smoking environment supercedes the right of employees to smoke, Bean indicated that this policy is simply bringing their managers "out of the closet", since many of them have discriminated against smokers for years. In response to an audience question, Bean indicated that "the jury is still out" as to whether the restrictions imposed thus far have led to productivity improvements, but they have improved employee relations.

2015018425

In response to another question, Nesson indicated that policymakers are caught in a moral dilemma - trying to discourage minorities from smoking by raising taxes, which hurt those groups disproportionately. Nesson also expects some favorable judgments for plaintiffs, but believes the impact will be one of perception rather than economic harm to the tobacco companies.

Aaron Lightner of Citizens Against Tobacco Smoke claimed that airlines would be wise to ban smoking due to the added costs tobacco smoke imposes. Bean responded that the first major airline to ban smoking will, in this opinion, increase its market share permanently.

Finally, the question was posed as to what is the single biggest impediment to imposing anti-smoking regulations. Bean alluded to the possibility of employees thinking that the policy is unfair, as well as questions relating to enforcement; Blakeley said the ACLU; Nesson referred to class bias in the open/closed office scenario.

The Role and Response of Government

Charlie Rose delivered the essentials of remarks drafted for him by the TI. He argued that there is insufficient cause for government action regarding ETS because the scientific evidence of adverse health effects is inconclusive, tobacco smoke has become the scapegoat for indoor air quality problems, and due to implications of unwarranted government intrusion. Emphasizing that the public and workplace smoking movement is politically rather than scientifically driven, Rose argued that the Surgeon General aims to modify smokers' behavior but doesn't seem to be as active regarding AIDS. In response to a query from the audience that tobacco farmers ought to be convinced to grow other crops, Rose indicated that this would merely exacerbate the problem of cigarette companies "actively building tobacco plantations in Brazil." And with regard to the commissary issue, Rose claimed "I don't think soldiers should get cheaper cigarettes."

The Role and Response of the Health Care System

Needless to say, this portion of the program was a series of speeches calling for restrictions, higher taxes, strengthened warnings, etc. About the only moderating influence was the moderator himself, Henry Aaron of Brookings, who emphasized that concern for the bottom line should be no less relevant than concern for health.

2015018426

✓
2
Finally, I had a lengthy discussion with Brookings Chairman Louis Cabot concerning our overall relationship with Brookings. I thanked him for his efforts in trying to provide a semblance of fairness to the program, but told him that it remained a disaster from our point of view. He was apologetic and appeared eager to try to work with us in any way possible to restore a good working relationship. I mentioned our previous troubles with Brookings regarding support for higher excises, and discussed the need to have some countervailing or moderating influences at Brookings if a good relationship is to prevail. I believe he will try his best to satisfy our concerns, but it remains doubtful that the ideological predilection of Brookings will lend itself in these areas to a meeting of the minds with PM.

Attached are materials distributed at the forum. If you have any questions please let me know.

REM/tam
Attachments

DISTRIBUTION:

Messrs. Jim Botticelli
Hugh Cullman ✓
Gene Knorr
Jack Nelson
Frank Resnik
Bill Ruder
Greg Scott
Stan Scott
Guy Smith
David Zelkowitz

2015018427