The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR THE COMMITTEE ON COMMERCE TO FILE ITS REPORT ON S. 1689 DURING ADJOURNMENT OF THE SENATE

Mr. BYRD of West Virginia. Mr. President, I ask unanimous consent that the Committee on Commerce be authorized to file its report on S. 1689 during the adjournment of the Senate from the completion of business today until the Senate convenes tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT

Mr. BYRD of West Virginia. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 12 o'clock noon tomorrow.

The motion was agreed to; and (at 5 o'clock and 8 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, June 18, 1969, at 12 o'clock noon.

NOMINATIONS

Executive nominations received by the Senate June 17, 1969:

U.S. ATTORNEY

Henry A. Schwarz, of Illinois, to be U.S. Attorney for the eastern district of Illinois for the term of 4 years vice Carl W. Feickert.

U.S. MARSHAL

Albert A. Gammal, Jr., of Massachusetts, for appointment as U.S. marshal for the district of Massachusetts for the term 4 years vice Robert F. Morey.

Charles R. Wilcox, of Wyoming, to be U.S. Marshal for the district of Wyoming for the term of 4 years vice John Terrill, retired.

The following officers to be placed on the retired list in the grade indicated under the provisions of section 8962, title 10 of the United States Code:

IN THE AIR FORCE

To be generals

Gen. Howell M. Estes, Jr., [redacted] (major general, Regular Air Force) U.S. Air Force.

Gen. Raymond J. Reeves, [redacted] (major general, Regular Air Force) U.S. Air Force.

To be lieutenant generals

Lt. Gen. Keith K. Compton, [redacted] (major general, Regular Air Force) U.S. Air Force.

Lt. Gen. Stanley J. Donovan, [redacted] (major general, Regular Air Force) U.S. Air Force.

Lt. Gen. Robert A. Breitweiser, [redacted] (major general, Regular Air Force) U.S. Air Force.

Lt. Gen. Charles H. Terhune, Jr., [redacted] (major general, Regular Air Force) U.S. Air Force.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 17, 1969:

FEDERAL POWER COMMISSION

John N. Nassikas, of New Hampshire, to be a member of the Federal Power Commission for the remainder of the term expiring June 22, 1970.

U.S. TARIFF COMMISSION

Will E. Leonard, Jr., of Louisiana, to be a member of the U.S. Tariff Commission for the term expiring June 16, 1975.

HOUSE OF REPRESENTATIVES—*Tuesday, June 17, 1969*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Happy is the man that findeth wisdom, and the man that getteth understanding.—Proverbs 3: 13.

Almighty and most merciful Father, from whom cometh wisdom and understanding, make us aware of Thy presence as we seek to provide for the welfare of our people. May we be guided in all our consultations to find the more excellent way and be given strength to walk in it that the safety and honor of our Nation may be preserved, freedom be fortified, and Thy purposes be promoted on this planet.

Grant, O Lord, that we may do only that which is right and wise and good for all. Give to us a calmness of mind and a steadiness of spirit that we may fulfill Thy will in this all too short life and find happiness in walking in Thy ways and working for Thy way.

In the Master's name, we pray. Amen.

THE JOURNAL

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Arrington, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2667. An act to revise the pay structure of the police force of the National Zoological Park, and for other purposes.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 12. Concurrent resolution to express the sense of Congress on participation in the Ninth International Congress on High Speed Photography, to be held in Denver, Colo., in August 1970.

CALL FOR A STANDSTILL CEASE-FIRE

(Mr. KOCH asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to call to the attention of my colleagues a significant statement by our former representative at the Paris peace talks Cyrus R. Vance, who has broken his self-imposed silence on the peace talks and has called for a "standstill cease-fire" by all sides in Vietnam.

It was on May 15, 1969, that seven colleagues and myself introduced into this House a resolution calling on the President to propose an immediate cease-fire and to direct the immediate and unconditional withdrawal of 100,000 U.S. troops from Vietnam. When my colleagues and I introduced that resolution there were those who said it was not feasible and they would not join us.

On June 8, President Nixon to his credit directed the immediate withdrawal of 25,000 U.S. troops. Today we see confirmation that it is possible, indeed of dire necessity, that we have a cease-fire and a withdrawal of large numbers of our soldiers in Vietnam. The President has taken a first step. It is not enough. I urge my colleagues who are desirous of ending the killing in Vietnam and who have confidence in the judgment of Cyrus R. Vance that they now join with us in cosponsoring House Concurrent Resolution 256 so as to impress upon the President that there is support in this House for further withdraws of U.S. soldiers to the extent of at least another 75,000 and for an immediate cease-fire.

PROTECTING THE MAJORITY IN OUR COLLEGES

(Mr. KUYKENDALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUYKENDALL. Mr. Speaker, a few critics of my bill, H.R. 10136, to suspend Federal funds to colleges and universities where the administrators fail to take appropriate action against illegal demonstrations and seizures of college property, complain that it is unfair to the majority who do not riot or destroy college property.

The very opposite is true. My bill is designed to keep the college open for the vast majority of students who are trying to get an education and who, themselves, are opposed to the rioting, burning, and looting which has forced many schools to close for extended periods. Under the legislation I propose, Federal intervention in college riots is forestalled because the bill puts full responsibility for keeping the colleges open upon the college administrators where it belongs. Federal funds would be cut off only if the administrators accede to the disruption minority and allowed the college to close or be disrupted.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

FRANK KLEINERMAN

The Clerk called the bill (H.R. 3377) for the relief of Frank Kleinerman.

There being no objection, the Clerk read the bill, as follows:

H.R. 3377

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That the Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $2,717.50 to Frank Kleinerman of 15 Meadowbrook Road, Longmeadow, Massachusetts, in full settlement of his claims against the United States for damage caused to property owned by him at 28 Charles Street, Meriden, Connecticut, due to the freezing of plumbing and heating pipes during a period of severe cold weather due to the refusal of agents of the Internal Revenue Service to permit him to enter the premises and take steps to protect his property. No part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following amendment:

Strike all after the enacting clause and insert:

"That notwithstanding the limitations of section 2401 of title 28 of the United States Code, or any other statute of limitations, jurisdiction is hereby conferred on the United States District Court of the District of Connecticut to hear, determine and render judgment on the claims of Frank Kleinerman of 15 Meadowbrook Road, Longmeadow, Massachusetts, against the United States for damage to property owned by him at 28 Charles Street, Meriden, Connecticut, due to the freezing of plumbing and heating pipes during a period of severe cold weather due to the alleged negligence of agents of the Internal Revenue Service in refusing to permit him or his agents to enter the premises and the alleged negligence of the agents of the Internal Revenue Service to take steps to protect his property. Nothing in this Act shall be construed as an admission of liability on the part of the United States. The action authorized herein must be filed within one year of the effective date of this Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PEDRO IRIZARRY GUIDO

The Clerk called the bill (H.R. 5000) for the relief of Pedro Irizarry Guido.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be recommitted to the Committee on the Judiciary.

The SPEAKER. Is there objection to request of the gentleman from Tennessee?

There was no objection.

JOHN VINCENT AMIRAULT

The Clerk called the bill (H.R. 2552) for the relief of John Vincent Amirault.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

REFERENCE OF CLAIM OF JESUS J. RODRIGUEZ

The Clerk called House Resolution 86, referring the bill (H.R. 1691) to the Chief Commissioner of the Court of Claims.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that the resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

CAPT. JOHN W. BOOTH III

The Clerk called the bill (H.R. 1808) for the relief of Capt. John W. Booth III.

There being no objection, the Clerk read the bill, as follows:

H.R. 1808

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Captain John W. Booth III (United States Air Force), of Des Arc Prairie, Arkansas, is relieved of liability to the United States in the amount of $2,794.70, representing overpayments of base pay received by him for the period beginning October 7, 1960, and ending July 31, 1967, as a result of inclusion by the Air Force, through administrative error, for pay purposes of service by the said Captain John W. Booth III as a midshipman at the United States Naval Academy. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this section.

SEC. 2. No part of the amount appropriated in the first section of this Act in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendments:

On page 1, line 5, strike "$2,794.70" and insert "$3,011.20".

On page 1, line 6, after "overpayments of base pay" insert "and flight pay".

On page 1, line 7, strike "July" and insert "August".

On page 2, strike the language of lines 4 through 12, and insert:

"SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Captain John W. Booth III an amount equal to the aggregate of the amount paid by him, or withheld from sums otherwise due him, with respect to the indebtedness to the United States specified in the first section of this Act.

"(b) No part of the amount appropriated in subsection (a) of this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. BEATRICE JAFFE

The Clerk called the bill (H.R. 1865) for the relief of Mrs. Beatrice Jaffe.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MRS. AILI KALLIO

The Clerk called the bill (H.R. 1999) for the relief of Mrs. Aili Kallio.

Mr. EDMONDSON. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

COMDR. EDWIN J. SABEC, U.S. NAVY

The Clerk called the bill (H.R. 5419) to provide relief for Comdr. Edwin J. Sabec, U.S. Navy.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection

AMALIA P. MONTERO

The Clerk called the bill (H.R. 6375) for the relief of Amalia P. Montero.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

MRS. VITA CUSUMANO

The Clerk called the bill (H.R. 1462) for the relief of Mrs. Vita Cusumano.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

MISS JALILEH FARH SALAMETH EL AHWAL

The Clerk called the bill (H.R. 1707) for the relief of Miss Jalileh Farah Salameth El Ahwal.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

MARTIN H. LOEFFLER

The Clerk called the bill (H.R. 3165) for the relief of Martin H. Loeffler.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HARRY BUSH

The Clerk called the bill (H.R. 3560) for the relief of Harry Bush.

There being no objection, the Clerk read the bill, as follows:

H.R. 3560

Be it enacted by the Senate and House of Representatives of the United States of of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Harry Bush shall be held and considered to have complied with the provisions of section 316 of that Act as they relate to residence and physical presence.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That in the administration of the Immigration and Nationality Act, the periods of time that Arie Rudolf Busch (also known as Harry Bush) has resided in the United States since August 29, 1960, shall be held and considered to meet the residence and physical presence requirements of section 316 of that Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "A bill for the relief of Arie Rudolf Busch (also known as Harry Bush)".

A motion to reconsider was laid on the table.

MISS MARIA MOSIO

The Clerk called the bill (H.R. 5107) for the relief of Miss Maria Mosio.

There being no objection, the Clerk read the bill, as follows:

H.R. 5107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Maria Mosio may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Stanley Rajca, a citizen of the United States, pursuant to section 204 of the Act.

With the following committee amendment:

On page 1, line 8, strike out "Act." and insert in lieu thereof the following: "Act: *Provided,* That the natural brothers or sister of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

VISITACION ENRIQUEZ MAYPA

The Clerk called the bill (H.R. 6389) for the relief of Visitacion Enriquez Maypa.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

ERNESTO ALUNDAY

The Clerk called the bill (S. 648) for the relief of Ernesto Alunday.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

GIUSEPPE DELINA

The Clerk called the bill (H.R. 3373) for the relief of Giuseppe Delina.

There being no objection, the Clerk read the bill, as follows:

H.R. 3373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purposes of section 244(a)(1) of the Immigration and Nationality Act, Giuseppe Delina shall be deemed to have been physically present in the United States since April 17, 1952.

With the following committee amendment:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That, for the purposes of the Immigration and Nationality Act, Giuseppe Delina shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act."

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

THI HUONG NGUYEN AND HER MINOR CHILD, MINH LINH NGUYEN

The Clerk called the bill (S. 1104) for the relief of Thi Huong Nguyen and her minor child, Minh Linh Nguyen.

There being no objection, the Clerk read the bill, as follows:

S. 1104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Thi Huong Nguyen, the fiancée of Sergeant Richard Beshada, a citizen of the United States, and her minor child, Minh Linh Nguyen, shall be eligible for visas as nonimmigrant temporary visitors for a period of three months: *Provided,* That the administrative authorities find that the said Thi Huong Nguyen is coming to the United States with a bona fide intention of being married to the said Sergeant Richard Beshada and that she and her minor child, Minh Linh Nguyen, are found otherwise admissible under the immigration laws. In the event the marriage between the above-named persons does not occur within three months after the entry of the said Thi Huong Nguyen, and her minor child, Minh Linh Nguyen, they shall be required to depart from the United States and upon failure to do so shall be deported in accordance with the provisions of sections 242 and 243 of the Immigration and Nationality Act. In the event that the marriage between the above-named persons shall occur within three months after the entry of the said Thi Huong Nguyen and her minor child, Minh Linh Nguyen, the Attorney General is authorized and directed to record the lawful admission for permanent residence of the said Thi Huong Nguyen and her minor child, Minh Linh Nguyen, as of the date of the payment by them of the required visa fees.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

YAU MING CHINN (GON MING LOO)

The Clerk called the bill (S. 1438) for the relief of Yau Ming Chinn (Gon Ming Loo).

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

CHI JEN FENG

The Clerk called the bill (S. 1531) for the relief of Chi Jen Feng.

There being no objection, the Clerk read the bill, as follows:

S. 1531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Chi Jen Feng shall be held and considered to have been lawfully admitted to the United States for permanent residence as of August 1, 1954.

The bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CAPT. MELVIN A. KAYE

The Clerk called the bill (H.R. 1453) for the relief of Capt. Melvin A. Kaye.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

JOECK KUNCEK

The Clerk called the bill (H.R. 1698) for the relief of Joeck Kuncek.

Mr. HALL. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ROBERT W. BARRIE AND MARGUERITE J. BARRIE

The Clerk called the bill (H.R. 2037) for the relief of Robert W. Barrie and Marguerite J. Barrie.

There being no objection, the Clerk read the bill, as follows:

H.R. 2037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Robert W. Barrie of San Diego, California, is relieved of liability to the United States in the amount of $973.01, and Marguerite J. Barrie of San Diego, California, is relieved of liability to the United States in the amount of $748.80, such sums representing expenses incurred in the shipment of household goods from San Diego, California, to Hartford, Connecticut, incident to their retirement from active service in the United States Navy. In the audit and settlement of the accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this section.

SEC. 2. (a) The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Robert W. Barrie and Marguerite J. Barrie, respectively, an amount equal to the aggregate of the amounts paid by him or her, or withheld from sums otherwise due him or her, with respect to the indebtedness to the United States specified in the first section of this Act.

(b) No part of the amount appropriated in subsection (a) of this section in excess of 10 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendments:

On page 1, line 9, after "Connecticut," insert "and from Hartford, Conn., to San Diego, Calif.,".

On page 2, line 12, after "section" strike "in excess of 10 per centum thereof".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CARLO DEMARCO

The Clerk called the bill (H.R. 2209) for the relief of Carlo DeMarco.

There being no objection, the Clerk read the bill, as follows:

H.R. 2209

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the annual leave account of Carlo DeMarco, a postal employee of the Toms River Post Office, New Jersey, there shall be added a separate account of two hundred and thirty-eight hours of annual leave, in full settlement of all claims of the said Carlo DeMarco against the United States for compensation for the loss of such leave which was earned by him in the years 1963 to 1967, inclusive, while he was employed in the United States Post Office in Toms River, New Jersey, which was not credited to his leave account by reason of a failure to credit prior Federal service in computing his leave.

SEC. 2. Section 203(c) of the Annual and Sick Leave Act of 1951, as amended (65 Stat. 680, 67 Stat. 137; 5 U.S.C. 2062(c)), shall not apply with respect to the leave granted by this Act, and such leave likewise shall not affect the use or accumulation, pursuant to applicable law, of other annual leave earned by the said Carlo DeMarco. None of the leave granted by this Act shall be settled by means of a cash payment in the event such leave or part thereof remains unused at the time the said Carlo DeMarco is separated by death or otherwise from the Federal service.

With the following committee amendment:

On page 1, line 6, after "two hundred" strike "and thirty-eight".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ROBERT G. SMITH

The Clerk called the bill (H.R. 3723) for the relief of Robert G. Smith.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

BEVERLY MEDLOCK AND RUTH LEE MEDLOCK

The Clerk called the bill (H.R. 3920) for the relief of Beverly Medlock and Ruth Lee Medlock.

Mr. GROSS. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DR. EMIL BRUNO

The Clerk called the bill (H.R. 4105) for the relief of Dr. Emil Bruno.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

BERNARD L. COULTER

The Clerk called the bill (H.R. 4658) for the relief of Bernard L. Coulter.

There being no objection, the Clerk read the bill, as follows:

H.R. 4658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Richard S. Bell the sum of $313.66 in full settlement of all claims against the United States and against Bernard L. Coulter arising out of an accident which occurred in Chicago, Illinois, on December 17, 1962, when said Bernard L. Coulter was operating a Government motor vehicle in the course of his duties as an employee of the United States Department of Justice and in full satisfaction of the judgment and costs entered against the said Bernard L. Coulter in civil action numbered 64 MI 16879 in the Municipal Court for the Frist Municipal District of the Circuit Court of Cooke County, Illinois, based upon said accident. No part of the amount appropriated in this section in excess of 25 per centum thereof shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

SEC. 2. The Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $9.50 to Bernard L. Coulter in full settlement of his claims for reimbursement for costs he was required to pay by reason of entry of judgment in civil action referred to in section 1 of this Act. No part of the amount appropriated in this section shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

With the following committee amendment:

On page 1, line 8, after "December 17," strike "1962" and insert "1961".

The committee amendment was agreed to.

AMENDMENT OFFERED BY MR. GROSS

Mr. GROSS. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GROSS: On page 2, line 3, correct the spelling of the word "First".

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

ALBERT E. JAMESON, JR.

The Clerk called the bill (H.R. 5337) for the relief of the late Albert E. Jameson, Jr.

There being no objection, the Clerk read the bill, as follows:

H.R. 5337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of determining the entitlement of Albert E. Jameson, Junior (Social Security Account Number [redacted]), of Hyde Park, Massachusetts, to disability insurance benefits under section 223 of the Social Security Act (and to a period of disability under section 216(i) of such Act), the said Albert E. Jameson shall be deemed to have filed ap-

plication for such benefits as required by section 223(a)(1)(C) of such Act (and for the establishment of a period of disability as required by section 216(i)(2)(B) of such Act) immediately before his death on November 1, 1964.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MRS. RUTH BRUNNER

The Clerk called the bill (H.R. 9488) for the relief of Mrs. Ruth Brunner.

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER. This concludes the call of the Private Calendar.

FURTHER CONTINUING APPROPRIATIONS, 1969

Mr. MAHON. Mr. Speaker, I ask unanimous consent for the immediate consideration of the joint resolution (H.J. Res. 782) making further continuing appropriations for the fiscal year 1969, and for other purposes.

The Clerk read the title of the joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GROSS. Mr. Speaker, reserving the right to object, and I hope I shall not have to object, I have had the opportunity only in the last few minutes to read this resolution. I wonder if the gentleman would give us a brief explanation as to what is here proposed?

Mr. MAHON. If the gentleman will yield, the House on May 21 passed H.R. 11400, the second supplemental appropriation bill for fiscal year 1969, covering about $3.7 billion. About $1.3 billion of that was for increased pay costs as a result of pay raises heretofore authorized by Congress. There are other salary funds involved not related to the increased pay rate legislation.

The bill, of course, went to the other body, where it is presently being considered. We hope that it will soon be passed so that we can go to conference and settle the various items of difference between the two bodies.

The committee in the other body, in reporting the bill, added some $673 million above the House—mostly as a result of further budget requests from the President.

Mr. Speaker, what makes the pending resolution so urgent is that salary funds for various agencies and funds for the compensation of veterans and others are involved here. The Post Office Department payroll, for example, I am advised is payable on Thursday of this week—day after tomorrow. Others will be falling due in the coming days.

So, in view of the fact that it may take some time to settle the differences between the House and the Senate versions of the second supplemental bill, and in view of the fact that it has not as yet passed the other body, it was thought necessary that the required funds be promptly made available so that everyone who is entitled to receive salary or compensation will do so at their regularly scheduled times.

May I point out further that under this joint resolution no new employees can be hired.

Furthermore, it does not increase the pay of anyone beyond what they are now authorized to receive.

It does not permit any new contracts to be entered into.

It does not permit initiation of any new programs.

And it does not permit expansion of any existing programs.

It is merely intended to avoid delays in authorized salary and compensation payments.

What it really does is to borrow funds from the supplemental appropriation bill which we passed through the House on May 21.

Mr. GROSS. As a cold matter of fact, Mr. Speaker, this resolution would not provide for borrowing from supplemental funds because those funds are not yet in existence—they have not been appropriated, lacking full action on the part of the Congress and the signing of the bill by the President, but I do understand what the gentleman means. It would be borrowing money that does not exist legally.

Would the gentleman agree with that?

Mr. MAHON. I was using the term "borrow" in a very general way. In other words, what we are doing is lifting out of the other bill certain funds which are urgently required for pay and compensation. Technically it is not, of course, borrowing.

Mr. GROSS. This does not change any rates of pay; it simply finances operations as they now exist with respect to the number of personnel and the payment of personnel.

Mr. MAHON. The gentleman is correct. We had hoped that we could have avoided this, but in view of the fact that it has taken a little more time than some had anticipated on the second supplemental, we have to do something about this as I now see it.

Mr. GROSS. Mr. Speaker, one further question:

Is there another continuing resolution in existence?

Mr. MAHON. A continuing resolution for fiscal 1970 is scheduled for consideration in the early future, probably next week.

Congress has gotten off to a slow start. President Johnson submitted his budget in January and President Nixon submitted the amended budget about April 15, and it has just not been possible for the authorizing committees to authorize programs and enact the programs into law and for the appropriation bills to be cleared.

