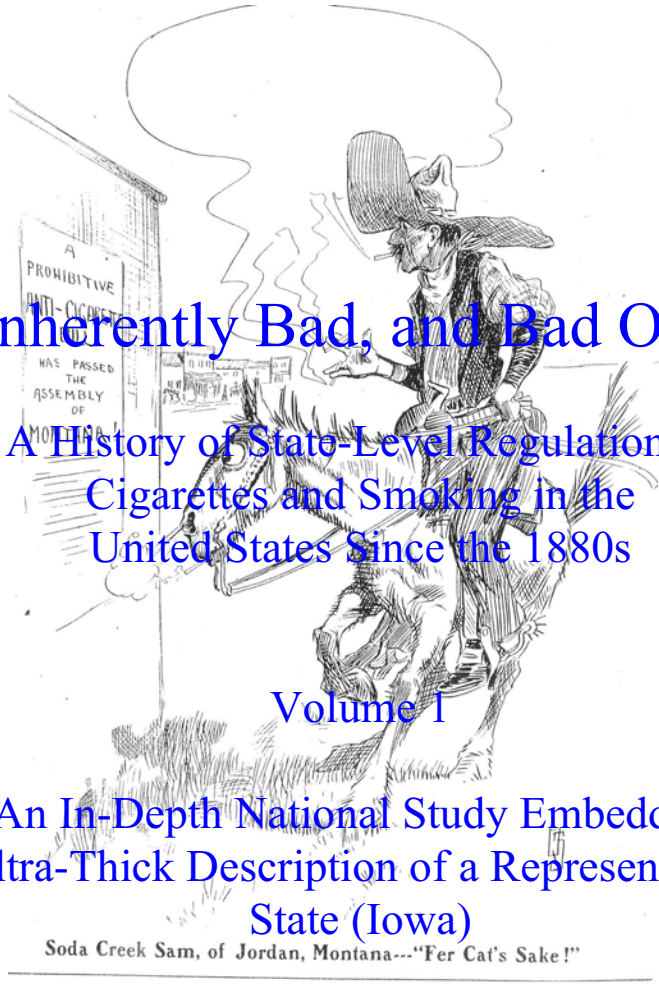

Soda Creek Sam, of Jordan, Montana---"Fer Cat's Sake!"

"Inherently Bad, and Bad Only"

A History of State-Level Regulation of Cigarettes and Smoking in the United States Since the 1880s

Volume 1

An In-Depth National Study Embedding Ultra-Thick Description of a Representative State (Iowa)

Marc Linder

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Marc Linder

Iowa City 2012

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The process of legislation is influenced by so many different factors that the history of a single bill, if given in detail, might fill many volumes.[1]

But if a writer should be quite consistent,
How could he possibly show things existent?[2]

Your correspondent has called upon him [Karl Marx] twice or thrice, and each time the Doctor was found in his library, with a book in one hand and a cigarette in the other.[3]

There is no doubt in my mind that in some future time a healthier group of humans will look back with horror and amazement on these three or four centuries when people voluntarily committed a slow form of suicide through smoking, and foisted a noxious environment upon the[ir] non-smoking companions. These future citizens will regard ours as a primitive, unhealthy, unintelligent era, inexplicable except for the greed of those who manufacture cigarettes and [of] the governments which derive revenue from taxation thereof.

I couldn't say that when I was Surgeon General. But I wanted to.[4]

---

[1]H. H. Dodd, "Working of the Legislative Mill," *HCT*, May 4, 1921 (1:5) (reprinted from an unidentified issue of the *Elma New Era* that is no longer extant). Horace Dodd was the chief sponsor of the bill that repealed Iowa's quarter-century statewide ban on the sale of cigarettes, about which, unfortunately, he wrote neither volumes nor even a brief newspaper article. See below ch. 15.

[2]Lord Byron, *Don Juan*, Canto the Fifteenth, lxxxvii (1824).