So a continuing resolution for the forthcoming fiscal year will be necessary.

Mr. GROSS. Then we may expect next week a continuing resolution dealing with the entire Government; is that correct?

Mr. MAHON. The gentleman is absolutely correct.

Mr. GROSS. I thank the gentleman for his response.

Mr. Speaker, I withdraw my reservation of objection.

Mr. WAGGONNER. Mr. Speaker, I further reserve the right to object.

Mr. Speaker, I would like to ask a question of the distinguished gentleman from Texas, the chairman of the House Committee on Appropriations. Am I correct in assuming that this continuing resolution comes under the Holman rule and is subject to amendment?

Mr. MAHON. I would assume that it would be subject to amendment. It is a joint resolution. It speaks for itself, and it provides for authorized pay and compensation for Federal workers and others.

Mr. WAGGONNER. The gentleman has, I think, hit the nail on the head. I want to ask him as to the possibility of an amendment involving the pay of the U.S. Supreme Court in view of yesterday's decision. What would be the gentleman's attitude about an amendment prohibiting any of these funds provided for in this continuing resolution going to pay for salaries of the U.S. Supreme Court?

Mr. MAHON. That would be a matter, of course, for the Speaker to rule upon, as to whether or not it would be germane to this resolution. I am not at the moment aware of the exact extent of funds included in the pending resolution for the Court, but in view of the general pay raise legislation involved it is fair to assume that some of these funds would be for the Supreme Court.

Mr. WAGGONNER. At least that part involving the pay raise?

Mr. MAHON. I would think so.

PARLIAMENTARY INQUIRY

Mr. WAGGONNER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry .

Mr. WAGGONNER. Mr. Speaker, in the opinion of the Chair would such an amendment to prohibit utilization of any of these funds for paying the salaries of the U.S. Supreme Court be considered germane to this continuing joint resolution?

The SPEAKER. In response to the parliamentary inquiry, the Chair does not feel that that question should be passed upon prior to the situation actually arising.

Mr. WAGGONNER. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. WAGGONNER. At what point, Mr. Speaker, then during the debate on this joint resolution today would it be in order to offer such an amendment?

The SPEAKER. After consent is granted for consideration of the joint resolution if it is granted, it would be subject to the 5-minute rule.

Mr. WAGGONNER. I thank the Speaker.

The SPEAKER. Is there objection to the request of the gentleman from Texas (Mr. MAHON)?

There was no objection.

The clerk read the joint resolution, as follows:

H.J. RES. 782

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there are hereby appropriated out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds for the several departments, agencies, corporations, and other organizational units of the Government such amounts as (1) may be necessary to cover salaries, compensation, and pay (including pensions and retired pay) for the fiscal year 1969, and (2) are provided for in the "Second Supplemental Appropriations Act, 1969," as reported to the Senate June 11, 1969, with amendments (Senate Report No. 91-228, 91st Congress).

SEC. 2. Appropriations made by this joint resolution shall be available to the extent and in the manner which would be provided by the Second Supplemental Appropriations Act, 1969, as reported to the Senate, and all expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever such Act is enacted into law.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the joint resolution.

The joint resolution was passed.

A motion to reconsider was laid on the table.

Mr. BOW. Mr. Speaker, enactment of House Joint Resolution 782 is occasioned by the fact that Congress has not completed its action on the second supplemental appropriation bill for 1969 and our faithful postal employees would not be paid their salaries on Thursday next, June 19 if this resolution were not approved.

Most of the Federal service has an adequate lag in the payment of salaries which would not necessitate approval of this resolution, but the Post Office Department operates under a different pay arrangement, and without the resolution postal employees could not receive their salary checks on Thursday.

Just as our distinguished chairman, the gentleman from Texas (Mr. MAHON), has indicated to the House, this resolution:

First, authorizes no new employees;

Second, provides for no increase in salaries beyond the levels authorized for employees at present;

Third, permits the Government to enter into no new contracts;

Fourth, permits the initiation of no new programs; and

Fifth, simply provides that the funds expended for salaries and compensation under this resolution shall be deducted from amounts provided in the second supplemental appropriation bill, which is now being considered by the other body.

This resolution also will permit a judicious conference between the House and the other body with respect to our differences on amounts provided in the bill. If we had not approved this resolution, the pressures to agree to a conference in time for the postal employees to be paid on Thursday would have been so great that the conferencees would not have been in a position to carefully explore the merits of our differences with the other body.

Mr. Speaker, generally I am opposed to legislating in this manner, but under the circumstances there does not seem to be any other way in which we can provide for the pay of Federal employees since the second supplemental appropriation bill has not been enacted into law.

CALL OF THE HOUSE

Mr. GROSS Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 82]

Alexander	Denney	Mathias
Anderson, Tenn.	Dorn	Miller, Calif.
Ashbrook	Downing	Moorhead
Ashley	Dulski	Nedzi
Bates	Eckhardt	O'Hara
Biaggi	Edwards, La.	Olsen
Bingham	Fallon	Ottinger
Blatnik	Farbstein	Pollock
Brademas	Foley	Powell
Brasco	Fraser	Purcell
Brock	Gallagher	Reuss
Cahill	Garmatz	Roberts
Carey	Giaimo	Rosenthal
Casey	Halpern	St. Onge
Chappell	Hébert	Sandman
Clark	Holifield	Scheuer
Clausen, Don H.	Ichord	Stephens
Conyers	Jarman	Talcott
Corman	Kee	Teague, Tex.
Cramer	Kirwan	Thompson, Ga.
Delaney	Kluczynski	Thompson, N.J.
	Leggett	Wold
	Mailliard	Wolff

The SPEAKER. On this rollcall 365 Members have answered to their names, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

PERMISSION FOR COMMITTEE ON RULES TO FILE REPORTS

Mr. YOUNG. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER pro tempore (Mr. BOLAND). Without objection, it is so ordered.

There was no objection.

PUBLIC HEALTH CIGARETTE SMOKING ACT OF 1969

Mr. YOUNG. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 437 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 437

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6543) to extend public health protection with respect to cigarette smoking, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed three hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from Texas (Mr. YOUNG) is recognized for 1 hour.

Mr. YOUNG. Mr. Speaker, I yield 30 minutes to the distinguished gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may require.

Mr. Spekaer, House Resolution 437 provides an open rule with 3 hours of general debate for consideration of H.R. 6543 to extend public health protection with respect to cigarette smoking, and for other purposes.

The purpose of H.R. 6543 is to strengthen the warning label which must appear on cigarette packages and to postpone the termination date on preemption of certain aspects of regulation of cigarette advertising from July 1, 1969, to July 1, 1975.

The bill, as amended, would require the following label on cigarette packages:

Warning, The Surgeon General has determined that cigarette smoking is dangerous to your health and may cause lung cancer or other diseases.

This is a stronger warning than that required at the present time.

No statement relating to smoking and health, other than that cited above, shall be required on a cigarette package.

No statement relating to smoking and health shall be required in the advertising of cigarettes which are so labeled.

The Secretary of Health, Education, and Welfare not later than 18 months after enactment of this legislation, shall report to Congress concerning current information on health consequences of smoking and making recommendations.

The Federal Trade Commission is also required to report and make recommendations within 18 months.

Any violator shall be guilty of a misdemeanor and on conviction shall be subject to a fine of not more than $10,000.

Upon application of the Attorney General and for cause shown, the U.S. district courts are invested with jurisdiction to prevent and restrain violations.

Packages of cigarettes for export beyond the jurisdiction of the internal revenue laws shall be exempt from the requirements of the act, but such exemptions shall not apply to cigarettes for sale or distribution to the Armed Forces.

The provisions of the act affecting the regulation of advertising shall terminate on July 1, 1975.

Mr. Speaker, I urge the adoption of House Resolution 437 in order that H.R. 6543 may be considered.

The SPEAKER. The Chair recognizes the gentleman from Tennessee (Mr. QUILLEN).

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the distinguished gentleman from Texas (Mr. YOUNG) has pointed out, H.R. 6543 provides for a 6-year extension of present legislation covering public health protection with respect to cigarette smoking and for other purposes.

The bill will be presented under an open rule, with 3 hours of general debate, upon the adoption of House Resolution 437.

The purpose of the bill is to stiffen the warning currently required on all cigarette packages and to prohibit for an additional period of 6 years any regulation or interference with tobacco advertising by any Federal or State regulatory agencies.

Currently, each cigarette package must contain the following:

Caution: Cigarette Smoking May Be Dangerous To Your Health.

This is to be amended to read:

Warning. The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health And May Cause Lung Cancer Or Other Diseases.

The current act expires on June 30 of this year. The bill would extend the act through June 30, 1975.

By extending the act, the bill effectively continues the current absolute prohibition placed upon all regulatory agencies, Federal and State. None may interfere with or place any limitation upon cigarette advertising, nor can they require any other caution to be placed upon a cigarette package than is already provided by the bill.

In effect, Congress retains full, complete, and exclusive jurisdiction in such areas through June 30, 1975. This would preclude both the FCC and the FTC from proceeding with their announced intentions of: First, effectively stopping television advertising of cigarettes; and, second, effectively stopping the advertising of cigarettes in any printed form.

These results would be achieved not by prohibition of such advertisements but by requiring the advertiser to include material so damaging to his product as to, in effect, destroy his own business.

Except for the change in the language of the caution and in the extension of the prohibition to all regulatory agencies through June 30, 1975, the rest of the bill H.R. 6543 is a word-for-word restatement of the current law.

Mr. Speaker, we grow tobacco, not cancer, in the First District of Tennessee and throughout the Nation, and I challenge the Surgeon General of the United States to prove otherwise.

In the uproar over the alleged connection between smoking and cancer which followed the Surgeon General's report, many people were led to believe that there is conclusive medical proof of such a connection.

This is not true. In spite of all the research that has been undertaken, there is still dispute, even among members of the medical profession, about a connection between smoking and ill health.

Tobacco growers, in fact the whole industry, must not be put out of business, and the bill before us today allows ample time for research and development to protect the health of the people who smoke.

During the life of this bill, a 6-year extension of the present measure, the tobacco industry and the great scientists of this land teamed with the best in the medical field, will conduct extensive tests to determine the causes of cancer.

The word of one man—the Surgeon General of the United States, who has said that smoking causes cancer—should not be taken as final law. Rather, we should leave it up to the majority of the medical profession to decide.

The tobacco industry in this country started with the Indians when they grew some form of tobacco for use. Then came the settlers and development, progress and growth, until today the burley tobacco group in my district and throughout the burley belt is of the highest quality in the land. The same is true of other types of tobacco.

It is unfair to let one individual and a bureaucratic agency put a great industry out of business, when it is entirely up to the individual whether he wants to use tobacco.

We need 6 additional years to give the fine doctors throughout the Nation an opportunity to go forward with their studies and work to control and cure cancer.

This bill provides a sterner warning on cigarette packages than the last measure adopted by Congress. This, in itself, is a message to the individual user, but it does not put an end to the great industry which produces an income for survival of so many in my district and elsewhere in this country.

Failure of Congress to act to prohibit regulation of or interference with tobacco advertising will result in extensive loss of revenue to newspapers, magazines, and broadcasting media.

And to many people, including a large number in my own home district, it would mean a total loss of income.

We must not allow this to happen in the face of such flimsy evidence against cigarettes, nor should we allow regulation of cigarette advertising to fall into the hands of Federal agencies, from which only chaos could result.

In a nutshell—let us sum it all up:

A 30-word statement in H.R. 6543 will decide which branch of Government—Congress or the regulatory agencies—has the power to determine what may or may not be advertised for sale to the public.

The issue goes far beyond the question of smoking and health. It strikes at the fundamental question of policymaking by the elected legislative branch or by appointed regulatory agencies, which have been called the headless "fourth branch" of Government.

In the 1965 Cigarette Act and again in the present act, Congress has affirmed its intention of remaining the "exclusive policymaker." Refusal to surrender congressional function to the regulatory agencies is the meaning of the 30-word preemption provision, section 5(b) of H.R. 6543.

Without this ounce of preemption Congress will give the green light to the architects of administrative chaos. Today cigarettes are the target. Tomorrow, the victims may be dairy products, automobiles, and others which have been called "hazardous to health." For the decision of what legal products may be advertised, and how, will be left to the appointive, anonymous alphabetical agencies.

Here is the outline of the shape of things to come if Congress fails to assert its primacy via preemption:

The Federal Communications Commission will ban all cigarette advertising on radio and television. It bases this censorship on a concern for the public health, but ignores the Surgeon General's view the proposed ban is not a particularly desirable public health measure.

The Federal Trade Commission will force all cigarette advertising to include such dire warnings of disease and death, that the industry would be compelled to stop advertising entirely. The FTC warning statement goes beyond what the Surgeon General has proposed.

Mr. GROSS. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I am happy to yield to the distinguished gentleman from Iowa.

Mr. GROSS. Mr. Speaker, what Surgeon General is referred to in section 4, line 9 of this bill? There are a number of Surgeons General throughout the Government. What Surgeon General is referred to.

Mr. QUILLEN. The information submitted in our committee is that it is the Surgeon General of the United States.

Mr. GROSS. Is it the Surgeon General of the Public Health Service?

Mr. QUILLEN. No, it refers to one man.

Mr. GROSS. Supposing the next Surgeon General would take a different position, then what happens since this language involving an unnamed Surgeon General is written into permanent law?

Mr. QUILLEN. As I stated, I think we should leave it up to the best medical minds of this country, to the majority, to make an extensive and exhaustive study and bring back to Congress the medical facts.

Mr. GROSS. This language reads:

Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health and May Cause Lung Cancer or Other Diseases.

The next Surgeon General may say cigarette smoking is not necessarily dangerous. What do we then do with the law?

Mr. QUILLEN. The gentleman has raised a good point, but the committee in explaining this to the House Rules Committee said it was the decision of the Surgeon General of the United States and therefore they wanted the warning to state that it was the Surgeon General.

Mr. GROSS. Well, it seems to me the bill ought to at least specify the Surgeon General of the United States. Otherwise it might be the Surgeon General of the Navy, the Surgeon General of the Army, or the Surgeon General of the Air Force. I do not know how many more we have in various capacities in the Federal Government.

Mr. QUILLEN. As I said, the gentleman has raised a good point, and that is

why we have an open rule with 3 hours of general debate.

Mr. GROSS. Does the gentleman suppose we could get an amendment adopted to this bill to require that every bottle of whisky to the effect that "This may be dangerous to your health if you drink it"?

Mr. QUILLEN. If this bill is not passed, I will say to the gentleman from Iowa, I would predict we will have these alphabetic regulatory agencies cramming all kinds of regulations down our throats if Congress does not exercise its authority at this time.

Mr. GROSS. Then how about a label on every pound of butter, which if eaten in excess can be injurious to health, and every box of candy, and so on with respect to scores of products?

Mr. QUILLEN. It could lead to a ridiculous trend. I agree with the gentleman from Iowa.

Without preempting the big brother act of the regulatory agencies, we will see the following crazy quilt of regulation in cigarette advertising:

A package of cigarettes will be labeled by Congress:

Warning: The Surgeon General Has Determined That Cigarette Smoking is Dangerous to Your Health and May Cause Lung Cancer and Other Diseases.

A cigarette advertisement in a national magazine or newspaper—assuming a manufacturer would run it at all—would disparage itself by order of the FTC and warn:

Cigarette Smoking is Dangerous to Health and May Cause Death from Cancer, Coronary Heart Disease, Chronic Bronchitis, Pulmonary Emphysema and Other Diseases.

Plus the latest FTC "tar" and nicotine ratings.

No cigarette advertising at all would be carried on television and radio, by order of the FCC.

What is behind the uprising of these two creatures of Congress? Arrogance of power and prohibitionist zeal are certainly factors. But in addition there is in the cigarette controversy a measure of relief from growing public criticism. Most recent victim is the Federal Trade Commission. A 185-page report by seven law students attacked the agency for "spectacular lassitude and office absenteeism, incompetence by the most modest standards, and lack of commitment to their regulatory missions."

President Truman said:

If you can't stand the heat, get out of the kitchen.

Apparently, the advice is being modified: "If you can't stand the heat, jump on the antismoking bandwagon."

Mr. Speaker, the case against cigarette smoking seems to be developing into the "case of the missing evidence."

The House Interstate and Foreign Commerce Committee, in 13 days and 1,807 pages of testimony, discovered that there are two sides to the smoking and cancer controversy, only one of which has been revealed to the public.

The American people have been barraged with antismoking literature, commercials on radio and television, newspaper stories, films before their civic clubs, and pamphlets, and all of this has been one sided.

Committee members had been exposed to the same antismoking campaign, but they had an advantage over the general public. In the course of their hearings, they compiled pages of testimony that directly contradicted popular, or publicized, views that smoking causes cancer. I include the following quotes at this point:

DOES SMOKING CAUSE LUNG CANCER?

Thomas H. Brem, M.D., Professor and Chairman, Department of Medicine, University of Southern California School of Medicine: "A person of true scientific discipline would never make a final judgment on the type of evidence presented in favor of the hypothesis."

Sheldon C. Sommers, M.D., Clinical Professor of Pathology, Columbia University Medical College: "After at least 30 years of experimental work, and many smoke inhalation experiments in animals, lung cancers of the most common, squamous cell human type have not been produced. It is usually difficult to prove a negative, but if cigarette smoke were a cause of lung cancer, it is indeed surprising that no animal experiments have succeeded in its production."

Victor Buhler, M.D., Associate Clinical Professor of Pathology and Oncology at University of Kansas School of Medicine, and former president of the College of American Pathologists: "The cause of cancer in humans, including the cause of cancer of the lung is unknown."

Duane Carr, M.D., Professor of Surgery, University of Tennessee College of Medicine: "As of the present date, the cause of lung cancer remains unknown."

Hiram T. Langston, M.D., Professor of Surgery, University of Illinois College of Medicine, and President of the American Associciation for Thoractic Surgery: "The statistical association between smoking and lung cancer is not indicatve of cause and effect, because the clinical behavior of the disease does not permit this conclusion."

William B. Ober, M.D., Associate Professor of Pathology, New York Medical Center: "As of 1969, our knowledge of the cause or causes of lung cancer remains primitive . . . to date the only evidence supporting this (cigarette smoking) hypothesis is statistical, and there are statistics which fail to support it."

DOES SMOKING CAUSE HEART DISEASE?

William Evans, M.D., former consulting physician, the Institute of Cardiology, London, England: "The incrimination that smoking causes or accelerate heart disease from atherosclerosis of the coronary arteries is wholly unwarranted."

Walter S. Priest, M.D., Emeritus Professor of Medicine at Northwestern University Medical School: "It is very doubtful that such a relationship exists. If heavy smokers suffer coronary thrombosis in a significantly greater proportion than non-smokers, the cause of the phenomenon could be related to the stress that usually goes together with the smoking habit." (quoting Viel, B.; Donoso, S.; and Danilo, S., Archives of Internal Medicine, 122 No. 2, August 1968).

Surgeon General William H. Stewart: "The evidence I feel is still not strong enough for me to say within the criteria of causality . . . that there is cause and effect."

Campbell Moses, M.D., Medical Director, American Heart Association: "There is no proof that cigarette smoking causes [diseases of] coronary arteries . . . let's be sure we understand the American Heart Association position. We do not say that we have the data which says cigarette smoking causes coronary artery [disease]."

Carl C. Seltzer, Ph.D., Senior Research Associate, Harvard University School of Public Health: "It would be regrettable, if the impact of the prestige of the U.S. Public Health Service led scientists and the public to believe in and accept as firmly established facts which, on the basis of current knowledge, are speculative and lacking in scientific validity. The situation demands not special pleading but scientific truth, namely, what is reasonably established. And, certainly, it has not been reasonably established that cigarette smoking causes coronary heart disease."

DOES SMOKING CAUSE EMPHYSEMA?

"Special Report on Emphysema," National Institute of Allergy and Infectious Diseases, N.I.H.: "The cause or causes of emphysema are not now known."

Surgeon General William H. Stewart: "They stated [the 1964 Surgeon General's Advisory Committee] . . . that a relationship exists between pulmonary emphysema and cigarettes but it has not been established that this relationship is causal."

Edwin Rayner Levine, M.D., Associate Professor of Clinical Medicine, Chicago Medical School: "I cannot find any actual evidence that . . . cigarette smoke or anything else, has a causal relationship to the development of this disease."

John P. Wyatt, M.D., Professor and Chairman, Department of Pathology, University of Manitoba: "Most authorities agree that emphysema presents a complex problem which awaits a scientific explanation."

Israel Rappaport, M.D., Former Associate Clinical Professor, Columbia University Medical School: "The 'protagonists of the antismoking campaign' have refused to face this paramount question: 'If it is true that we do not know what emphysema is and whence it originates, how can they maintain the claim that it is linked to cigarette smoking? How can their position be reconciled with scientific principles?' "

Mr. Speaker, testimony such as this, flatly contradictory to accepted views, seriously undermined the major conclusions of the antismoking witnesses—and the underlying premise for further punitive legislation. It was not lost on the committee that among the witnesses quoted above were some notable opponents of smoking.

But further doubt arose as expert witnesses also exploded many of the supported dogmas of the antismoking forces. Under scientific attack, a number of subsidiary assertions, which had bolstered the main charges and lent force to antismoking commercials, were weakened. In effect, they were now ended with a question mark instead of an exclamation point.

Following are some of the newly raised questions:

DOES SMOKING TURN THE LUNGS BLACK? OR CAN DOCTORS TELL SMOKERS' LUNGS FROM NONSMOKERS' LUNGS?

Sheldon C. Sommers, M.D., Clinical Professor of Pathology, Columbia University Medical College: "The knowledge of what the black pigment represents, namely, carbon particles or coal dust, is known to every well trained second-year medical student, and . . . it is not possible to equate blackening of the lung to exposure to tobacco products."

Hiram T. Langston, M.D., Professor of Surgery, University of Illinois College of Medicine, and President of the American Association for Thoracic Surgery: "The color of the lung has to do with the matter of carbon, and I am unable to recognize the difference between a smoker and a non-smoker . . . and I have never been able to correlate it with the use of tobacco."

Irving Zeidman, M.D., Professor of Pathol-

ogy, University of Pennsylvania School of Medicine: "I would estimate that of a thousand pathologists in this country, 998 would say, 'I could not tell,' and the other two would say, 'I could tell' and those two who could tell either had some infinite intuition or are not telling the truth."

Victor Buhler, M.D., Pathologist, St. Joseph Hospital, Kansas City, Missouri: "I have examined thousands of lungs—and I cannot tell you from examining a lung whether or not its former host had smoked . . . I state flatly and unequicovably and emphatically that cigarette smoke will not turn the lung black."

ISN'T EVERY SMOKER DAMAGED BY HIS SMOKING?

Bernice C. Sachs, M.D., Seattle Mental Health Institute: "Not everyone gets cancer or heart disease. And of course, nonsmokers, as well as smokers, get both. Indeed, it would appear that, as observed in the first massive review of the smoking research literature, the British Report of the Royal College of Physicians, 'most smokers suffer no serious impairment of health or shortening of life as a result of their habit' . . . I hope it is well understood that no medical practitioner can advise patients they can avoid lung cancer or heart disease by not smoking."

Israel Rappaport, M.D., Former Associate Clinical Professor, Columbia University Medical School: "To experienced physicians who examined and observed so many heavy smokers, the most astonishing feature of the present issue over the effects of smoking must be the current trend to simply ignore the overwhelming evidence presented by the tens of millions of smoking men and women going through life without any signs or symptoms of damage to their lungs from many years of smoking—even heavy smoking."

H. Russell Fisher, M.D., Professor of Pathology, University of Southern California School of Medicine: "If cigarettes were the cause of lung cancer, I believe we would have an incidence many times greater than we do now, and would not encounter the disease in non-smokers."

IS THERE A LUNG CANCER EPIDEMIC?

H. Russell Fisher, M.D., Professor of Pathology, University of Southern California School of Medicine: "The increase in the incidence of lung cancer in the United States . . . reflects the growing and aging population of this country. The apparent increase is also reflected in the increased expertise and improved diagnostic abilities of the medical profession. The increase in the number of members of my own specialty in medicine (Pathology) is directly responsible for some of the apparent increase."

Duane Carr, M.D., Professor of Surgery, University of Tennessee College of Medicine: "Changes in classification of disease have contributed to much of the reported increase in diseases such as lung cancer."

Milton B. Rosenblatt, M.D., President, Medical Board, Doctors Hospital, New York: "In 1900, the combined crude death rate for respiratory diseases in the United States exceeded 450 per 100,000 but there were no death rates recorded for lung cancer. If only a small percentage of the death attributed to tuberculosis, pneumonia, bronchitis or influenza had been incorrectly diagnosed and were, in actuality, cases of lung cancer, there would be relatively little increase in the prevalence of this disease during the past half century.

"The concept that cancer of the lung is a new disease and a by-product of modern civilization is false and those who promulgate this thesis are misleading the public. The disease was a well known entity for a century before the era of widespread cigarette smoking. The only thing new is our ability to diagnose it before autopsy."

Thomas H. Brem, M.D., University of Southern California (quoting A. G. Gilliam, M.D., of the National Cancer Institute): "An important aspect of present trends in this country, which is generally ignored, is the declining rate of increase. If this feature of the trend continues, the disease will reach its peak among the white male population in the foreseeable future (1983) and then start to decline.

"The observed decline in the rate of increase of lung cancer is exactly what one would expect, however, if the reported increase were due to constantly improving detection of this disease—or of any other for that matter."

DOESN'T GIVING UP SMOKING MAKE ONE HEALTHIER?

George L. Saiger, M.D., Former Associate Professor of Epidemiology, Columbia University: "Even if cigarette smokers, as a group, did not smoke, there still would be a higher proportion of persons with primary cancer of the lung, or coronary heart disease, if you wish, among them than among non-smokers, as a group, since constitutionally they are more disposed to the disease."

Ray Rosenman, M.D., Director, Western Collaborative Study of Coronary Heart Disease: "The same higher coronary rate was observed in former cigarette smokers as in all current moderate and heavy smokers . . . the incidence of symptomatic infarction was as great in former cigarette smokers as it was in current smokers and was as great in former cigarette smokes as in men smoking more than one pack daily."

Theodor D. Sterling, Ph.D., Professor of Applied Mathematics and Computer Science, Washington University: [From data in the HEW survey of smoking and illness] "a consistent pattern is quite obviously apparent. For all categories, present smokers have a much lower incidence [of disease and disability] than do former smokers."

ISN'T CIGARETTE SMOKING, ADDICTIVE?

Surgeon General William H. Stewart: "We would disagree with the contention that cigarette smoking is 'physiologically addictive.' "

Arthur Furst, Ph.D., Director, Institute of Chemical Biology, University of San Francisco: "In no sense, pharmacological sense, can one talk about smoking being addictive."

Charles Hine, M.D., Ph.D., Clinical Professor of Pharmacology and Preventive Medicine, University of California School of Medicine: "Physical dependence does not develop either to nicotine or other constituents of tobacco."

Sheldon C. Sommers, M.D., Director of Laboratories, Lenox Hill Hospital, New York: "Some confusion arose through use of the word 'addiction' in connection with tobacco use. By generally accepted World Health Organization criteria, smoking tobacco is not considered an addiction."

DOESN'T CIGARETTE SMOKING CAUSE EXCESS DEATHS, SHORTEN LIFE, AND INCREASE MORBIDITY?

Theodor D. Sterling, Ph.D., Professor of Applied Mathematics and Computer Science, Washington University: "I know of no such figures which show a higher mortality rate for smokers than non-smokers, without ambiguity, without difficulties of interpretation, and without leaning very heavily upon a selected number of instances for presentation and hiding some of the others which are probably just as important or just as controversial."

Milton B. Rosenblatt, M.D., President, Medical Board, Doctors Hospital, New York: "The widely publicized accusations of hundreds of thousands of deaths caused by cigarettes and of shortening of life expectancy a specific number of minutes per cigarette smoked are fanciful extrapolations and not factual data."

Sheldon C. Sommers, M.D., Director of Laboratories, Lenox Hill Hospital, New York, New York: "Many figures were cited concerning 30,000 or 50,000 or 260,000 persons per year having or dying from lung cancer or the other diseases being considered. Since it is not known what the causes of lung cancer, coronary heart disease, or bronchopulmonary disease are, the multiplication of numbers does not contribute to understanding them any better."

Rune Cederlof, Ph. D., Associate Professor, National Institute of Public Health, Stockholm:

"Mr. PREYER. So you can say there is no significant difference in the mortality rate of smoking and non-smoking twins.

"Dr. CEDERLOF. Yes.

"Mr. PREYER. Then there is no evidence that non-smoking twins live longer than smoking twins?

"Dr. CEDERLOF. No."

John W. Sawyer, Ph. D., Professor of Mathematics, Wake Forest University:

"the [Public Health Service] Morbidity Report expressly conceded that errors in some of the results were too large to permit meaningful conclusions; at the same time conclusions from these results were advanced. This type approach is not scientific, but shows bias and desire to reach predetermined conclusions . . .

"[The Public Health Service] has gone even further in using portions of the Morbidity Report, often out of context, as the basis for a condensed propaganda pamphlet entitled 'Smoking and Illness.' This pamphlet boldly ignores even those inherent limitations acknowledged in the Morbidity Report. It flatly, and without qualification, asserts precisely how much illness and disease is due to smoking. Nowhere does the pamphlet disclose that the basic data included no medical diagnoses by doctors but only self and proxy diagnoses by laymen. In light of this Critique, the further use and compression of the Morbidity Report in this pamphlet can only be regarded as a dangerous and misleading deterrent to further scientific study."

Mr. Speaker, if the contradictory testimony of medical experts raised doubts among committee members, their puzzlement was increased by concessions coming, oddly enough, from the antismoking witnesses. For example:

Paul Rand Dixon, Chairman of the Federal Trade Commission, was told:

It has never been proven medically, the causal connection between the inhalation of smoke and lung cancer. You know that, don't you?

And he said:

Yes, sir.

No witness disagreed that the type of lung cancer associated with smoking has never been induced in animal inhalation experiments, despite more than 30 years of efforts and many reams of publicity intimating otherwise.

Dr. William H. Stewart of the Public Health Service testified:

I have never stated a cause and effect between (cigarette smoking) and coronary diseases.

Dr. Campbell Moses of the Heart Association said:

There is no proof that cigarette smoking causes coronary artery disease.

His colleague, Dr. Lewis January, said:

There was no specific causal relationship.

Dr. Stewart quoted the 1964 Surgeon General's Advisory Committee as hav-

ing "stated that a relationship exists between pulmonary emphysema and cigarettes but it has not been established that this relationship is causal."

Dr. John Gompertz of the Tuberculosis and Respiratory Diseases Association testified:

The cause of emphysema is not clearly understood."

Asked if it was "not known," he said:

That is true.

Dr. Robert Browning, his colleague, said "we have not any valid statistics yet available" on emphysema.

Doubt, however, was not the only reaction among committee members. Many were understandably concerned that evidence marshaled against cigarette smoking appeared to be patently one sided. Some felt that they, along with the public, had been taken on a "bandwagon" ride. Expert witnesses agreed that both were indeed possibilities.

Following are some observations on one-sided reporting of research:

R. H. Rigdon, M.D., professor of Pathology, University of Texas:

I have been disappointed in my failure to find in the Surgeon General's Report of 1964 and in the 1967 HEW Report to Congress, The Health Consequences of Smoking, a discussion of the published reports of those that disagree with their conclusions.

Sheldon C. Sommers, M.D., director of laboratories, Lenox Hill Hospital, New York:

Then I read the [Surgeon General's 1964] report and I realized what had happened. They had simply done a selective review of the literature. They had not investigated all aspects. The report simply didn't cover the entire field, in my opinion. It was a disappointment.

William B. Ober, M.D., director of laboratories, Knickerbocker Hospital, New York:

People who tell you that cigarette smoking causes lung cancer do not like to be reminded of [conflicting] data. In fact, they were not included in the last Surgeon General's report on "Smoking and Health."

I am sorry that the publication presented only one side of the picture.

Milton B. Rosenblatt, M.D., president, medical board, Doctors Hospital, New York:

Doctors don't know any more about it than anybody else does. They pick up a headline in the newspapers and they know as much as any lay person. This is a highly specialized area. . . . The Public Health Service I regret to say, uses misleading data. It is true, but it is not the whole truth.

Hiram T. Langston, M.D., professor of surgery, University of Illinois College of Medicine:

I think that the attitude of many of my associates in the medical profession is that there are so many things that they have to look into that I doubt if any great percentage have devoted the time and effort to investigating the actual background information, and have tended to . . . accept what is handed them.

Arthur Furst, Ph. D., director, Institute of Chemical Biology, University of San Francisco:

[Scientists] absorb the general ideas about smoking that is going on in the world around them . . . just because you are a scientist or just because you are a doctor doesn't put you in much better position to know any better than anyone else if you don't look at the facts.

Duane Carr, M.D., professor of surgery, University of Tennessee College of Medicine:

[The majority of physicians] have to rely upon published reports and attach some significance . . . to reports of the Surgeon General . . . the number is rather small who have either the time or the inclination to cover the experimental literature.

Thomas H. Brem, M.D., professor and chairman, Department of Medicine, University of Southern California:

I am perfectly sure that if you poll the doctors of this country you would get a very strong majority who believe what the Public Health Service Report says, and that there is substantial proof of the causality relationship. But I think there is only one in 10,000 doctors in this country who really has read the papers and evidence on the other side.

On the "bandwagon" effect:

Duane Carr, M.D., professor of surgery, University of Tennessee College of Medicine:

Unfortunately, many supposedly well informed officials in the Public Health Service and certain voluntary health organizations have permitted their emotionalism and zeal to outdistance the actual scientific knowledge and proof. This has resulted in misleading the public into believing there is proof where none exists. A bandwagon effect has resulted even in the medical and scientific community where too many have accepted the pronouncements of dedicated zealots, lacking the time to examine the scientific basis, or lack of it, for such pronouncements.

Ronald Okun, M.D., director of clinical pharmacology at Cedars-Sinai Medical Center, Los Angeles, Calif.:

There is such an emotion-laden question here. There is so much bias, that one is in danger of being ostracized by his colleagues in the scientific community if his data does not fall in step with preconceived notions.

Yet, I feel that because a stone started rolling down a hill, people have continued to take up this crusade—the word I chose to use—with really no evidence, but just the momentum of a stone rolling down a hill. . . . If one wants to be a crusader and remove a social habit from our environment which some people find distasteful they choose a very emotion-laden illness to pin it on to make it easier to get their job done.

It seems to me that what we have learned from 1,807 pages of testimony is that the public has been subjected to an old-fashioned scare campaign. The same kind of campaign that will take place if Congress fails to retain absolute jurisdiction in this matter.

Mr. Speaker, I yield now 5 minutes to the gentleman from Illinois (Mr. ANDERSON).

Mr. ANDERSON of Illinois. Mr. Speaker, I appreciate the gentleman from Tennessee yielding, because I have informed him in advance that unfortunately I cannot take the position he takes with respect to this legislation.

Normally when I vote for a rule in the Committee on Rules, as I did for this rule, and when I approve it on the floor, as I expect to do today, I do so with the hope and expectation that I can and will support the legislation it makes in order.

I have received, I am sure along with other Members of Congress, communications from segments of the broadcasting industry as well as of the tobacco industry, saying that passage of this legislation is essential or there will be regulatory chaos; and, as the gentleman from Tennessee just argued, that passage of this legislation is necessary to insure that Congress retains its jurisdiction in this field rather than cede it to a fourth branch of Government.

I would hope, very frankly, that by a negative vote on this bill, once the rule has been adopted, we could have made it absolutely clear in the legislative history that will surround that vote that Congress is exercising its jurisdiction; that we are telling the Federal Communications Commission, "It is the will of Congress that you should regulate this product which we have found by this very piece of legislation to be injurious to the public health."

A few days ago one of the distinguished advisers of the President, Dr. Daniel Moynihan, delivered a very remarkable commencement address out at the University of Notre Dame. Among the things he said on that occasion is that in this country today, and indeed throughout the Western World, we are facing a crisis of values.

I read recently a book by Stephen Spender, the poet and critic, called, "The Year of the Young Rebel." He had traveled to some university campuses both here and abroad. He came to the conclusion that what the students today want is not power per se; what they are interested in is changing values.

It seems to me that we in Congress today come head on into a collision with some competing values, and we might as well admit it.

Surely, there is a right or a value of the broadcasting industry to continue to receive $200 or $300 million a year in advertising revenues from the kind of advertising that is done, I am told, 55 minutes during prime time on three television networks every night of the year. There is that economic value.

There is the economic value of which my friend spoke, of the tobacco farmer he represents. Incidentally, I am not without sympathy for their position. I really do not believe they are going to be harmed by the defeat of this legislation as much as my friend fears they may be.

Against these economic interests, important as they may be, is arrayed the question of whether there is not a value or interest that transcends those we have enumerated. I say there is a higher value. There is a higher responsibility on the part of this Congress to do what it can to protect the health of the American people. I say that by a "nay" vote on this legislation we would tell the young people of this country, who, by the time they graduate from high school, have been exposed to 15,000 hours of television—and we would tell that child in the ghetto, where recent surveys, I am told, indicate only 7 percent of the people ever read a newspaper or magazine but two-thirds of the families have television sets—we would tell those children, "We place a higher value on pro-

tecting your health than we do on any other of these interests, important and valuable as they may be."

It seems to me that is the crux of the issue with which we are confronted in this legislation. For this Congress to assume the position that we do here, that we make the affirmative finding under the authority of the Surgeon General—be it a past Surgeon General or a present Surgeon General or someone else—we make the finding in this bill that this is injurious to the public health, that it may cause lung cancer and other respiratory diseases, and then we go on to say, "But, no, we will not protect the children of this country from the kind of insidious influences that are wrought upon their young and impressionable minds with the kind of advertising that is done with respect to this particular product."

I read some very interesting testimony—and with this I will close—taken before the Committee on Interstate and Foreign Commerce from a Dr. Ronald G. Vincent, associate chief, Department of Thoracic Surgery, Roswell Park Memorial Institute, Buffalo, N.Y., who ought to know what he is talking about because he treats 250 new cases of lung cancer a year. He says of those people only 10 percent will be alive 5 years later and 96 percent will indicate they smoke one or more packs of cigarettes a day. In his testimony he said, and I quote:

> I suspect that the historians of the future will look upon our efforts during the past decade with amusement. The record will probably show that here was a highly intellectual society, greatly concerned and oriented toward problems of health, who spent millions of dollars in health research, but with a clearly defined epidemic bursting at their feet, and for reasons of what they thought to be enlightened political and economic self-interest, stood flailing about the branches, while refusing to strike at the roots of the problem.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. QUILLEN. Mr. Speaker, I yield the gentleman 2 additional minutes.

Mr. ANDERSON of Illinois. Mr. Speaker, I read a story a couple of years ago in the newspaper about a couple of young teenagers who got into a department store and stayed there after it closed and remained there all night. They did not steal anything but merely went around the store and changed the price tags on all the products so that you could buy a fur coat for $1.98. They transposed values and badly confused and mixed up some of the customers in that store the next day. I would suggest that we will be confusing very badly the young people of this country if we transpose values in this instance and put a higher premium on the economic interests of the tobacco farmer and of the broadcasting industry and all of these other entirely legitimate interests that we do on protecting the health of the young people of our country. Ought we not put a higher premium on protecting the public health of our country? That is the question we must answer.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, but I reserve the balance of my time.

Mr. YOUNG. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Speaker, because of the remarks that the gentleman from Illinois just made, I think I should make it clear that on this bill and on this rule I shall stand with him, and tomorrow will probably be a long day. He has precisely stated the issue, and I support him on it. The issue is one of values; the issue is one as to whether or not this generation, in this civilization, will do what it can to protect its young. We will not delay this bill; we will not pettifog on this bill. I shall vote for the rule on this bill, and I want publicly to thank the Committee on Rules for having given us the time to prepare for this bill. We are now prepared, and today I will deliver the amendments which I know about to other Members that want them. There will probably be others. Our amendments will strike exactly at the heart of the question which is: Should we have a warning to the young people who are making up their minds—those between 9 and 18 years of age—by giving them the best knowledge that we have about cigarette smoking. This bill is not directed toward banning cigarettes.

If we put cigarettes in the same position as liquor, as the gentleman from Iowa mentioned, the tobacco industry will probably save themselves about $200 million a year in advertising. The people that drink will continue to drink, those who smoke will probably do the same, but maybe they would know a little more about it if we did put a label on them. I would not care if both were labeled. What we are trying to do with cigarettes in this debate is make known to you the fact that every night, every day, every week, hour after hour cigarette smoking is pointed out to the young as the manner in which to grow up.

And I know all of you that have children deal with it every night. Cigarette smoking by advertising is directed toward showing that it is the "in" thing to do; it is the way to get the girl; it is the way to be the hero; it is the way to be the adult to which every child aspires, and so it is true with reference to telling our values. We are saying to the young people simply that the best medical knowledge we have now is that this problem is hazardous but yet we are going to say that in advertising we will not say that.

Mr. Speaker, I want to make it very clear that our amendments will be directed toward two basic things. First, by telling the people, telling them as best we know, what the situation is so they can make an informed judgment. The second will be to shorten the length of time before this Congress considers this matter again. If you want to talk about the control of the FCC and the FTC, the most important thing which the Committee on Interstate and Foreign Commerce generally tries to follow is that no bill goes beyond 3 years before you look at it again.

Another point is what we do to the States. Forty-eight of the 50 States prevent young people from having cigarettes sold to them. Many of them prohibit any advice to young people to smoke. And, yet, in these States they are not permitted because of the bill which we have to say that you cannot control the advertising of cigarettes insofar as young people are concerned.

Mr. Speaker, we will have a great deal of general debate today in which we will describe the medical testimony and I think you will find there is not a single medical society in the world that does not take the position that cigarette smoking is hazardous to one's health.

There are individual doctors who will testify—and men of integrity and whom I believe are sincere in their opinion that will say—we do not know what it is when you light up a cigarette and smoke it that causes one's medical problems. It could be a number of things. But I wish the cigarette industry would spend $200 million on research rather than $200 million on advertising to find out.

The SPEAKER pro tempore (Mr. BOLAND). The time of the gentleman from Washington has expired.

Mr. YOUNG. Mr. Speaker, I yield 2 additional minutes to the gentleman from Washington.

Mr. ADAMS. To give you some idea—and this issue is going to be a value judgment issue—there is going to be no partisanship in this issue at all, it is going to be those who believe that we should "tell it like it is" and those who for their own legitimate reasons feel that this is doing too much. I do understand the economic problems of the tobacco industry and I can say this: that in the opinion of this, gentlemen, whether you advertise or not, you are probably going to sell the same number of cigarettes, to sell them the following year and the following year after that. But what will probably happen thereafter is that fewer young people will move into the market over a period of time and you will have, instead of an expansion, a stabilization of the industry.