[3]"Karl Marx: Interviews with the Corner-Stone of Modern Socialism," *CT*, Jan. 7, 1878 (7:1).

[4]State of Minnesota, House of Representatives, Health Subcommittee of the Health and Welfare Committee: February 22, 1974, House File 2801 at 1, Bates No. BYB000482 (unofficial transcript) (testimony of Dr. Jesse Steinfeld). The virtually identical text (except for the final sentence) appeared in Jesse Steinfeld to Phyllis Kahn (Feb. 12, 1974), in Legislature, House, Kahn (Rep. Phyllis) Files, MSA, MHS, 118.F.8.3(B); Robert Milis, "Dr. Steinfeld Boosts Smoker Restriction Measure," *Post Bulletin* (Rochester, MN), Feb. 25, 1974, Bates No. TIMN0461983 (quoting Steinfeld testifying on Feb. 22, 1974, before the Health Subcommittee of the Minnesota House Health and Welfare Committee on the Minnesota Clean Indoor Air Act).

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37 "Leap Year—1916," *USTJ*, vol. 76, Aug. 19, 1911 (5:2-3)

208 "It Must Go," *AC*, Oct. 29, 1893 (21:1-2) ("Mr. Sears Knocks Out the Deadly Cigarette")

327 "The Deadly Cigarette and the Big Hat Must Go—So Say Our Solons," *LAT*, Feb. 26, 1895 (1:5-6)

374 "Monday in the House," *IN*, Mar. 4, 1895 (2:2) ("Representative M'Caskey Moves to Suspend the Reading of the Journal")

522 "Chicago's Modern "John" Quixote Charges on the Cigaret," *CT*, Mar. 3, 1897 (1)

649 "Congressman Woodman's Scheme to Extinguish the Cigaret," *CT*, Feb. 15, 1897 (1)

844 "Cigarettes by Mail," *TDL*, June 3, 1893 (1:3-4)

888 "Free Buttons!" *Daily Telegraph* (Atlantic, IA), Oct. 12, 1896 (1:5-6)

1042 "Story Without Words," *CFR*, Jan. 8, 1914 (1:3-5)

1137 Horace H. Dodd. *State of Iowa: 1921-22: Official Register* (n.p., n.d.)

1313 "Armistice Day," *CCP*, Nov. 11, 1920 (1:3-5)

1388 "The Cigarette—And *We* Stand Idly By," *DN*, Feb. 5, 1921 (sect. 4, VIII:3-7)

1421 "Gone Are the Days of Yore," *MO*, Feb. 10, 1917 (1:3-5)

1421 "This May Happen Some Day," *National Democrat* (DM), May. 3, 1917 (1:3-5)

1421 "You Fellers Needn't Feel So All-Fired Cocky; They'll Be After You Next," *National Democrat*, Aug. 30, 1917 (1:3-5)

1513 "Steps That Take Young Fellows Down to Failure," *DN*, Jan. 25, 1921 (sect.2, 1:3-5)

1678 "You'd Better Run for Your Life, Mister," *USTJ*, June 5, 1915 (3)

1679 "The Hero of the Street Car Smoke Nuisance," *R&L*, May 24, 1909 (1:4)

2337 "The Butt and Burger." 2005. http://picasaweb.google.com/smokefreeillinois/ChrisBrittCartoons# (with permission of Chris Britt)

3159 "Cough!! Hack! Jackpot!!" May 31, 2007. http://picasaweb.google.com/smokefreeillinois/ChrisBrittCartoons (with permission of Chris Britt)

3161 "Riverboat Casinos." Oct. 2, 2008. http://picasaweb.google.com/smokefreeillinois/ChrisBrittCartoons# (with permission of Chris Britt)

3310 "Touching, Ain't It?" Nov. 21, 2006. http://picasaweb.google.com/smokefreeillinois/ChrisBrittCartoons (with permission of Chris Britt)