Mr. Speaker, the liquor industry does not advertise on television. That is why it is not covered in this bill. They made a voluntary agreement years ago—the television industry—not to put the advertising of liquor on television.

Mr. Speaker, just to indicate some of the people who are involved in this issue, I received a telegram this morning—and this telegram is addressed to me—from the heart specialist who treated President Eisenhower, Dr. White, in which he basically says, "Go on the floor and try to do something about this; tell the people, tell them at least what we think the effects will be and what other cardiologists think."

The same has been true of specialists engaged in cancer research. They are not trying to come in here and scare you and say, "We know if you are going to smoke a cigarette you are going to get cancer." They just say that in their medical judgment it is dangerous to smoke cigarettes.

Mr. Speaker, I ask unanimous consent to insert at this point in the RECORD the telegram which I have just received from Dr. White.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The telegram referred to follows:

BOSTON, MASS.

Representative BROCK ADAMS,
Cannon House Office Building,
Washington D.C.:

The cigarette bill that Congress soon will consider serves to encourage, rather than discourage cigarette smoking. It would eliminate every effective means of regulating advertising. Many scientific studies during the past 12 years have convinced me and a great majority of my fellow cardiologists that heavy cigarette smoking accounts for hardening of the arteries and other conditions that are responsible for most cases of heart attacks and strokes and causes death from cancer and other diseases. All of us, physicians and laymen, have an obligation to eliminate or reduce the hazard of cigarette smoking. Further, it would authorize a health warning only on cigarette packages where experience has shown such warnings to be virtually useless, being seen chiefly by confirmed smokers only. I congratulate you on your determination to lead the fight against this bill and send my warmest wishes for success. To defeat this bill would contribute importantly to our nationwide effort to reduce death and disability from the heart and blood vessel diseases, the number one killer in our nation today.

PAUL DUDLEY WHITE, M.D.

Mr. FOUNTAIN. Mr. Speaker, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. I thank the gentleman for yielding, and I would like to ask the gentleman whether Dr. White in his telegram or in any communication directed to the gentleman or to anyone else has stated that he has ever engaged in 1 minute of basic research on this subject?

Mr. ADAMS. Dr. White did not so state in his telegram, and so I do not know whether he has. I will say to the gentleman that we did have witnesses who have engaged in basic research; we have had pathologists, heart specialists, cancer specialists, and all of them indicated—and I will agree with the gentleman that this matter of what causes the cancer out of cigarette smoke is not known. If they knew, they would stop it.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. YOUNG. Mr. Speaker, I yield 1 additional minute to the gentleman from Washington.

Mr. ADAMS. I thank the gentleman for the additional time, and I will yield to the gentleman from North Carolina so that he may reply.

The problem that we have is that these men have found over studies going back through 1962 what happens in the relationship in America is between people who smoke and the incidence of cancer and heart disease, and this is what they will say—and this is what the debate will reveal this afternoon.

Mr. FOUNTAIN. I would also ask the gentleman if there were any medical or scientific witnesses—who have engaged in basic research and who have had experience with the raw materials—who testified that in their opinion there is a direct and positive causal relationship between cigarette smoking and a disease?

Mr. ADAMS. When the gentleman phrases it in that way, no, because it is mainly epidemiological. In other words, it is the same situation as that which happened when the man in England many years ago found that there was an epidemic in an area of typhoid, and that all the people were drinking from the same pump. So what he did was take the handle off the pump, and the epidemic stopped.

Now, he did not know that typhoid baccilli were carried by the water supply, but he did know that if he could break the causal connection between the two he could save the lives of people. And that is the type of evidence that the Surgeon General has, and the American Medical Association has testified about. And basically I would say to the gentleman that is true of most diseases.

The SPEAKER pro tempore. The time of the gentleman has again expired.

Mr. YOUNG. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. KOCH).

Mr. KOCH. Mr. Speaker, first I would like to thank the gentleman from Texas for yielding me these 5 minutes, and to associate myself with the gentleman from Illinois and the gentleman from Washington in respect to their remarks on smoking.

Mr. Speaker, it is amazing to me that after all of the evidence that has come forth that there are still people who question whether or not cigarette smoking has a relationship to cancer, emphysema, and the other diseases that the scientists say it does relate to. But then again, I know that there are still people in this world who believe that the earth is flat, and if they are willing to believe that, then they are not going to accept the statistical evidence that cigarette smoking will lead to these diseases.

Some of the people who sold thalidomide I am sure today do not agree with the statistical evidence that thalidomide causes deformations in the fetus, but still we know it took place, and thalidomide has been outlawed.

I say to you that the same statistical correlation exists in cigarette smoking. Those who represent the tobacco interests just think about the statistics: 300,000 people will die this year as a result of cigarette smoking. One million schoolchildren will be hooked on cigarettes this year, as a result of television and radio advertising. Those people at age 25 who smoke two packages of cigarettes daily will have a longevity of 8⅓ years less than someone who does not.

Is it worth it? Is the private interest worth it? Is the profit to be made by the cigarette industry worth it to take these chances with the lives of the American people?

There is another area that the committee never went into, and that is the subject of addiction.

There is no question but that there are scientists today who say that cigarette smoking is addictive. All you have to do is to look at all those people whose very lives depend on it, those people who have Buerger's disease—who are told by their doctors, "Do not smoke because if you do—each year, each day, each month another part of your body is going to have to be amputated."

Yet, they will continue to smoke because there is an addictive quality to it.

I say to my colleagues in this House, there is no question but that there will be a penalty paid by the tobacco farmers and we should make that up to them. We should do all that is necessary to make certain that if there is a loss in tobacco profits, it is made up by some kind of subsidy.

We are paying people not to grow wholesome crops. Is it not possible that we pay them not to grow poison?

I say to you, if you consider all these things, we must not only accept the proposals or the amendments that will be made later on, but we must make them even stronger.

Mr. YOUNG. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. MACDONALD).

Mr. MACDONALD of Massachusetts. Mr. Speaker, the legislation on cigarette labeling that is before the House today is important to the health and welfare of every American—and is particularly important to the health and welfare of young Americans.

With this legislation Congress has not only the opportunity but the duty to set national policy. If Congress does not act, two independent agencies—the Federal Trade Commission and the Federal Communications Commission—have told Congress that they intend to take matters into their own hands.

Congress in 1965 did act on cigarette labeling, and by so doing, made it clear that policy in this important field should be and is the prerogative of the elected Representatives of the people in Congress. I strongly support congressional action on the issues before this body today. Congress must and should resolve the controversial questions concerning smoking and health.

However, if Congress has a duty to act, it also has a duty to act responsibly. In protecting the health and welfare of American youth it could well be that a weak measure would be worse than no measure at all.

Mr. Speaker, the bill as reported from the Commerce Committee, to my mind, does not adequately deal with the preponderance of scientific and medical testimony presented. Nor does it provide for dissemination of an adequate health warning to the one important group of Americans that should be the primary focus of our actions—the young who have not yet formed the cigarette smoking habit.

The present warning on cigarette packages comes into the hands of those already smoking. The proposed, somewhat stronger warning would also appear only on cigarette packages. Younger Americans, before coming to the point of buying cigarettes, would come into only occasional contact with the health warning.

But these same young persons, as do all Americans, come into daily contact with cigarette advertising, in print, on radio, and on television. This advertising is understandably designed to make cigarette smoking seem an appealing and adult activity, encouraging experimentation by holding up first one, then another brand as superior in flavor and smoking pleasure.

At the very least, whatever warning we approve for use on cigarette packages should also appear in cigarette advertis-

ing. Advertising theory has long held that repetition is a key to effectiveness and constant reminders of the health hazards of smoking should be before all groups, not just those who already have the habit.

There are those who hold that requiring a warning in advertisements will cause the cigarette manufacturers to forgo the use of such advertising. I do not believe that will be the case. A carefully worded warning would do no more than satisfy the requirement for full disclosure and need not destroy the purpose of the advertisement, which may be to induce persons who are already smokers to try another brand—perhaps one lower in tar and nicotine.

Others say that a requirement for inclusion of a warning in cigarette advertising would be discriminatory—that no other industry faces such a requirement in its marketing activities. Opponents of a warning in advertising say that sellers of other products with demonstrable hazards from misuse, such as automobiles and alcoholic beverages, are not compelled to carry warnings in their advertising.

But whereas automobiles can be operated safely, medical testimony holds that cigarettes cannot be smoked safely. And producers of distilled spirits, recognizing that their products may be misused, have voluntarily refrained from using the most highly persuasive advertising media—radio and television—to promote their products. No such restraint has been forthcoming from the cigarette manufacturers.

In this context, it should be added, regulations of advertising and sales practices has, in our lifetimes, been moving beyond the simple and callous doctrine of "let the buyer beware." Manufacturers are now deemed to have positive responsibilities to their customers, and full disclosure—which has long been the rule for most responsible industries—is now becoming the rule for all.

Admittedly, radio may present a special problem if a warning in advertising is required. In a radio commercial all words tend to have equal emphasis and any required language would cut into the limited time for the advertiser's message. It is possible that the requirement for the warning to appear in radio advertisements could be waived. Use of radio for cigarette advertisements has been limited compared to use of other media. The basic format of radio spots for cigarettes, the jingle, would suffer from a requirement that specific statutory language be presented. On television, the warning could appear on the screen without interfering with jingles or other material in the sound portion of the announcement.

Mr. Speaker, our responsibilities for setting policy in this important field are clear. After extended debate in open session all arguments must return to the central fact that the issues here should be resolved by Congress, which must be responsible and responsive, through its elected representatives, to the wishes and needs of all the people. For the regulatory agencies, after seeking and failing to obtain congressional advice, to act unilaterally on such an issue of basic policy would be, by definition, not in the public interest. Yet if Congress does not act, the FCC and the FTC should be commended for coming forward to fill the policy vacuum that will result.

Clearly a mandate for the Commissions is in order—but one that accurately and fairly comes to grips with the gravity of the health hazard.

Mr. YOUNG. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. STAGGERS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6543) to extend public health protection with respect to cigarette smoking and for other purposes.

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 6543, Mr. BROOKS in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from West Virginia (Mr. STAGGERS) will be recognized for 1½ hours, and the gentleman from Ohio (Mr. DEVINE) will be recognized for 1½ hours.

The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the legislation which the House is considering today amends the Federal Cigarette Labeling and Advertising Act. The bill was reported from the Interstate and Foreign Commerce Committee by a vote of 22 to 5.

Some of the most extensive hearings held by the committee during the time I have been a member were held on this legislation. We heard every person who asked to be heard and could comply with our hearing schedule. In all, the full committee heard 91 witnesses and received 117 statements in 13 days during the period from April 15 to May 1.

On May 28, the committee ordered H.R. 6543 reported to the House. At the request of Members who wished to file minority reports, I deferred filing the report on the bill until June 5. On Sunday, June 8, I received a telephone call at my home from a member of the committee who asked for additional hearings on the legislation on grounds that information had been brought to his attention which placed in question certain testimony received from a representative of the radio and television broadcasting industry to the effect that the industry was carrying out an effective continuing review of cigarette advertising on radio and television. This information consisted of a confidential 1966 report of the code authority of the National Association of Broadcasters relating to broadcast cigarette advertisements and an allegation by a former employee of the code authority—who also released the confidential report—to the effect that the industry had ceased effective self-regulation of cigarette advertising in April 1968.

So as to provide Members with as much information as possible while considering the legislation before the House, I ordered a hearing to be held last Tuesday. At that hearing we heard Mr. Vincent Wasilewski, president of the NAB; Mr. Stockton Helffrich, director of the code authority of the NAB, and Mr. Warren Braren, who, until May 1 of this year was manager of the New York office of the code authority. Those hearings lasted the entire day and the hearing record covers 266 pages.

All this information is presented to the House, and I trust that each Member will consider all the evidence and give every part such weight as his best judgment may dictate.

The issue is highly emotional. But what is required of us, in my opinion, is that we act in accordance with what we consider to be the best interest of this Nation as a whole.

Now, Mr. Chairman, let me turn to the legislation itself. In 1965, Congress enacted the Federal Cigarette Labeling and Advertising Act—Public Law 89–92—and made it effective January 1, 1966. Essentially the act—

First, requires cigarette packages to bear the label:

Caution: Cigarette Smoking May Be Hazardous To Your Health.

Second, prohibits any other statement relating to smoking and health from being required on cigarette packages so labeled; and

Third, provides that until July 1, 1969, no statement relating to smoking and health can be required in any advertisement of cigarettes packaged in accordance with the act.

H.R. 6543 as reported by the committee amends the act in two respects.

First, changes the warning required on cigarette packages to read:

Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous To Your Health And May Cause Lung Cancer Or Other Diseases.

Second. It postpones the termination date on preemption of regulation on cigarette advertising from July 1, 1969, to July 1, 1975.

Mr. Chairman, to fully appreciate the situation with which we are concerned in this legislation, the Members of the House should know that the Federal Communications Commission and the Federal Trade Commission have each undertaken rulemaking proceedings based on the possibility that Congress will permit the preemption provisions to terminate on July 1, 1969.

The rules proposed by the FCC, if adopted, would ban all cigarette advertising from radio and television. Those proposed by the FTC would have virtually the same effect with respect to cigarette advertising in all other media. The FTC proposal would require printed cigarette advertisements to bear a lengthy health warning.

Now, Mr. Chairman, others will point out the problems of constitutional and statutory law which these proposed rules

raise. While I am concerned about these problems, they are not my major concern. My principal concern is that these agencies, the FTC and the FCC, have assumed a policymaking role with respect to matters never intended by Congress.

What may be broadcast over radio and television, and how legitimate articles of commerce may be advertised, are fundamental decisions. They should not be made by agencies not responsible to the people of this Nation.

Mr. Chairman, I do not smoke; I do not believe that any of my children smoke; and I do not believe that smoking is good for anyone. Because my committee has reported this bill I intend to support it. Nevertheless, if amendments to the bill are adopted by the House I will not be distressed. The point I am making, Mr. Chairman, is that in the present situation policymaking with respect to cigarette labeling and advertising should be fixed by the agency set up by the Constitution for the making of public policy—that agency is the Congress of the United States. I hope this House will not abdicate this duty and responsibility by failing to pass legislation on cigarette labeling and advertising.

Mr. Chairman, I have heard some Members make the statement that they will vote against this bill so that the FTC and the FCC can act. This is not accepting our responsibility. That is what is the matter with this Nation. We talk of values, but yet we say, "We will give that responsibility to somebody else." This Congress is endowed with the power to act in this situation and we should not give it to some agency downtown by failing or refusing to act.

It is our responsibility. This Congress should do whatever needs to be done.

We had before our committee 26 amendments that were voted on. Some of them were lumped into groups, but there were 20 separate votes taken. That is the democratic way of doing it. We should let the elected Representatives of the people act by their votes. That is one reason why I thought this bill should come to the floor of Congress, to let the elected Representatives of the people of this Nation have their say with respect to what should be done and then vote.

So let us accept our responsibilities as Representatives of the people, make our amendments to the bill, and then let the bill be passed.

Mr. Chairman, the following correspondence corrects certain misinformation which appears on pages 1289 and 1290 of the hearings on this legislation and I include it in the RECORD at this point:

LORILLARD,
May 21, 1969.

HON. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. CHAIRMAN: In hearings of the Interstate and Foreign Commerce Committee on labeling and advertising of cigarettes, May 1, 1969, there occurred a colloquy between Robert B. Meyner, Administrator of the Cigarette Advertising Code, and you, which tended to reflect adversely on the Lorillard Corporation and to suggest improprieties in the relations between Lorillard and the Federal Trade Commission. Because Mr. Meyner's testimony contained factual inaccuracies, we are writing this letter with the request that it and the attached documents be made a part of the record of the hearings. We are taking the liberty of forwarding copies of this correspondence to Mr. Meyner and to Chairman Paul Rand Dixon of the Federal Trade Commission.

In his testimony on May 1, Mr. Meyner condemned the Federal Trade Commission's announcement of March 25, 1966, in which the Commission, reversing prior policy, declared that a factual statement of tar and nicotine content in cigarette advertising would not be considered in violation of law. Mr. Meyner stated that this Federal Trade Commission action brought about the immediate resignation of one member of the Code—later identified as Lorillard—and the subsequent resignation of two other unidentified Code members. (They were, in fact, Stephano Brothers and American Tobacco Company.) There followed this exchange between Mr. Meyner and you:

"The CHAIRMAN. There are a couple of questions I would like to ask. You mentioned about some withdrawing from the Code at a certain time. Who was it?

"Mr. MEYNER. The first was Lorillard. They withdrew the very day that the Federal Trade Commission abandoned its policy on tar and nicotine.

"The CHAIRMAN. The same day?

"Mr. MEYNER. The same day.

"The CHAIRMAN. What reason did they give for withdrawal?

"Mr. MEYNER. They gave the FTC ruling, as I recall it. They referred to the FTC.

"The CHAIRMAN. On that FTC ruling, how soon after the FTC changed its ruling did companies start emphasizing low tar in their advertising?

"Mr. MEYNER. *The very day.*

"The CHAIRMAN. It looks like there might have been some collusion here.

" * * * * *

"The CHAIRMAN. What I am trying to get at is it looks like there might have been some advance notice, let us put it that way, when a company is ready to advertise that same day. You do not need to answer this. I am saying from my own mind this looks a little strange to me, if this happened the same day, that they would start advertising when the FTC lifts the ban, the same day." (Tr. 1760. Emphasis added.)

Mr. Meyner's statement with respect to the commencement of advertising by Lorillard is incorrect. The first Lorillard advertisement incorporating the change in Federal Trade Commission policy did not appear until 35 days after Lorillard's resignation from the Code.

The actual chronology of events was as follows:

On March 25, 1966, the FTC announced its changed policy. (Copy attached) In that same day, in a meeting called following notice of the Commission's action, Lorillard's executive committee reached a decision to resign from the Cigarette Advertising Code. Lorillard's letter of resignation was hand-delivered to Mr. Meyner that afternoon. (Copy attached) On March 28, Lorillard issued a press release publicly announcing its resignation. (Copy attached) On April 6, 1966, Lorillard made the first public announcement of development of True, a new reduced tar and nicotine filter cigarette. (Copy attached) On April 11, 1966, the first factory shipments of True were made. On April 29, 1966, the first print advertisement of True appeared, in the *New York Times*. Television advertising of True began the week of May 16, 1966, in the New York market. This was the first Lorillard advertising containing tar and nicotine statements under the revised FTC policy. It was not prepared until after March 25, 1966, nor was it submitted to the FTC for clearance or review prior to dissemination.

The suggestion of "collusion" is most unfair to Lorillard and to the Federal Trade Commission. Therefore, in view of the prominence which has been given to Mr. Meyner's testimony and your statement in response to the inaccuracies in that testimony, we believe the record should be corrected to set forth the facts as they are described above.

We trust that you will appreciate our desire to have the record in this matter correctly state the facts, and we appreciate your courtesy in considering the above.

Sincerely yours,

ARTHUR J. STEVENS,
General Counsel.

NEWS RELEASE OF FEDERAL TRADE COMMISSION, MARCH 25, 1966

The Federal Trade Commission today announced that it has sent identical letters to each of the nation's major cigarette manufacturers and to Mr. Robert B. Meyner, Administrator of The Cigarette Advertising Code, Inc., in regard to factual statements of tar and nicotine content on labels and in advertising of cigarettes.

The text of the letter is as follows:

"GENTLEMEN: The Cigarette Advertising Guides promulgated by the Commission in September 1955 provided that no representation should be made that "any brand of cigarette or the smoke therefrom is low in nicotine or tars * * * when it has not been established by competent scientific proof applicable at the time of dissemination that the claim is true, and if true, that such difference or differences are significant." On the basis of the facts now available to it, the Commission has determined that a factual statement of the tar and nicotine content (expressed in milligrams) of the mainstream smoke from a cigarette would not be in violation of such Guides, or of any of the provisions of law administered by the Commission, so long as (1) no collateral representations (other than factual statements of tar and nicotine contents of cigarettes offered for sale to the public) are made, expressly or by implication, as to reduction or elimination of health hazards, and (2) the statement of tar and nicotine content is supported by adequate records of tests conducted in accordance with the Cambridge Filter Method, as described in an article entitled "Determination of Particular Matter and Alkaloids (as Nicotine) in Cigarette Smoke," by C. L. Ogg, which appeared in the Journal of the Association of Official Agricultural Chemists, Vol. 47, No. 2, 1964. It is the Commission's position that it is in the public interest to promote the dissemination of truthful information concerning cigarettes which may be material and desired by the consuming public.

"By direction of the Commission.

"JOSEPH W. SHEA,
"Secretary."

MARCH 25, 1966.

GOV. ROBERT B. MEYNER,
Administrator, the Cigarette Advertising Code, Inc., New York, N.Y.

DEAR GOVERNOR MEYNER: As you know, the P. Lorillard Company participated in the development and organization of the Cigarette Advertising Code. The Code was essentially the cigarette industry's response to a recognized need for industry self-regulation during a time of uncertainty over the course of future legislative and regulatory action.

It is our believe that the circumstances which led to the establishment of the Code administration have now significantly changed. The legislative situation has been stabilized with the enactment of the Cigarette Labeling Act of 1965. More impor-

tantly, the Federal Trade Commission has now announced a fundamental change in its cigarette advertising policy dealing with tar and nicotine representations. It is evident to us that the Commission, in making this announcement, seeks to encourage the development of low tar and nicotine cigarettes for those consumers who desire such products. This has been the continuing objective of P. Lorillard Company over many years and remains our goal not only with respect to our existing brands, but with respect to new products under development. We regard the FTC's policy announcement as a stimulus to the further development of improved filter cigarettes.

Accordingly, we now wish to advise you of our resignation as a member of Cigarette Advertising Code, Inc., effective as of this date, pursuant to the authority of Article III, Section 4, of the By-Laws. We shall continue as in the past to label and advertise our products in accordance with existing law and with applicable regulations and rulings of the Federal Trade Commission. We shall also continue to adhere to those principles underlying the provisions of Article IV, Section 1, of the Cigarette Advertising Code dealing with limitations on advertising to youth.

We wish to express our gratitude to you for your efforts on behalf of the industry and the Code Authority during the period of our membership.

Sincerely yours,

M. YELLON.

NEWS RELEASE OF P. LORILLARD CO.

P. Lorillard Company, a pioneer in the field of high filtration cigarettes, today (Monday, March 28, 1966) announced its withdrawal from the tobacco industry's voluntary Cigarette Advertising Code organization. This followed the Federal Trade Commission announcement last Friday permitting a factual statement of the tar and nicotine content of the mainstream smoke from a cigarette.

This "fundamental change" in the FTC's cigarette policy evidently "seeks to encourage the development of low tar and nicotine cigarettes for those consumers who desire such products," P. Lorillard stated. "We regard the FTC's policy announcement as a stimulus to the further development of improved filter cigarettes."

The announcement of Lorillard's resignation was transmitted to Governor Robert B. Meyner, Administrator of the Code, by Manuel Yellen, Lorillard Board Chairman and Chief Executive Officer.

Lorillard stated that it will continue to label and advertise its products in accordance with existing law and with applicable regulations and rulings of the Federal Trade Commission. The Company also stressed it will continue to adhere to the principles of the Cigarette Advertising Code dealing with limitations on advertising to youth.

NEW YORK, April 6.—P. Lorillard Co., which withdrew from the Cigarette Advertising Code last week, announced today it had developed a new king sized filter cigarette.

Distribution of the new cigarette, named True, will begin in the New York area next week and then be extended nationally as production increases, Manuel Yellen, Lorillard chairman, said.

Yellen said the new cigarette had an air filtration system specifically formulated to cut tar and nicotine.

Lorillard withdrew from the voluntary code after the Federal Trade Commission announcement permitting a factual statement of the tar and nicotine content of the smoke from a cigarette.

Lorillard said then the change in FTC policy evidently seeks to encourage the development of low tar and nicotine cigarettes for those consumers who desire them.

The company said laboratory tests of the new cigarette had been conducted according to the Cambridge Test Method prescribed by the FTC.

CIGARETTE ADVERTISING CODE, INC.,
New York, N.Y., May 29, 1969.

ARTHUR J. STEVENS, Esq.,
General Counsel, Lorillard Corp.
New York, N.Y.

DEAR MR. STEVENS: Governor Meyner has asked me to reply to your letter of May 21, 1969, since I had previously discussed the matter with you on the telephone.

As I advised you then, the error in chronology to which the Governor testified on May 1, was discovered and corrected by him before we heard from you.

I am enclosing a copy of my letter of May 7 to Mr. Williamson, the clerk of the committee.

The correction was to change Mr. Meyner's answer on page 1760 from "The very day", to a reference to the fact that the new brand was announced twelve days later.

The confusion, I believe, resulted from our mental transposition, during the testimony, of two events. While the indicated interval occurred between the FTC rule and the announcement of the True brand, advertising of True's ranking in the Roswell Park tests did follow the release of those test results by only one day.

We certainly regret, as I told you, the indicated error. I trust the correction we had already made has set the matter straight.

Very truly yours,

DANIEL B. GOLDBERG,
Deputy Administrator.

Mr. W. E. WILLIAMSON,
Clerk, Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. WILLIAMSON: I am returning the transcript which you were good enough to send me, with some minor editing.

I do call your attention to the fact that I have made a correction in chronology on page 1760, and the Chairman may wish to consider changing the phrase "that same day" in his observation on page 1761.

Very truly yours,

DANIEL B. GOLDBERG,
Deputy Administrator.

Mr. MURPHY of New York. Mr. Chairman, that cigarette smoking is a menace to life and lung is no longer a proverbial pipe dream but a deadly scientific fact. That 42 percent of our adult population still considers smoking a minor indulgence—despite the shocking facts first reported in January 1964—is, in itself, a major health problem. That relatively little has been done to curb cigarette-related disease by developing less hazardous cigarettes is a national disgrace.

More than 5 years ago, the Surgeon General of the U.S. Public Health Service issued a report titled "Smoking and Health," which concluded that cigarette smoking is a health hazard of sufficient importance to warrant appropriate remedial action. In 1967, the Public Health Service issued another report, "The Health Consequences of Smoking," which confirmed that smoking is a serious health risk to the individual smoker and a major health problem for the Nation.

Clinical and autopsy studies, epidemiological studies and animal experiments have overwhelmingly proven that cigarette smokers have substantially higher rates of death and disability than nonsmokers. The macabre stitistics show that—

The risk of death from all causes is 70 percent higher for smokers.

The risk of death from lung cancer is over 10 times greater for smokers.

The risk of death from bronchitis and emphysema is six times greater.

The risk of death from coronary artery disease is 70 percent greater.

Despite these sobering statistics, people still continue to smoke. There are millions of people who probably will never be willing to or able to give up smoking.

What has been done for them and, more important, what is being done to discourage young people from smoking? The answer is: relatively little.

We must encourage young people not to start smoking. At present, as many as half the boys and girls in this country have become cigarette smokers by the time they are 18. The hazards of smoking must be instilled in them at an early age.

And, we must pursue development of a less hazardous cigarette. A simultaneous climate of opinion must also be developed so that when a safe cigarette is developed, smokers will turn to it.

In testimony before the House Appropriations Committee on March 13, 1967, the Secretary of Health, Education, and Welfare, John W. Gardner stated:

> There are going to be a great many people who will never stop smoking and we must get going with the kind of research and persuade the tobacco industry to pursue the kinds of research that will result in a safer cigarette.

Scientific journals have recently reported successful testing of a formulation which causes a reduction in tars and nicotines, and benzpyrene—the deadly carcinogen in cigarette smoke.

Benzpyrene, as pointed out in the Surgeon General's reports on "Smoking and Health" not only acts to induce cancer itself, but has a synergistic power and triggers or activates other substances to become major tumor initiators.

Any cigarette which produces significantly less benzpyrene is, therefore, a less hazardous, or safe, cigarette.

This successful biochemical and biological testing of a spray called Chemosol has been conducted and developed by Dr. Perry B. Hudson and the High Tor Foundation. By spraying this chemical solution on cigarette tobacco, the benzpyrene is significantly reduced without destroying the flavor or aroma.

This development is a significant breakthrough. It must not be relegated to the back shelf when a practical, less hazardous cigarette can be made available to the public. The time for utilization of the Chemosol process for commercial purposes in the cigarette market is now.

Further, this first practical method for the production of a safe cigarette should be brought to the public's attention.

A safer cigarette is practical and can be mass produced now—and safer cigarettes have already been produced in laboratories.

The development of Chemosol-treated cigarettes drew American backing and support in 1965 by a small group of interested investors.

This group is now incorporated as American Chemosol Corp. Dr. Perry Hudson is heading Chemosol Research.

As a Member of Congress, I felt the matter should be explored with a view to government participation. I then talked to Mr. Louis Beck, of New York, the company president.

It was decided to pursue the process with private money. I might add at this point that no Federal funds have been sought or contributed to the 3-year research and development program by American Chemosol.

Several months later, I learned that Dr. Hudson's testing program on live mice was showing positive results and that his treated cigarettes, when compared with untreated cigarettes, were very much safer.

From the outset American Chemosol strived to cooperate, first of all, with our Government agencies with respect to speed completion of this vital endeavor, and at the same time, with representatives of the American tobacco industry.

With respect to the first, I should like to say that, aside from personal relationships which were cordial and open, the Government was ill-equipped to come to grips with this new discovery. In other words, there was not, and so far as I know, still is not, a Federal instrumentality with the facilities necessary for corroborative testing so that new inventions dealing with public health, can be voted up or down.

This meant that the long series of tests had to be accomplished independently and at great expense and that corroborative testimony from other qualified scientists had to be obtained in a most laborious and time-consuming fashion.

But this has now been accomplished.

With respect to relations with the tobacco industry, I can only say that it has been somewhat of a charade.

There has always been a format of cooperation—but always up to a point. Industry scientists willingly discussed with Dr. Hudson the best testing methods. They even supplied cigarette tobacco from commercial lots for use in Dr. Hudson's tests. But they always tended to sneer at and distort the results.

The explanation here, and this is an opinion I share with many others, I believe, is that the tobacco industry has always denied, and still denies publicly, that smoking is harmful to health.

Considering the industry efforts that have gone into making safer cigarettes, we can conclude that their private thinking is different.

In a Senate speech on March 7, 1969, Senator FRANK E. Moss stated:

> Again we can only conclude that the cigarette industry is not interested in competing to market less harzardous cigarettes, an unhappy reflection of its sense of social responsibility.

I am confident that Dr. Hudson's findings point the way to a new era of safer cigarette enjoyment.

I believe the House will have to give serious thought to new standards for cigarette labeling and advertising.

Obviously the existing law is a bad compromise in that it does not protect the public, in particular our youth, from developing harmful cigarette habits, and it does not provide sufficient incentive for free enterprise to exploit a safer cigarette.

Furthermore, the Federal Trade Commission regulations now do not consider other recognized harmful ingredients—such as benzo(a)pyrene—which are present in cigarette smoke and are the real culprits to the smoker, and therefore prohibit the developer of a less hazardous cigarette to in fact plainly tell the smoking public of its existence and that it is indeed less hazardous. Therefore, there is little incentive to develop a less hazardous cigarette. I therefore submit that the public be informed.

It is my feeling that a safer cigarette should be promoted extensively so as to drive bad cigarettes out of the marketplace.

In summary, then, the FTC which a long time ago announced plans for an independent laboratory, has for all practical purposes turned the measurement of tars and nicotines over to the American tobacco companies who are supposed to be under investigation. The various governmental agencies in Agriculture and HEW supposedly protecting the public interest have been playing a kind of intramural league system of unproductive research, costing millions of tax dollars, without taking prudent advantage of the many scientific contributors outside of the Government. The tobacco industry has denied that a problem even exists. Much like the automobile industry's study of exhaust air pollution, the tobacco industry regards lung pollution as a matter to be cubbyholed in a dormant, if not conspiratorial, industry trade association.

Those individuals and institutions most responsible for the smoking problem have failed convincingly in giving the American public a reasonable solution and therefore I have placed my faith in and committed myself to an independent force.

Because of my private involvement in this one company, as a member of the board of directors, I am hereby announcing a voluntary restriction of my public role as a Congressman. I shall not participate in any vote, in committee or on the floor, wherein a conflict of interest may arise. I do not, however, plan to remain silent. The public deserves all pressure possible to have a safer cigarette marketed.

Mr. DEVINE. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, the House finds itself in a unique position today, I think, because I know of no official party line in the Democrat Party nor in the Republican Party and I know of no particular administration position. Everyone has a great deal of latitude and elbow room to do just exactly as he pleases on the legislation before us today.

Just as a brief review, this bill very simply will prevent the Federal Communications Commission from banning cigarette advertising and the Federal Trade Commission from setting stringent rules on cigarette advertising in printed form. Both the FCC and the FTC have announced their intention to issue rules by July 1 unless the House takes some action today.

Our Committee on Interstate and Foreign Commerce, by a vote of 22 to 5, passed and favorably recommended enactment of this legislation, in that Congress would delay for a period, until July 1, 1975, any control over any cigarette advertising.

The legislation does one other thing, which is that it changes the warning on the present cigarette package from:

> Caution: Cigarette smoking may be hazardous to your health.

To a label which reads:

> Warning: The Surgeon General has determined that cigarette smoking is dangerous to your health and may cause lung cancer or other diseases.

In reviewing the committee report and the testimony and in preparing for our appearance here today, I was reminded of our beloved former colleague, Charley Halleck, who often took the floor of the House and mentioned the fact that one of his female constituents had written to him and said: "Please, Congressman, I cannot afford all the help you are giving me."

So again we are in the position of trying to save the American people from themselves—and I am not sure we can legislate in that particular category.

If Members will pardon a personal reference for a moment, I do not consider myself a prude as far as cigarette smoking is concerned. I imbibed in cigarettes for a period in excess of 30 years—and I do not mean by that to reveal my age—but I ceased smoking over 5 years ago, completely voluntarily, and nobody had to put a skull-and-crossbones or a poison warning on the package to cause me to stop smoking.

I was recently certificated, and I thought I would bring along this plaque and share it with the House today. I have here a beautiful certificate which is normally hanging on the wall of my office. I will read it so it will be included in the RECORD:

> Having successfully passed 12 months, after breaking the habit of smoking, the American Cancer Society awards this certificate of honor to Samuel L. Devine for being a *smoking dropout*, thereby adding years of healthy life and aiding the Society in its unceasing battle to bring an end to lung cancer.
>
> Granted on this 11th day of January, 1965.

This is signed by the medical director and the president of this association.

I am quite proud to have a certificate from such a respected and formidable group as the American Cancer Society, but again the question is whether we legislatively can solve the problems of the American people, whether we have to tell them or cease telling them about a product.

My personal preference would be to have everyone cease using cigarettes, and thus eliminate a great deal of annoyance and mess without which I would gladly live. I am in favor of the legislation before the House today. It is not because I think that it is particularly good legis-

lation, but I am opposed to what will happen if we fail to pass it.

Present law, part of which would expire at the end of this month, provides for a warning on each package of cigarettes. It also tells the regulatory agencies to keep their hands off advertising for a 3-year period which now comes to an end. Notice has been served upon Congress and industry and the Nation that two regulatory agencies; namely, the Federal Communications Commission and the Federal Trade Commission, fully intend to take steps which would effectively end all advertising of cigarettes. This bill would tell them to stay out of the area for an additional 5 years.

One might very likely ask, if he is like me very unenthusiastic about cigarettes, "Why not?" Go ahead and ban advertising or make it impractical—who cares? The answer is that when faced with the legal and practical consequences of such action in the present circumstances, it is not right.

Now there are many people who feel so emotional about the subject that their suggestions make little practical sense. They would ban all advertising of cigarettes and feel that this would eliminate cigarette smoking and also keep them out of the hands of our young people. But in the real world it does not work that way. Some other countries have tried banning the advertising of cigarettes, and the consumption rose rather than diminished. On the other hand, here in America with Madison Avenue grinding out bales of ads for myriad brands of cigarettes, a well-motivated and well-directed campaign of education, which admittedly was forced upon the communications industry, has shown great promise. Sales of cigarettes have fallen significantly.

The main reason many of us feel that this legislative shackle on the regulatory agencies is necessary is the precedent which their contemplated actions would set. Let us assume that the use of cigarettes is fully as damaging to the user as the Surgeon General and others claim. Let us ignore completely the counterclaims. It just is not right to allow an arm of the Government to effectively ban the advertisement of a product which it is otherwise legal to make and sell.

If I may interpolate for a moment, we in Congress spend millions and millions of dollars of the taxpayers funds to subsidize the tobacco industry. On the other hand, we are turning around here and talking about legislation to ban the sale of that which we have subsidized. It does not seem to be a very consistent position.

Now someone may wish to point out that by agreement hard liquor has not been advertised on television and radio. That is so, and if such an agreement were to be reached about cigarettes, I would have no objection to it, although in my opinion the voluntary ban on liquor advertising is unrealistic and when closely inspected pretty phony. The effect of hard liquor upon the user and the effect of beer and wine in sufficient amounts is the same. The dangers are the same, the social consequences are the same. I am not advocating banning beer advertising because I would have the same fundamental trouble with that principle.

I happen to be one who consumes neither hard liquor nor beer, but that is not the point here today.

If it is to be the philosophy of our marketplace that every product which may have harmful effects if improperly or imprudently used must be so tagged and the dangers specified, there is a long list to which the regulatory agencies must address themselves. Certainly liquor in any form would be a prime candidate. But if you are going to attack it by way of advertising bans, then we are less than honest if we allow it to be made freely available. No more beer in ball parks and the like.

Where we are headed is all too clear.

Among the things that should certainly have a warning placed upon the containers and also in the advertising under such a marketplace philosophy would be all soft drinks. Everyone who has looked into it knows that they wreck your teeth if used in large quantity. And now the FDA says that artificial sweeteners may have hazards which make them just as dangerous. Chewing gum would be in the list. Most dairy products and animal fats would be subject to a warning. Candy certainly. Nearly any household tool designed to cut or grind must certainly qualify.

Within the last few days we have heard that the unlimited use of electric guitars can raise hob with your ears. That hardly comes as a revelation to those of us who have teenage youngsters, but it is being stated as a medical and scientific fact.

Can we allow these twanging monsters to be sold without a sufficient warning on the instrument itself and any advertisement promoting them? I suppose we could justify putting a warning on miniskirts, "Dangers, wearing this garment may cause traffic accidents and eye strain." You just cannot tell.

Obviously the present legislation is not intended to be funny. It is intended to and does stop some foolishness which would result if it were to be dropped. The whole business of antismoking activity has been directed into the wrong channel. The answer to cigarette smoking is not bans on advertising or meaningless warnings but more and better education—call it propaganda if you choose—to convince the user or incipient user to lay off. It can work and it should be done.

So I support this legislation as a means of keeping the Federal Government in its own backyard. Those who have watched regulatory agencies use unlimited authority will realize the necessity for it.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. ECKHARDT), a member of the committee.

Mr. ECKHARDT. Mr. Chairman, I rise to make clear what this bill does and what it does not do with respect to the field of cigarette advertising. The language of the bill in this regard is exactly like that of the Federal Cigarette Labeling and Advertising Act of 1965 which expires on July 1, 1969.

It does not limit the authority of a State or of a Commission of the Federal Government to ban cigarette advertising entirely. It does not limit their authority to do anything they could do before the passage of the act except in the specific fields which the act specifically preempts. Preemption is provided in only two fields: First, in the manner of labeling the package; and, second, in the content of cigarette advertising.

Thus the bill obviously does not preempt the field of control of advertising, its timing, its amount, whether or not it may be counteracted by public service programs running counter to its message, or whether or not certain advertising shall be permitted at all.

One of these areas of advertising control reserved to the FCC has already been treated by the courts. The Court of Appeals for the District of Columbia, in *Banzhaf* v. *FCC*, 405 F. 2d 1082, has held an FCC ruling valid that required radio and television stations to devote a significant amount of broadcast time to presenting the case against cigarette smoking if they carry cigarette advertising. The court specifically held that the Federal Cigarette Labeling and Advertising Act did not preempt this field and deny the Commission such authority.

The rationale upon which the Banzhaf case was decided clearly precludes a holding that the act encompasses general areas of FCC control. As was said in that case:

> The Act was in fact passed in response to a pending Federal Trade Commission rule which would have required warnings both on packages and in all advertising.
>
> * * * * *
>
> Nothing in the Act indicates that Congress had any intent at all with respect to other types of regulation by other agencies—much less that it specifically meant to foreclose all such regulation. If it meant to do anything so dramtic, it might reasonably be expected to have said so directly—especially where it was careful to include a section entitled "Preemption" specifically forbidding designated types of regulatory action.

The pertinent language under "Preemption" in the existing act and under this bill is found in section 5(b) which reads:

> No statement relating to smoking and health shall be required in advertising of any cigarettes the packages of which are labeled in conformity with the provisions of this Act.

Banzhaf interprets this language, or explains the reason for it, as follows:

> Congress patently did not want cigarette manufacturers harassed by conflicting affirmative requirements with respect to the conduct of their advertising.

The court then proceeded to say:

> A uniform regulation of broadcasters designed to inform the public was not excluded by the Federal Cigarette Labeling and Advertising Act.

Certainly the same thing would be true of any uniform regulation of broadcasters by the FCC. As the court said, the act was not in anywise intended to reach regulation by other agencies than the FTC. Indeed the FTC is specifically referred to in the act in section 5(c) in the "Preemption" section. It follows a fortiori that this act did not exclude

any single uniform regulation of broadcasters, like a total ban of cigarette advertising.

Clearly, such a total bank is within the authority of the FCC under the Communications Act of 1934 by virtue of the fact that the Commission has a mandate to consider the public interest in granting, renewing, or modifying licenses to broadcasters—47 U.S.C. 307–309—and it is empowered to promulgate rules and regulations and prescribe instructions and conditions "as may be necessary" to carry out the provisions of the law—47 U.S.C. 303.

The Commission can certainly declare that it is not in the public interest that the airwaves be used to promote consumption of a commodity that it believes has been shown by credible evidence to be seriously detrimental to the public health:

> Whatever else it may mean * * * the public interest indisputably includes the public health. (*Banzhaf* v. *FCC*, 405 F. 2d 1082, at 1096.)

The Supreme Court has held that the Federal Communications Commission is more than a traffic policeman concerned with the technical aspects of broadcasting and that it neither exceeds its powers under the statute nor transgresses the first amendment by interesting itself in general program format and the kinds of programs broadcast by licensees—*Red Lion Broadcasting Co.* v. *FCC* (Nos. 2 and 717, October term 1968—June 9, 1969); *National Broadcasting Co.* v. *United States*, 319 U.S. 190 (1943).

Long before the accumulation of evidence of the health hazards of cigarette smoking became so conclusive, the Supreme Court recognized that the danger was sufficient to justify a State law prohibiting cigarette advertising on billboards, streetcar signs, placards, or other objects or places of display—*Packer Corporation* v. *Utah*, 285 U.S. 105 (1932).

Though it could hardly be argued that the reenactment of the language of a previous law construed by the courts to be specific and narrow could be now considered broad and encompassing because of its legislative history, indeed there is no legislative history that should result in such an altered construction. The report of the Committee on the Public Health and Cigarette Smoking Act of 1969 reenforces the conclusion of the courts, that the preemptions of the act and of this bill are specific and narrow, stating:

> The question of a ban on cigarette advertising is not treated in the Federal Cigarette Labeling and Advertising Act. * * *
>
> Since the bill, as reported, is in the main reenactment of existing law, it does not address itself to the question of a ban on cigarette advertising on radio and television.

It is quite immaterial whether or not the Chairman of the FCC, when queried on this matter, stated:

> The Commission would be precluded from completing its proposed rule making by reenactment of the present preemption provisions.

The Chairman of the FCC may decide that he is "precluded" either by law or some policy of self-restraint. Of course, he cannot bind the Commission, and he does not speak authoritatively as against the established narrow interpretation of the preemption provision by the courts. Indeed, if his conclusion be a legal one, he is also in conflict with the interpretation of the committee itself that a "ban on cigarette advertising is not treated" in the older act, and the new act, containing identical language, also "does not address itself to the question of a ban on cigarette advertising on radio and television."

The committee appears somewhat schizophrenic in the language contained at the bottom of page 4 and the top of page 5 of the report where it is stated:

> Aside from the questions of constitutional and statutory law which the two agencies' proposed rules raise, they are an assumption by these agencies of policymaking with respect to a subject matter on which the Congress has made policy (see sec. 5 (b) of the act), has stated its intention to be the exclusive policymaker on the subject matter, at least until July 1, 1969 (see sec. 10 of the act), and has given strong indication of its intention to continue to do so.

Note that the paragraph refers to the intent of Congress respecting the law that ends July 1, 1969, the Cigarette Labeling and Advertising Act, not the intent of the committee respecting the bill that is before us here, the Public Health Cigarette Smoking Act of 1969. If all that is intended in the quoted paragraph is that Congress "stated its intention to be the exclusive policymaker on the subject of such 'statements' relating to smoking and health" which may be printed on a package or inserted in a cigarette advertisement, then the statement is correct.

Perhaps this is what is meant, but the reference to "two agencies" is inept. There was only one agency, the FTC, attempting to enter this policymaking field in 1965 when the Cigarette Labeling and Advertising Act was enacted. The FTC was attempting to assume authority to insert a warning in advertising at that time.

As we have said, the committee's construction refers to this 1965 act. If it purports to give that act a construction broad enough to ban the FCC's present posture with respect to banning all advertising, then it is contrary to the rationale in Banzhaf and at odds with the meaning that section 5(b) spontaneously yields.

Of course, the language was written before the writer could have considered *Red Lion Broadcasting Co.* v. *FCC* (Nos. 2 and 717) October term 1968, June 9, 1969, and its sustaining effect on Banzhaf.

For anyone sophisticated enough to know how committee reports are put together, the divergent provision of this single paragraph, in conflict with all the rest of the interpretation contained in the report, is hardly convincing to establish legislative history.

Furthermore, legislative history can only have effect when there is new language dealing with the subject matter which is adopted against a certain factual background. In this case Congress is readopting old language. If the language were "meant to do anything so dramatic" as to affect "other types of regulation by other agencies" than the FTC, then it might reasonably be expected to have said so directly, as was said in Banzhaf. But here such dramatic change, if it occurred, would have to have been occasioned by no change in language at all.

Lastly, legislative history may not alter statutory language which is clear on its face and needs nothing to construe it. The language is clear: It simply prevents any "statement relating to smoking and public health" from being "required in advertising of any cigarettes, the packages of which are labeled in conformity with the provisions of this act."

Mr. DEVINE. Mr. Chairman, I yield 10 minutes to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, the debate over smoking and health has always been deeply emotional and disturbingly complex. But lately, the issue is taking on an Alice-in-Wonderland quality. It is growing "curiouser and curiouser" with each passing day.

I do not know if cigarettes cause disease. But I am convinced that cigarettes cause confusion in Congress. How else can one explain the debate on the floor today?

By a better than 4-to-1 margin, the full Interstate and Foreign Commerce Committee has reported out a bill that would prevent the regulatory agencies from invading the committee's jurisdiction. Yet opponents of the bill are asking the House to silently surrender its prerogative. If Congress fails to act it will legitimize a takeover by the Federal Communications Commission—which would ban cigarette advertising—and the Federal Trade Commission—which would force cigarette advertising to incriminate themselves. If these unjustified actions were taken against any other industry or product, the attempt would be decisively rebuffed. Unfortunately it seems that all is fair in love, war, and the cigarette controversy.

In all the confusion let me point to a solid fact that is often overlooked. It has not—I repeat not—been scientifically established that cigarettes cause lung cancer and other disease. The committee report on H.R. 6543 states this solid fact very plainly:

> On the basis of these hearings the Committee concludes that nothing new has been determined with respect to the relationship between cigarette smoking and human health since its hearings in 1964 and 1965. The arguments pro and con with respect to cigarettes are the same now as then though supported by a larger statistical base. The 1964 report of the Surgeon General Advisory Committee on Smoking and Health remains the principal basis for efforts to regulate the labeling and advertising of cigarettes. The principal judgment of the advisory committee in 1964 was that "Cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action."

In 1965, Congress took "appropriate remedial action, "based on the scientific evidence which is the same now as then. Despite this, the committee bill calls for a stronger label, as a concession to antismoking forces. And despite this concession, antismoking zeal is unsatisfied. And so we are here debating how to increase

the punishment to be meted out to a legal product which has not even been proved guilty.

It is an ironic commentary on our times that the testimony of medical and scientific experts who dispute the scientific evidence against smoking cigarettes is buried by the press. Yet the same kind of testimony that questions the scientific evidence against the use of marihuana gets headlines. Apparently many Americans are closed minded about a legal product and open minded about an illegal one.

But be that as it may, I think the overriding issue here is an unwarranted effort by Federal regulatory agencies to grasp unprecedented power and control with ramifications unlimited. An usurpation of Congress responsibility if you will. Obviously if these attempts at regulation are allowed to go unchallenged and become effective, they would have an impact on areas far beyond those contemplated by Congress.

Keep in mind that the growing, sale, and manufacture of tobacco for cigarettes and other uses is still a legitimate, legal business, and if this action as contemplated by these regulatory agencies can be done in this instance, logically it can be done in many others; as there are other products that in one way or another affect the health and well-being of the American citizens. For example, the use of certain dairy products and foodstuffs contribute—according to medical evidence—to the cholesterol count in one's blood which, in turn, has a direct relationship to heart disease. Are we then to permit these regulatory agencies to ban the advertising of certain dairy products and foodstuffs. If not, we permit them to single out one legal industry and discriminate against it.

Neither of these agencies has or pretends to have any expertise with respect to human health and cigarette smoking. They base their action on the 1964 report of the Surgeon General's Advisory Committee on Smoking and Health. I think it is highly significant that even the Surgeon General has stated that the FCC's proposed rules are not regarded by him as particularly desirable.

Certainly Congress, having once exercised its prerogative and established policy in this field, should retain that prerogative. By this legislation Congress will continue its control and jurisdiction of this subject matter, assure continuing research of the effect of tobacco upon one's health, and provide an incentive for finding methods to improve the quality of the product.

Equally as important, however, it will prevent an unwarranted grasp of unprecedented power with frightening ramifications. Failure to enact this legislation will give the green light to the architects of administrative chaos. Today cigarettes are the target. Tomorrow who knows what. The thirst for power is insatiable, and in this case, possibly more lethal to the best interests of the American public than an occassional puff of smoke. Having once sipped the nectar the FCC may not quench its thirst until it has plunged its cup deeper into the well of regulation and control.

If the FCC can successfully ban certain advertising of a legal product on radio and TV, what can it not do in regulating the Nation's health, morals, and individual freedom?

Mr. Chairman, in the best interest of the American public and commonsense, this legislation should be enacted into law. If Congress is to retain its responsibility in the policymaking field this legislation should be adopted.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. VAN DEERLIN).

Mr. VAN DEERLIN. Mr. Chairman, I speak as one of a brave little band of a half dozen members in the committee who sought to amend this legislation during the markup session. We had hoped, through 3 weeks of hearings on the extension of the act, that our words might be influential, effective, articulate.

But when it came to voting on amendment after amendment, I regret to report that our words were as dust with our colleagues of opposite persuasion.

We cling tenaciously, however, to the view that this bill is deficient in several important respects. I hope that in the 3 hours of debate that the Committee on Rules was wise enough to provide, we will manage to touch upon many phases of its deficiencies.

I would call your attention to one deficiency. Although the wording of the warning on the cigarette carton or pack has been strengthened somewhat, it is still rather inconspicuous and, I think, ineffective in reaching potential first-time smokers—the young people who may be drawn into taking up the habit of smoking.

It was emphasized repeatedly during the hearings that the hooked smoker is not the person we are trying to reach. He knows what he has got himself into. Very few of them, I am told, have the personal courage, the determination, and spirit of self-denial of the gentleman from Ohio (Mr. DEVINE) who obviously has taken up a different sort of life since he put the weed behind him.

But I am interested in reaching my six children, and I am interested in reaching those thousands of other young people who become new cigarette smokers every day.

As I have indicated in a message to each of your offices, I shall propose that the warning—which, I concede, has been improved and strengthened—be placed not on the narrow side of the pack but on the wide side. Instead of hiding it with the copyright, where it is unlikely to be seen as a package normally lies on a table or in a counter display, the warning would be placed on both of the wide sides of the package, so there would be just no likelihood that someone buying that package would fail to see it.

I should like to touch briefly on another practical aspect of the job that we are entering upon today, and which we shall complete tomorrow.

I know it is possible to argue that our job is to come up with what we in our wisdom, and with whatever courage we have been given, consider the best possible bill to help to protect the American public. We do not feel bound to enact only legislation which the Senate has indicated it will accept.

I think we cannot ignore, however, the practical aspect of what lies ahead for this legislation. As you know, the present 4-year law normally will expire at midnight on June 30. It has been made clear by the leadership, certainly the Commerce Committee leadership in the other body, that they will not take up a bill which does nothing more than is contained in the bill we are asked to pass tomorrow. The practice of unlimited debate in the other body makes it perfectly possible that in the time remaining, no final action can be taken on this legislation. If the committee leadership in the other body is reluctant to act, if it feels we have sent them a "sweetheart" bill for the tobacco industry, my best guess is that there will be no bill passed by the Senate, and no bill sent to conference.

If that happens, I submit that even those of you who feel that you have served your own State's industry best—and I do not gainsay anyone's first responsibility to his constituents—then there will be no legislation, and I wonder how well those constituents will have been served.

Most of my colleagues, I am sure, would prefer that Congress establish some ground rules for future regulating. But the rules should be reasonable enough to give the agencies some leeway in warning the public of the potential perils of smoking.

If we do not amend the bill to modify the preemption clauses, we are likely to discourage the other body from taking any action at all on this legislation. If, on the other hand, we can strengthen the bill on the floor of the House, we will increase the prospects of Senate concurrence—and the likelihood of Congress retaining some control over the regulators.

I would therefore implore my colleagues to consider favorably the amendments that will be offered at the end of this debate.

Their effect would be to strengthen—not weaken—the hand of Congress.

Mr. DEVINE. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina (Mr. MIZELL).

Mr. MIZELL. Mr. Chairman, I rise as a freshman to address this illustrious body only because of the seriousness of the legislation which is being considered here this afternoon.

First of all, I wish to say that I do not drink, smoke, chew, or dip. I do not drink any alcoholic beverage of any kind. But I think it would be a tragedy for Congress to permit regulatory agencies to take action which would restrict the promotion and sale of legally manufactured and sold products in this Nation.

The Federal Trade Commission and the Federal Communications Commission have proposed action that would ban all advertising of cigarettes, a product that is both legally manufactured and sold in the United States.

I personally feel that Congress should enact legislation to govern the activities of these regulatory agencies. If they are allowed, with the approval of the Surgeon General, to take such action, it will be detrimental to this Nation itself—

since the tobacco industry is worth billions of dollars and supplies jobs for more than 1 million persons. These people are employed in the growing of tobacco, the manufacturing of tobacco products, and other related jobs. To allow these agencies to take such action would be an injustice to these American taxpayers.

These are people who work hard, pay their taxes, support their families, their churches, and their communities. These are the kind of people we find all over this great Nation of ours, who carry the load, who pay their fair share of the cost of government, sometimes even more than their fair share. Unjustly jeopardizing the industry they work for is the same as unjustly jeopardizing their livelihoods.

When I say that the proposed action of these commissions is unjust, I say it because I have yet to hear anyone testify that there is proof beyond a reasonable doubt that cigarette smoking does in fact cause disease. The Surgeon General reports that cigarettes may cause disease, and, furthermore, that there may be a relationship between cigarette smoking and disease. Now, as all of us well know, and I am sure that the Surgeon General will agree also, there are many other legally manufactured and legally sold products that show relationships toward various ills and diseases, many of them fatal. Without mentioning specific products because they are not in question here today, there are many consumable products that have direct relationships with such diseases as heart failure, diabetes, fatal sclerosis of the liver, high blood pressure, tooth decay, and many others, and I could go on and on. Many of these relationships are not just based on assumptions, as is the case in the tobacco controversy, but on proof.

So, there are many products on the market today that the Surgeon General could label, "May Cause Disease." Yet I have found no evidence that any action has been taken, or for that matter, proposed against any of these other industries. This fact raises a serious question in my mind as to the sincerity of the Surgeon General and the members of these regulatory agencies in their efforts to protect the American consumer.

In the courts of this great Nation of ours, it takes proof beyond a reasonable doubt in order to convict the accused. A billion dollar American industry is on trial here, and without conclusive proof, two regulatory agencies and the Surgeon General have already infringed upon the advertising rights of this industry.

The action taken so far in my opinion has gone too far, but in order to prevent further injustices to this southern based industry, I urge the Congress to exercise its authority over these two regulatory agencies by passage of this legislation which would prohibit the FCC and FTC from taking the irresponsible action they have proposed which would lead to the opening of a Pandora's box.

This action would then not only affect the tobacco industry but other industries as well, representing millions of dollars in tax revenues, not to mention the millions of jobs that would be placed in jeopardy. For my colleagues who represent areas that are either highly industrialized or agricultural, I leave you with this warning of what you may be opening the door for. I once again voice support for this proposal.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER of North Carolina. Mr. Chairman, I am from a tobacco State. To me and my constituents, the basic question we are here to decide today and tomorrow is the medical question—is cigarette smoking harmful to your health?

The economy of my district largely turns on tobacco: the workers in the tobacco industry, the small farm merchant, the filling station operator, the cellophane industry, cigarette paper industry, the truckers, the schoolteacher, all largely depend for their incomes on what the tobacco farmer grows. You may say, "Let him grow something else." The fact is that tobacco is raised on very small family farms that are totally unsuitable for any other type of farming. It would be a disaster for the tobacco farmer and our entire economy if he stopped growing it. So I am concerned with people. These people are not very interested in constitutional questions about free speech, or in the theory of the balance of powers between Congress and regulatory agencies. Such questions can be utilized to put off the day of reckoning by what seems to them to be technical arguments. But the nitty gritty question—the one their livelihoods depend on—is simply this: Are cigarettes harmful to your health? If so, can a safe cigarette be grown and manufactured? In short, do they have a future?

I have said I am concerned with people. But I and my constituents are also concerned with the American people and not just the people in our district. If the health of the American people is suffering from what we do to gain our livelihood, then so be it: we will yield to a higher good than our own self-interest.

So we are not too concerned by nuances of phrasing on labels, constitutional questions. Nor do we care whether the preemption provision against regulation of advertising by the regulatory agencies runs for 6 months or 6 years. We want to know—we need to know to determine our future—is cigarette smoking harmful to health?

I am not a medical expert and do not pretend to medical expertise. But, I have been a judge for some 8 years and have some confidence in my ability to size up witnesses and weigh testimony. Many of you here are lawyers. I ask you to sit in judgment on tobacco; I ask you to sit as triers-of-the-fact and to do what you are so skillful at doing: weighing evidence, free from preconceptions as to what the verdict should be before you hear the evidence.

As a jury, as triers-of-the-facts, what would you think of the case of a complaint which is grounded on a report, called the Surgeon General's Report of 1964, which was developed not by the time proven method of hearings involving confrontation and cross-examination, but instead was based on a "review of the literature"—a review which proved to be highly selective and did not cite much contradictory experimental evidence? What would be your judgment as a juror when, in the latest hearings on that report, not a single witness supporting that report testified to any research which he himself had done, while 20 witnesses testified that their own research—not hearsay, but research—cast serious doubts on the theory that cigarettes cause disease?

Of course, as a juror you would want to know that many of these 20 witnesses were paid by the tobacco industry, and you would want to examine their testimony in the light of their possible bias. On examining their credentials you would learn that they include people such as the past president of the Society of Thoracic Surgeons, chairman of the Department of Medicine of the University of Southern California; a former president of the College of American Pathologists, the president of the American Association for Thoracic Surgery, the author of two definitive books on heart disease, a two-time president of the American Association for Cancer Research, the director of Laboratories of Knickerbocker Hospital, the past president of the American College of Cardiology, the president of the Medical Board of Doctors Hospital in New York, the director of the Harold Brunn Institute for Cardiovascular Research—and on and on. It would become very clear to you that these men were paid for their time and not for their opinions. You do not buy these men. They are in no sense "industry spokesmen," but speak as individuals and leading members of the scientific community.

You must weigh their testimony against the opinions of our leading health agencies—the American Cancer Society, the American Heart Association, the Tuberculosis Association. They are obviously well-intentioned witnesses, interested in the health of the American people and passionately convinced of the dangers of cigarette smoking. In weighing their testimony, you consider these facts:

First. The agencies themselves had done no independent research. They were relying on reports from the Public Health Service which became progressively distorted as they got further away from the original source.

Second. The agencies were woefully misinformed about some basic facts. For example, they testified that "smoking causes the lungs to turn black"—untrue—or, "your chances are better at Russian roulette than they are of smoking and not impairing your health." The facts are that 5/100 of 1 percent of all smokers annually suffer lung cancer from smoking. Less than 2 percent of all heavy smokers—who smoke two packs or more a day for 30 to 40 years—get lung cancer. Or, "there is an epidemic of lung cancer in this country." Fact: respiratory death rates were over five times what they are today in 1900. There is a declining rate of increase in lung cancer, indicating that the incidence will level off in the next few years.

Third. Many of their statements are seriously misleading. For example, the repeated statements that there are "77 million excess workdays lost each year by smokers" is based on the Public Health Service "Morbidity Report" which the expert testimony at these hearings shows to be worthless. Or the statement that "heavy smoking will shorten your life by 8 years," is based on a statistical study by a doctor who did not testify and who has refused to disclose the raw data in his studies so as to permit independent evaluation. Is this the way to get at the facts?

Does this evidence convince you? Clearly, their zeal has outdistanced the facts.

But, you may say, no medical or scientific body has taken a position contrary to the Surgeon General's report. How do you explain that? You explain it very simply: 90 percent of all doctors and scientists do not have the time or inclination to be into the experimental work on this subject. They accept the conventional wisdom, the received opinion just as do you and I. See the testimony of Dr. Langston, Dr. Furst, and Dr. Brem.

I approached the tobacco hearings from the point of view of the conventional wisdom. Being from a tobacco State, I was determined to see that tobacco got a fair hearing but knew that the health of our people came before the health of the tobacco industry. I thought that the medical facts would prove to be very bad indeed. Like most of the public, I thought that the case against tobacco had been made by disinterested and well-informed groups acting on behalf of the public—such as the U.S. Surgeon General and the Public Health Service—and by our major health organizations, such as the American Cancer Society, the American Heart Association, the Tuberculosis Association. It was only the tobacco industry and the tobacco farmer—both having a substantial self-interest—who questioned the scientific facts. Or so I thought.

This was very naive. After sitting through 13 days of hearings and listening to every witness, the picture that emerges is precisely the opposite of that I had in mind before the hearings. The case presented by the "public" witnesses was characterized by argumentativeness, overreaching, and one-sided advocacy. If you looked for expert medical and scientific testimony and not hearsay, it was to be found almost entirely from witnesses produced by protobacco forces.

There is not time here to review the evidence of 13 days of hearings in detail. I can only beg you to read the three volumes of testimony and judge for yourself. I and my constituents will gladly abide by your decision if you will do that. I urge the same procedure on the press and the editorial writers in this country.

You will find that the case made at these hearings is simply this: that cigarettes may or may not be harmful to your health; we just do not know. It is at least as likely that factors other than cigarette smoking are the cause of lung cancer, heart disease, and emphysema. Clearly, our duty to the American people is to find the facts, close the gaps in our knowledge; let us reopen the case, not close it. Let us stop proposing solutions before we have identified the problem.

My tobacco district is not afraid of the facts; we are only afraid of the evangelistic spirit. We are not afraid of the evidence; we are only afraid of the propaganda.

Mr. DEVINE. Mr. Chairman, I yield 15 minutes to the gentleman from Minnesota (Mr. NELSEN).

Mr. NELSEN. Mr. Chairman, first I want to point out that no tobacco is grown in my district. I also do not smoke, and my only daughter does not smoke, and one of my sons does not.

The observation should be made that since the adoption of the Agricultural Adjustment Act of 1938 tobacco is recognized as a basic agricultural commodity. If we go down to the Department of Agriculture, we find many, many dollars have been spent in developing better strains of tobacco through research, and many dollars have been spent in various payments to producers. So we are talking about a product, which is recognized by the Government as a legal product whose production is encouraged. It has been legalized under the laws of the land.

My concern is different, perhaps, from others. Without question those in the areas where tobacco is grown have the economic interests of the people in their districts in mind. I presume I would feel the same way if I represented such a constituency.

My concern is in a different direction. How far do we go in granting authorization to regulatory agencies? Those of us who serve on the Committee on Interstate and Foreign Commerce are aware of the fact that we have had a constant parade of requests for authority, for cease and desist authority, where in effect the regulatory agency says, "You are guilty" and it is up to you to prove you are innocent. I have become a bit frightened about this.

A few years ago we had the Federal Trade Commission moving in on this very issue, claiming it had authority. The Congress at that time felt it should act, and the label which is presently on the pack was made a part of the law. The Federal Trade Commission failed in its attempt.

Now we see the Federal Communications Commission moving in the same field. The Surgeon General is saying he does not want to stop advertising. The Federal Communications Commission, and likely the Federal Trade Commission, are saying they want to stop advertising.

This is a legal product subsidized by the Government in its production, and there is another Government agency saying, "You cannot advertise to sell it."

If tobacco is harmful, I believe we are proceeding in the wrong manner if we are going to do anything at all. In my judgment, the broadcast industry has proceeded on a basis of the industry itself making rules of operations concerning the advertising of alcoholic beverages. I am convinced that the tobacco industry itself is going to move the direction of some more care in advertising procedures, and this is the way it ought to be.

The big question right now, so far as I am concerned, is not related to the producer. The big issue at the moment is, do we continue to hand over to regulatory agencies more and more power that can be abused at times as well as be beneficial at times?

I want to merely say that I may not have gone along, or I would have preferred a different label from the one being proposed by the committee. I believe I would have used a little different approach. I would have preferred "Excessive smoking is dangerous to health."

I would not have used the Surgeon General as a crutch. I would have made it a positive statement on the part of the committee. Probably we could have improved on that. The vote of the committee went for the label which is presently proposed, which of course is just as positive, but I thought it moved in the direction of leaning on the opinion of somebody else rather than to issue one of our own.

I want to make it very clear that my concern here is to think carefully as to how far we should go in handing over to Federal agencies power that can be abused.

There are many things here we need to think about.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Washington (Mr. ADAMS).

Mr. ADAMS. Mr. Chairman, I have been interested in the fact that a number of men have indicated they do not smoke and they hope their children do not. I hope mine do not, also. I had a real problem when I discussed the matter with them and they asked me what I had done and what I was going to do about it. All I can say is—and I do not pretend to be a child psychologist—you had better look them in the eye pretty directly and say what you did and why you did it, because otherwise they will have an awful time understanding what we are doing here today. I know I would not like to try to explain why we say it is bad and then do not do anything about it.

I would like to say this to the chairman of the committee, because I particularly understand his problem overseeing these agencies such as the FCC and the FTC. We are not taking the position that Congress should not act and that we should just walk away. We will offer amendments today to control these agencies. I hope that the chairman will support them. We will offer amendments also that we not let this run along for a long period of time. I think the Committee on Interstate and Foreign Commerce should look at this matter in another 3 years. I completely agree with his point that this is a matter of great importance and is a matter that we should look at before the year 1976.

Mr. STAGGERS. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the chairman of the committee.

Mr. STAGGERS. I certainly appreciate what the gentleman from Washington has said. I know he knows I respect his views. I think as chairman, in all fairness, I should state that I supported every

amendment to go to the floor and the House when it came up. I did not vote for the bill to come to the floor, because I felt that representatives of all of the people of the United States should be in on the decisions. When the amendments were not carried there, then I voted to bring the bill here to the floor of the House.

Mr. ADAMS. I very much appreciate the chairman's statement, because I believe it will make clear to all of the Members that the chairman supported many of these amendments and tried to improve this bill, which is what we have all tried to do, and he will probably be with us. It was not that he thought this bill would be an end to all of the problems that were inherent in this matter. I very much appreciate the chairman's statement.

I also wish to make this statement. It has been mentioned several times that this is a legal product. I want to state that in 48 of the 50 States for people who are minors it is not a legal product. If you will look at pages 485 and 486 in the record, you will see a listing that I had put in of every State, most of which prohibit any sale of cigarettes to minors. So there will not be any question about it, gentlemen, we will be offering an amendment tomorrow which will say this specifically. I call this the States rights amendment. It will say that any State or political subdivision, thereof, may require any cigarette advertising within its jurisdiction to include a warning relating to the health hazards presented by cigarette smoking. We will offer an amendment also where they can warn with respect to the State law in every State. So you will have an opportunity, we will offer an amendment to shorten the time period to 3 years with regard to this bill. So that you will know we will not let the FTC and the FCC run rampant, we are going to offer an amendment that says that if you want to put the label on the package, you can put it on the ad. Just tell the people how it is. I am not arguing that this Congress should not act. I think it should act, but it should act responsibly and should act in a fashion that will make all of us proud and pleased that we are men who can pass on this kind of legislation and can talk to their children about it.

I want to tell you why we think this is important with regard to children. In case you did not know it, in 1967 the industry spent $311 million in advertising. What this produced in 1 month in 1968 were 13.3 billion exposures to cigarette commercials on TV alone. In that month each teenager was exposed on an average to 61 commercials and each child to 45 commercials. This is the age when children and teenagers are making up their minds as to whether or not to smoke.

If you will read the hearings—and that is why we wanted the hearings printed and available, so that you could see them—you will find testimony indicating that cigarette ads are directed toward young people.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(By unanimous consent, Mr. ADAMS was allowed to proceed for 1 additional minute.)

Mr. ADAMS. Mr. Chairman, I shall spend more time tomorrow on this subject when we offer amendments under the 5-minute rule. I do want to indicate generally what amendments will be offered. I have copies of them at the desk and I shall be glad to provide the Members with copies of the amendments so they will know what will be presented.

Mr. Chairman, if we are not able to improve this bill by putting in something to protect the young people and limiting the time, then we shall urge this body to vote for a motion to recommit the bill back to the Committee on Interstate and Foreign Commerce without instructions because that action will say to the committee, "All right, we want you to improve this bill. Improve the bill and then send it back so we may have a bill that we can go to the American public with that will do the job."

Mr. Chairman, I want to close by emphasizing that none of us have advocated that we go to a ban on smoking. We are simply saying we must do something with reference to this matter for the highest duty of a civilization is to protect its young.

Mr. ROONEY of Pennsylvania. Mr. Chairman, representations have been implied that the Code and Code activities have been meaningless and comprise a facade. In simple fact, as indicated in the monthly issues of the Code Authority's Code News, a wide range of accomplishments in the public interest are evidenced:

May 1969: Code Board Endorses New Policies on Film Trailers and Safety—The NAB Television Code Review Board has endorsed the Code Authority's position requiring the inclusion of the motion picture industry's movie ratings in television trailers, and the recent interpretation which requires the depiction of normal highway safety precautions in commercials and programs.

April, 1969: Code Interprets "Safety" Standard As Applying to Ads with Moving Vehicles—

Under this recent Code interpretation of the "safety" standard, the "normal" highway safety precautions which should be depicted in all commercials include representations in which:

Persons in *moving* automobiles and station wagons are shown wearing seat belts and shoulder harnesses in those scenes where they *normally* would be visible.

Motorcyclists are shown wearing helmets and eye protectors.

In programs, these principles would apply where such depictions are consistent with plot and characterization.

March, 1969: Code News Now Gives More Info on Status Of Feature Film Ads—

In response to subscriber requests, feature film commercials reviewed by the Code Authority now will be listed with additional information on their status under Code standards.

The Code Authority's evaluation of the television and radio commercials for movies in theatrical release will be reported under three main categories: compliant with Code standards, raises questions under Code standards, and raises questions of appropriate scheduling only.

The Code Authority recommends that subscribers consider broadcasting those commercials in the latter category during hours normally associated with adult viewers and listeners.

Questions and Answers supply guidance as to acceptable and unacceptable copy involving obesity, overweight, calories, variables in reducing, difficulty in losing weight, and claims of permanency.

Other areas considered include: low calorie foods, derisive references to overweight, uses of children in commercials, testimonials, guarantees, and tie-ins with prescription drug products.

December, 1968: Health claims in ads for vegetable oil and margarine products discussed in Questions and Answers.

September, 1968: Vermouth mixer product found unacceptable under the Guidelines for Alcoholic Beverage Advertising.

Code Authority lists holiday inventory of toy and game commercials approved under the advertising standards of the Television Code and Toy Advertising Guidelines.

August, 1968: Code Authority confirms that the principles of the Alcoholic Beverage Advertising Guidelines apply to products other than beer, wine, and hard liquor, e.g. use of hard liquor unacceptable in air travel commercials.

Commercial claims for ulcer relief found unacceptable.

Code Authority reminds broadcaster that advertising for personal tear gas weapon violates federal mailing laws and Code standards.

Code Authority cautions against depiction of antisocial acts in commercials.

July, 1968: Subscribers advised on what constitutes a lottery.

May, 1968: Guidelines issued for advertising of products and services for weight reducing/gain.

April, 1968: Code questions claims in chinchilla ranching programs and commercials.

March, 1968: Code supplies Questions and Answers on revised time standards provisions including limits on program interruptions.

January, 1968: Firearms/ammunition advertising restricted to promotion as sporting equipment and in conformity with recognized standards of safety. Mail order ads of firearms/ammunition unacceptable.

October, 1967: Code supplies detailed information on standards covering acne product commercials.

September, 1967: Movie commercials depicting use of LSD and other hallucinogenic drugs unacceptable under Code standards.

August, 1967: Interpretation of Code standard on techniques to avoid in children's advertising.

Code underscores standards reflecting broadcaster concerns with an avoidance of bigotry/one-sided and demeaning presentations.

June, 1967: American Nurses' Association endorses Code's men-in-white standards and explains its own code favoring restrictions on nurses in television advertising.

Cigarette Advertising Guidelines interpreted/clarified for subscribers and advertisers.

June, 1967: Intent of lottery law clarified.

Claims for relief of bronchitis ruled out in cough-cold ads. Code supplies acceptable/unacceptable commercials and commercial approaches covered by the Alcoholic Beverage Advertising Guidelines.

March, 1967: Code Authority role and procedure in commercial evaluation outlined.

December, 1966: Code alerts subscribers that Mail Order Advertising Requires Special Care in Evaluating Offer Before It Is Aired.

November, 1966: Code explains assistance received from science/medical experts in reviewing studies of a technical nature offered by advertisers in support of claims.

October, 1966: Cigarette Advertising Guidelines announced; cover athletic activity, tar and nicotine statements, filters, uniformed individuals, premiums, and portrayal of youth.

September, 1966: Groundrules for acceptable and unacceptable depiction of hypnosis.

July, 1966: Code supplies Questions and Answers dealing with disparagement in broadcast advertising.

Code Authority joins American Humane Association and others endorsing guidelines for pet food advertising.

June, 1966: Code issues Third Edition of guidelines for alcoholic beverage advertising.

TV Code Review Board reconfirms prohibition on hard liquor advertising.

May, 1966: Code Authority issues Interpretive Questions and Answers on Arthritis and Rheumatism Guidelines.

Guest article from the American Dental Association verifies parallels between broadcasting Codes and criteria followed by ADA in evaluating therapeutic claims.

April, 1966: Code announces policy against use of a dramatization disclaimer in testimonial advertising.

Code further interprets men-in-white standard as it effects visual representations of clinical tests.

March, 1966: Code alerts subscribers to Treasury Department's use of U.S. currency in television advertising.

February, 1966: Code Authority adopts questionnaire as guide in implementing Code requirement that commercial testimonials be "genuine and reflect personal experience."

Code Authority explains limitation on fantasy situations in commercials under Toy Advertising Guidelines with intent to avoid over-glamorization which exploits a child's imagination.

July, 1965: Code adopts second edition of guidelines for the advertising of products used in the relief of arthritis and rheumatism symptoms.

Code amendment on hypnosis adopted by Television Board; requires that "hypnosis, either as fiction or in fact should be presented with proper precautions to avoid any adverse effect on the viewing audience."

June, 1965: Code issues Questions and Answers on testimonial standard to help determine acceptable advertisements.

April, 1965: Code rules chiropractors, like physicians, dentists or nurses, are unacceptable, directly or by implication, under the men-in-white provision of the Television Code.

March, 1965: Toy Advertising Guidelines reaffirmed by Code Board which emphasizes in particular provisions related to toy weapons and related war toys. Advertisers asked to cooperate in avoiding frightening dramatizations.

January, 1965: Clarification offered on Television Code's men-in-white rule in effect since July 1, 1963. Standard, unique to television broadcast advertising, comprises working example of the effect of industry self-regulation.

Mr. DEVINE. Mr. Chairman, I yield 10 minutes to the gentleman from South Carolina (Mr. WATSON).

Mr. WATSON. Mr. Chairman, I am from South Carolina. Tobacco is an important industry in my State; however, I do not happen to have very much of it grown in the congressional district which it is my honor to represent.

Additionally, let me say further that there is no manufacturing of tobacco in my district. But, even if there were, I would never for a moment stand up here and conscientiously say or do anything which I did not think was in the best interest of the American people. Furthermore, I would never impugn the motives of those who happen to differ with me on this bill and I trust that they will be gentlemen enough not to impugn the motives of those of us who happen to support it and happen to believe that it is the best we can do under the circumstances.

You know, I guess most of you will find it rather strange when I say I wish with all of my heart that medically speaking it had been established that the inhalation of smoke caused lung cancer. I wish it with all my heart. I wish that it has been established that it causes emphysema. I wish so with all my heart that it had been established that it causes unfortunately, such has never been proved medically or otherwise except through rather questionable statistical conclusions.

Mr. Chairman, everyone dreads cancer. I, personally, have had the pleasure of working with our Cancer Crusade in my home county. I want to find the cause of and cure for cancer. But you know the opponents of this measure, those who would like to abolish the tobacco industry altogether, will tell you as I that it has never been established medically that lung cancer can be produced through the inhalation of cigarette smoke.

Mr. Chairman, permit me to read a statement from one of the witnesses that appeared before the Committee on Interstate and Foreign Commerce. He happens to be Dr. Sheldon C. Sommers, a great clinical professor of pathology at Columbia University Medical College.

Dr. Sommers made this statement:

> After at least 30 years of experimental work, and many smoke inhalation experiments in animals, lung cancers of the most common, squamous cell human type have not been produced. It is usually difficult to prove a negative, but if cigarette smoke was a cause of lung cancer, it is indeed surprising that no animal experiments have succeeded in its production.

I am sure my friends who oppose my position on this bill will agree that that statement has not been contradicted by anyone of the American Cancer Society, or any other organization, or any doctor.

You know, my dear friend—and he is very eloquent and very persuasive—the gentleman from Illinois (Mr. ANDERSON) and he was further supported by the equally persuasive and very able gentleman from Washington who preceded me in the well, said that this is a matter of values, and it is. Simply stated, it is a matter of what value to place on the truth. Let us start with that, because you have no other values if you do not start with the truth.

Mr. Chairman, we listened to witness after witness, as the chairman pointed out earlier. We leaned over backward to be fair as he even reconvened the hearings last week so we could hear one young man who had been fired by the National Association of Broadcasters. Trying to arrive at the truth, I asked the Surgeon General of the United States, "You could have chosen any words in your prepared testimony that you wished, but you never chose the unequivocable and categorical statement that "Smoking causes lung cancer." Why? His words were "it can contribute," "it does, perhaps," and "maybe it can." Yet we are asked to make legislative conclusions upon most contradictory expert testimony.

We as Members of the Congress are called upon to tell the truth insofar as we know it to be. When doctors say there is doubt, how can we say there is certainty? We had such conflicting testimony before our committee by men of the medical profession—and as the gentleman from Washington said, we do not impugn their motives; they were honorable men on both sides—in fact, we had so much contradictory testimony that one member of the committee found himself picking up a cigarette and starting to light it, and he does not even smoke. I believe that depicts the confusion that we had on the committee.

But there are some who would come in and say to us as responsible Members of this body, representing our people and searching for the truth, that we are to say positively that this is a fact, when medically it has never been established. Yes, ladies and gentlemen of the Committee, there is one thing that is really at stake here, and that is what value do we place on the truth? And the strengthened label required in this legislation is all that we can honestly use with the present state of the medical knowledge!

As our able chairman said earlier this is an emotional issue, but you know we are called upon to rise above the emotional aspect and deal with the facts as we have found them.

There were 1,800 pages of testimony, and yet all agree that they have never produced lung cancer through the inhalation of cigarette smoke.

Now, the able gentleman from Illinois (Mr. ANDERSON) earlier said it is what value we place on the young people and their acquiring this particular habit. You know, we do not all want to be prophets of gloom and doom here this afternoon. There is some encouraging news as it relates to young people. Unfortunately that is one sad aspect of this, that you have not always gotten the other side from governmental authorities. The American people have not been given the basis for these figures that have been tossed around: We read "100,000 doctors have stopped smoking." There is no concrete evidence to support that statement.

They just projected some figures—I believe they surveyed some 5,000 doctors, as I recall, and wound up with some 800 responses. From that the Government agency extrapolated and reached the 100,000 figure, never telling the American people as to why or when they stopped.

In fact, they have had one survey since 1964, the year of the Surgeon General's report, and it was actually based upon information that was obtained about people who were not present in 60 percent of the instances. The information was gained from a child or a wife or some other person about a smoker.

We had the statistics experts say that that is a most unreliable way to conduct any kind of real, factual survey. They never bothered to check out to see whether or not the information which was gained from the child or the wife about a smoking husband was true or not—interestingly enough.

Now we are called upon to state posi-

tively that that is a fact—that smoking produces death from lung cancer and all of these other dread diseases.

But, as I started to say, all is not gloom and doom, and I want to shed some happiness on this occasion for those who are concerned with young people. In that regard I yield to no man in my concern for youth.

You have not heard from the governmental agencies of a survey that was just taken, and this is a public health survey, which is referred to on page 37 of the hearings. It shows there has been a dramatic decrease in smoking on the part of young people. This should be extremely interesting to those who would say that self-regulation on the part of the industry has failed and the present law on labeling has not been effective.

I read this to those who would say that self-regulation on the part of the tobacco industry and the National Association of Broadcasters has failed. This is the fact, according to the survey of the Public Health Service:

> Among the 17-year-olds questioned during 1967–68, 25.6 percent of the boys said they smoked cigarettes and 15.7 percent of the girls said they are smokers.
>
> A 1957 survey (ten years ago) of the same age group reported 34.7 percent of the boys and 25.5 percent of the girls said they smoked.

This is a survey which was made on June 7, 1969. But have you heard anything about it from the Public Health Service? Unfortunately, encouraging figures are not very interesting to those who want to outlaw cigarettes.

I am sure you agree with me that we are encouraged, to say the least, to hear some figures like this. Is it not about time that we say a good word on behalf of the industry and the National Association of Broadcasters and thereby encourage them to be ever more diligent in their efforts at self-regulation?

The CHAIRMAN. The time of the gentleman has expired.

Mr. DEVINE. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. WATSON. Is it not about time that we as representatives of the people recognize the fact that the tobacco industry is spending millions of dollars for research in the field of health seeking the cause of cancer. Already the Tobacco Institute has given $12 million and has promised an additional $8 million to the American Medical Association to study this problem to try to find out answers that we do not have today.

The gentleman from Washington who preceded me said that 48 States have laws against the sale of cigarettes to minors. Mine is one of those States and I strongly support that law. May I say to my friend that there is absolutely nothing in the bill that would affect those laws one iota. They have been on the statute books of the States before and they are still on the statute books and nothing in this bill would affect that one iota.

Another question which we must answer is, "Are we going to abdicate our responsibility to the FTC or to the FCC?" Talking about chaos, are you aware of the fact that the FCC proposes a total ban on all cigarette advertising while the FTC wants only a different label? Which would prevail? Also, to add to the confusion the Surgeon General himself said he was against any ban on advertising. Again, who or which agency would take precedence? The FTC is saying, "We want this particular wording in all advertising," the FCC is saying, "There will be no advertising at all." Incidentally, an FCC regulation would only apply to radio and TV advertising so do we want to go on record here as giving preference to one advertising medium over another? Are we going to give a preference and allow advertising in newspapers and magazines and ban it in the other media?

This committee worked long and hard trying to do what is right amidst much confusion and contradictory testimony. The gentleman from Washington, the gentleman from Michigan, the gentleman from California, and the others who opposed us fought long and hard. But despite their valiant efforts, the 13 days of hearing and 1,800 pages of testimony convinced the committee to support this bill in its present form by a vote of 22 to 5. It is now our responsibility on this floor to face up to the issues, and I hope we will face them in a dispassionate way.

As long as we say that tobacco is legally manufactured and a legally distributed product, then I think the labeling contained in this bill is all we can truthfully present to the American people. To do otherwise would seriously torture the value of truth.

The CHAIRMAN. The time of the gentleman from South Carolina has expired.

Mr. ADAMS. Mr. Chairman, will the gentleman from West Virginia yield 1 minute to me?

Mr. STAGGERS. I yield 1 minute to the gentleman from Washington.

Mr. ADAMS. If in the legislative history established on this bill it is established that the States have the right to both place a health warning or to ban advertising, or to place on the advertising that occurs within a State a statement of the prohibition of sale to minors contained by their State law, where they have State laws prohibiting the sale of cigarettes, we could avoid a lot of the amendments tomorrow, and I think this would be an established position that many States would like to know about. So if that is the situation, I would like the legislative history to reflect it and let us get it absolutely clear now.

Mr. WATSON. Mr. Chairman, will the gentleman yield?

Mr. ADAMS. I yield to the gentleman from South Carolina.

Mr. WATSON. Over the past 4 years, since this act has been in existence, has there been any concern on the part of any State about this particular preemption presenting any problem to them in the enforcement of their criminal statutes in reference to the sale of cigarettes? Furthermore, I do not recall any State official who testified, or who requested to testify before our committee, objecting to this particular feature. Was there a singe one?

Mr. ADAMS. I can state that I was informed before this bill was passed that the State of New York had moved on cigarette advertising and/or its ban and was prepared to proceed. It has taken the position that this statute had an effect on it and has not proceeded further. So we had better get it clear before the amendment stage.

Mr. WATSON. No requests have been brought to my attention.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I wish to commend the Interstate and Foreign Commerce Committee and its distinguished chairman for providing the House of Representatives with a bill that will permit us to legislate from a foundation of fact.

Every Member of the House should be grateful to the chairman and his colleagues for their fairness in letting all sides be heard. The committee held 13 days of hearings, gathering 1,420 pages of testimony and statements from 91 witnesses.

The result of their uncommonly hard work was a presentation of both sides of the cigarette controversy.

The report states:

> The committee concludes that nothing new has been determined with respect to the relationship between cigarette smoking and human health since its hearings of 1964 and 1965.

The committee took a good look at the facts about smoking and health. The Commerce Committee had the opportunity, which most of us do not have, of reviewing the record. They came to the conclusion they did because they are informed about the true facts of the situation.

As far as I can determine, their finding that "nothing new has been determined" with respect to smoking and health has not been contradicted. I note that several equally informed committee members who filed minority views came to a similar conclusion.

For example, the gentleman from California (Mr. VAN DEERLIN) and the gentleman from New York (Mr. OTTINGER) point out that the Surgeon General "merely states smoking cigarettes is hazardous." They go on to observe:

> The degree of hazard is the subject of dispute, but the Surgeon General's most serious finding against cigarettes is hardly more severe than the proven deaths and injuries resulting directly from driving automobiles.

The gentleman from Texas (Mr. ECKHARDT), who also filed a minority view, made this observation:

> From what I have heard presented to the committee it is at least possible that the conflicting doctrines instead of being one true and one false, they may share the truth between them.

Mr. Chairman, an unusual situation confronts this House. The Chairman of the Federal Trade Commission and the Chairman of the Federal Communications Commission are relying on the Surgeon General, who it seems is relying on the evidence of 1964 and 1965.

Four years ago, Congress was confronted with a similar situation. Congress was pressed to legislate against the tobacco industry. But wisely, Congress

first explored the state of knowledge as to smoking and health. Wisely, I think, Congress enacted a law that was most appropriate to the state of the knowledge at that time.

Four years have made no change in the state of knowledge. The case against cigarette smoking was not proved then. In my judgment, it remains unproved now. The state of knowledge as it now exists is reflected in the committee bill before us today.

The committee bill would not allow regulatory agencies, individual States, and local governments to impede commerce and the national economy. It would prevent hasty, impulsive, piecemeal action based on presumption regarding the causal relationship between smoking and health.

Mr. Chairman, it will be argued that I reached my opinion because I represent a tobacco district in a tobacco State. I make no apology for championing the interests of my constituents. But I would make one fine point: Because I represent more than 17,000 small tobacco farmers, I felt it incumbent to get the facts—and the facts themselves have freed me from any possible conflict between the interests of my district and my country.

The same sort of experience was shared by the gentleman from North Carolina (Mr. PREYER). A former Federal judge, he approached the hearings hoping for the best but expecting the worst. As he put it:

> I was determined to see that tobacco got a fair hearing but knew that the health of our people came before the health of the tobacco industry. I thought that the medical facts would prove to be very bad indeed. Like most of the public, I thought that a case against tobacco had been made by disinterested and well-informed groups acting on behalf of the public—such as the U.S. Surgeon General and the Public Health Service.

But exposure to the evidence brought about his enlightenment, for he goes on to report that:

> After sitting through 13 days of hearings and listening to every witness, the picture that emerges is precisely the opposite of that I had in my mind before the hearings . . . I challenge anyone to read the entire record of this hearing and come to a contrary conclusion. The problem is to get anyone to do this.
>
> The evidence in the recent hearings cries out for a reevaluation or a reopening of the Surgeon General's Report of 1964.

I urge passage of H.R. 6543 as the best method of returning a matter of scientific debate to research laboratories of the medical and scientific community.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Rhode Island (Mr. TIERNAN).

Mr. TIERNAN. Mr. Chairman, I have a very simple amendment I will offer later in the proceedings. It has to do with section 10, which now provides that the act shall terminate on July 1, 1975. I propose to amend that to have it expire in 1972.

The reason I am proposing this amendment, notwithstanding any amendment that may be adopted to the committee amendments, is because I think since we have provided in the bill itself for a report to be made by the Secretary of Health, Education, and Welfare to the Congress not later than 18 months after the passage of this act, it is rather fruitless for us to put that type provision in the bill and then have the act continue in effect until 1975.

It is my feeling that if we are to be sincere with the people of this country, the report of the Secretary of Health, Education, and Welfare may develop information with regard to the effect of cigarette smoking. It may be that the reports we hear from those who advocate the position in favor of the bill will be substantiated. If that is the case, then we should not allow this to continue until 1975. We should have it come back before the Congress. It should come back before this committee so action can be taken based on the report of Secretary of Health, Education and Welfare.

I should like to point out at this time also that the chairman and the members of the committee sat through three long weeks of hearings. I will be honest to say that the testimony before the committee was extensive. I believe the witnesses who testified before us made a good case for both sides with regard to the positions before the committee.

But I also think as my distinguished colleague on the committee has so eloquently presented to the House, that in the meantime something may happen. The gentleman indicated that the tobacco interests and the Tobacco Institute itself are prepared to give money for further medical research. What are we to do if that research does determine within a year or year and a half that there is a direct relationship between smoke inhalation and cancer?

Do Members think we could sit by until 1975 to take some action on the recommendation of the Secretary of Health, Education, and Welfare? I submit to this committee that we will not be able to do that.

For those reasons, no matter what amendments are adopted, I feel strongly that this legislative enactment should not be for the period of time being proposed in this bill. For 6 long years are we to extend this legislative mandate? I frankly believe this is very, very contrary to the custom of this committee, the Committee on Interstate and Foreign Commerce. It is certainly never done in any other piece of legislation from our committee.

Frankly, I feel if we are to sincerely go to the people of this country and tell them we are interested in their health and we are going to keep faith with them—we have heard a lot of talk about values and truth here today—one of the things we can do is at least to indicate at this time we are not going to write this off for 6 long years, one way or the other.

I hope we adopt the amendment I will offer tomorrow.

Mr. DEVINE. Mr. Chairman, I yield 10 minutes to the gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, the words of some of my colleagues remind me of the words of a young preacher just graduated from Transylvania and preaching his maiden sermon in Paris, Ky.

The retiring parson called him into his study and said:

> Son, you may get nervous and your mouth may get dry. So I am placing a pitcher of water with gin in it by the lectern. In such cases of nervousness, help yourself to the mixture.

The young man went in and addressed the congregation. He found that he did get nervous. And his throat did get dry. He imbibed freely of what he found to be a delicious concoction.

He spoke loud and long. After his sermon, he went into the study for a critique. The retiring parson said:

> Son, you spoke long enough—a hour and a half—but strangely, you held the attention of the audience. However, in your religious fervor, you deviated from the essence of the truth. In the first place, there are ten commandments, not twelve; there are 12 apostles, not 10. And David slew Goliath with a slingshot, he didn't take a club and beat hell out of him.

In my colleagues' almost religious zeal, I feel that they may have departed from the essence of the truth, for in the first place, lung cancer has never been experimentally produced by the inhalation of tobacco smoke, although literally thousands of mice, rats, hamsters, shrews, guinea pigs, dogs, and rhesus monkeys have been smoking at N.I.H. for the past 10 years. Many of these animals have been subjected to tracheotomies so that the smoke inhalation would go directly into their lungs, but as yet, no squamous cell carcinomas have been produced.

This contrasts vividly with the capability of producing lung cancer easily by the inhalation of hydrocarbons, such as produced by automobile exhausts.

This has been done many, many times. And it is passing strange, too, that the rate of lung cancer in England is twice as great as it is in the United States, although the rate of smoking is much less. Again, the rate of lung cancer is greater in Holland and Australia, although the rate of smoking is much less than in the United States.

So, we see many, many other factors are undoubtedly involved in the causation of lung cancer besides smoking. I submit that air pollution causes much lung disease. The coal-dust-laden air in mines causes pneumoconiosis. Smog caused by air inversion over Donora, Pa., caused many cases of respiratory disease and many deaths. The same condition has occurred over New York City, Los Angeles, and London, with great increases in death rates.

I submit that when definitive research has been done and final conclusions arrived at, that there will be many more factors involved in the causation of lung cancer. And I trust that such research will be carried out.

In the district I represent in southeastern Kentucky, almost 36,000 families have tobacco allotments. Tobacco is their chief source of income. With this money at the end of the year, they settle their accounts for food, for doctor bills, and for the necessities of life. Injury to the

tobacco industry will impose great hardships upon this already depressed area.

The State of Kentucky derives $400 million in income from the industry. Cutting down the growth of tobacco in Kentucky will throw thousands of poor people out of work, and cause many people to crowd into the ghettos of our cities in search of work and further increase both rural and urban problems.

The bill before us today would place the dreaded name "cancer" on every package of cigarettes sold in the United States. This label is horrifying and no doubt will render great harm to the industry.

So many, many other industries offer as great or greater injury to our public than the tobacco industry. For instance, 53,000 people each year are killed by Cougars, Jaguars, Cobras, Wildcats, and Thunderbirds, which are recorded as having the capability of traveling 160 miles an hour on our highways. Yet the proponents of legislation which would prevent the advertising of a legal product have nothing to say about the automotive industry which manufactures the wildly-named automobiles which have proven to be such vicious killers on our highways.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the distinguished gentleman.

Mr. GROSS. Does the gentleman think that in this matter of health hazards that O. Roy Chalk might well put a label on the back of his D.C. Transit buses? You not only get your lungs full of smoke, but you are likely to be asphyxiated sitting in your car when you get locked up in traffic with them. How about a label on the backs of some of the buses?

Mr. CARTER. I certainly agree with the distinguished gentleman. It is quite true.

Again, nothing is said concerning the fact that 50 percent of those who are killed in such wrecks are under the influence of alcohol. No alcoholic beverages are labeled, "Caution, this may be hazardous to your health, or to the health of innocent motorists."

If one consumes alcoholic beverages and gets behind the wheel of a Cougar, a Jaguar, or a Wildcat, the lives he takes may well be his own and also those of other innocent families. Smoking a cigarette may present a danger only to the one who smokes it.

Mr. WYMAN. Mr. Chairman, will the gentleman yield?

Mr. CARTER. Yes. I yield to the gentleman.

Mr. WYMAN. Is there any basis in the gentleman's professional experience for equating the smoking of a cigarette with an absolute poison?

Mr. CARTER. I beg the pardon of the gentleman.

Mr. WYMAN. Is there any basis in the gentleman's experience for equating the smoking of a cigarette with an absolute poison?

Mr. CARTER. I could not call it that.

Mr. WYMAN. Mr. Chairman, if the gentleman will yield further, is it not a fact that whether or not cigarette smoking is harmful depends upon how much the individual who is doing the smoking inhales the cigarette smoke?

Mr. CARTER. I agree with that statement.

Mr. WYMAN. Then is there not a question as to whether or not even the warnings on cigarette packages will have the desired effect, because it depends upon the user of the cigarette on an individual subjective basis?

Mr. CARTER. I do not know if I got your question, but I believe the warning is sufficient at the present time.

Mr. WYMAN. Well, if the gentleman will yield further, the Federal Communications Commission has no authority to shut off advertising of a nonpoisonous substance whose use depends entirely as to whether or not it is harmful on the extent of use by individuals. It is all a matter of degree, is it not?

Mr. CARTER. I would respond to the gentleman from New Hampshire in saying that I do not think the Federal Communications Commission should have that power. I do not believe it has this right.

Mr. WYMAN. Is the gentleman familiar with the fact that Mr. Hyde, the Chairman of the Federal Communications Commission, suggested, as reported in the newspapers on June 12, that radio stations permitting the advertising of cigarettes and television stations might not have their license renewal regarded favorably unless they followed the wishes of the Commission in this regard?

Mr. CARTER. I certainly deplore that statement on the part of the Chairman of the Commission.

You know, the Surgeon General appeared before our committee, and in my opinion he is a real fine gentleman, and he had three other distinguished advisors with him who strongly supported legislation for labeling cigarettes and I understand perhaps would go even further. Yet at the same time I saw that they were all heavy smokers, including the Surgeon General. As I sat there we saw great layers of smoke arising from the witness stand and going up to the ceiling. In other words, they were saying in my opinion, "Do not do as I do, but do as I say do." This was the Surgeon General of the United States.

Some have stated 300,000 people die of lung cancer each year. However, the vital statistics which I have here in my hand for 1966—the latest year I could obtain—show a total of 56,000 deaths from neoplasms of the lung. No more than half of this number represents the number actually having lung cancer. Many of these tumors are caused by metastasis from tumors in other parts of the body, since the lung might be compared to a screen which filters out from the blood malignant cells from other parts of the body, and here they grow.

The passage of the present bill will depress the tobacco industry far more than it is now realized. The horrible name "cancer" on a package of cigarettes will have a greatly depressing effect.

Cigarette smoking has diminished in the United States over the past 2 years. There has not been a decrease, however, in lung cancer since this decrease in cigarette smoking has occurred.

The CHAIRMAN. The time of the gentleman has expired.

Mr. DEVINE. Mr. Chairman, I yield 2 additional minutes to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for the additional time.

Mr. Chairman, it is a fact that although women now smoke more than they did years ago, the number of those dying from lung cancer is relatively the same as it was. It is seen, then, that in women at least cigarette smoking has not caused an increase in lung cancer.

Another interesting observation is that the parts of the anatomy most exposed to smoking are not in the areas in which the tumors appear. While the trachea is exposed more than any other part of the respiratory tract after the larnyx, cancer of the trachea is almost unheard of.

Mr. Chairman, I regret that my committee saw fit to pass this rather difficult label. I know that it is going to depress the tobacco industry, and that it will injure the poor people of my area, although since it is the best approach at this time that we can do, I do urge acceptance of it.

Mr. ADAMS. Mr. Chairman, would the gentleman yield for a question?

Mr. CARTER. Mr. Chairman, I yield to the gentleman from Washington.

Mr. ADAMS. In December 1968 the American Medical Association, House of Delegates, adopted this statement:

Resolved, That the American Medical Association again urge its members to play a major role against cigarette smoking by personal example and by advice regarding the health hazards in smoking and be it

Further resolved, That the American Medical Association discourage smoking by means of public pronouncements and educational programs, and be it

Further resolved, That the American Medical Association take a strong stand against smoking by every means at its command.

Does the gentleman agree with that statement?

The CHAIRMAN. The time of the gentleman has again expired.

Mr. DEVINE. Mr. Chairman, I yield 1 additional minute to the gentleman from Kentucky.

Mr. ADAMS. Mr. Chairman, I would like to know if the gentleman agrees with that statement? And I know also that we have in the record that the American——

Mr. CARTER. Mr. Chairman, I refuse to yield any more of my valuable time to the gentleman from Washington. The gentleman has read into the record enough.

Now, let me say this to the gentleman, Mr. Chairman, that this is the first time in the years that we have served together that the gentleman has referred to the American Medical Association as an authority on anything.

Mr. ADAMS. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Chairman, I believe

you should know that there is no organized health or medical group which has found other than that smoking of cigarettes is dangerous to the health, and I challenge anyone to successfully contradict that statement.

Now, I favor action by the Congress, and I do not know why we have had so many speakers attempt to divert us to a straw man, rather than dealing with the substance of the issue before us.

The issue is not whether we are going to let regulatory agencies usurp the powers of the Congress, the question is whether the Congress is going to accept its responsibilities in a responsible and timely manner.

I said in the minority views that I filed 4 years ago, "A more realistic and responsible approach to this problem would be to warn the nonsmoking consumer of the health hazard before the product is purchased—rather than remind the individual who already smokes and after he has the product in his possession, that it may be harmful to his health."

I propose tomorrow to offer an amendment which will treat all advertising media equally. It will require, if this House adopts it, that the warning appear on every offer for sale, whether it be in the printed media or the spoken media—whether it be printed or occurs on radio or television.

I think we have to ask ourselves whether our objective here today is to protect the public interest—and a warning in all advertising would do that, or whether our objective is to protect the Tobacco Institute and its membership—and a warning only on the package does that. Because after having given a consumer fair warning of the hazardous nature of the product as the simple package label does, then if the consumer goes ahead and uses it, the industry is relieved of a major part of its liability for any injury to the health of the smoker. That is why the tobacco industry wants this bill today. They are perfectly willing to take a warning that says—not that smoking may be bad—but that it is dangerous.

So along with all of our organized medicine and organized public health, the Commerce Committee of this House also found by a vote of 22 to 5 that cigarette smoking is dangerous to your health. They changed it from "may be" to "is". It is an important difference. If it is brought to the attention of the young men and women of this country before they become addicted to the habit of smoking—and I use the term "addicted" advisedly—because the withdrawal symptoms of a cigarette smoker are frequently analogous in every sense to withdrawal symptoms of a person who partakes of stronger drugs.

I dare say that if it were not for the economic impact of tobacco upon the American economy, we would be classifying cigarettes as an addictive drug, as they should be classified.

Now on the question of whether or not there has been an established link between tobacco and lung cancer, that is a question you can play with a great deal. But the following facts have never been contested in any sense.

The risk of death from all causes is 70 percent higher for men who smoke cigarettes than for male nonsmokers. It is significantly higher for women who smoke cigarettes than for those who do not. That is a fact statistically arrived at. But by whatever method, it is an uncontested fact.

The risk of death from lung cancer is over 10 times greater. It is 10 times greater for cigarette smokers than for nonsmokers. Now that is a fact.

The risk of death from bronchitis and emphysema is six times greater for smokers than for nonsmokers.

In general the greater number of cigarettes smoked daily, the higher the death rate.

For men who smoke fewer than 10 cigarettes a day, the rate is 40 percent higher.

For those who smoke 10 to 19 cigarettes a day, the rate is 70 percent higher.

For those who smoke 20 to 39 cigarettes a day, the rate is 90 percent higher.

For those who smoke 40 or more cigarettes a day, the rate is 120 percent higher.

The risk is definitely greater if a smoker inhales, and that is a fact.

Now, as to this matter of self-regulation and whether or not there is an effort made to induce people to smoke—at no time in the history of this Nation has there been a greater volume of television commercials sponsored by cigarette companies than exists today.

I had one of my colleagues sit down beside me a little earlier this afternoon. He pulled out his package of cigarettes and said, "You know, this is the first time I have looked at that caution on the side of the package. I know all about Marlboro country, and I know that you can't take the country out of Salem." Make no mistake about it. That repetitious pattern of urging, through the most attractive type of advertisements, that, first, cigarette smoking is a social grace and, second, that it is a manly characteristic, has an imprint.

Let me make it abundantly clear that as this law is written it clearly forecloses any State from requiring notice that sale to minors in its State, in connection with cigarette advertising, is illegal, and it forecloses them from making that notice on ads.

Finally, I include at this point in the RECORD a copy of a letter received in my office which substantiates that concern felt by the medical academic community:

I understand that Congress is now considering the problem of cigarette smoking and that it is concerned about the conclusiveness of the evidence that cigarette smoking causes death and disability.

I believe that it has been established beyond any reasonable doubt that cigarette smoking is a serious health hazard capable of causing death and disability, and that this opinion is shared by the overwhelming majority of the informed medical community and is no longer open to serious dispute. The following statement, which I understand has been proposed by the F.T.C. to replace the current health warning, is a fair and accurate statement of the dangers of smoking as established by the overwhelming weight of the clinical, experimental, and epidemiological evidence: "Cigarette smoking is dangerous to health and may cause death from cancer, coronary heart disease, chronic bronchitis, pulmonary emphysema and other diseases." As far as I know no responsible medical or scientific body has even concluded that cigarette smoking is not a serious health hazard.

I have signed this statement as an individually concerned physician and not on behalf of my institution. It does not necessarily reflect the view of my school or of any member of the faculty. My affiliation may be shown for purposes of identification only.

Signed by the deans of the following medical schools:

University of Colorado School of Medicine.
Case Western Reserve University School of Medicine.
Louisiana State University School of Medicine.
University of Pennsylvania School of Medicine.
University of Washington School of Medicine.
University of Rochester School of Medicine & Dentistry.
University of Iowa College of Medicine.
University of Texas Medical Branch.
The Chicago Medical School.
Medical College of Georgia School of Graduate Studies (signed as medical scientist).
Boston University School of Medicine.
Washington University School of Medicine.
University of Mississippi School of Medicine.
Marquette School of Medicine.
Rutgers Medical School.
Michigan State University College of Human Medicine.
New York Medical College.
University of California School of Medicine.
University of Oklahoma Medical Center.
Northwestern University Medical School.
Baylor College of Medicine (Assoc. Dean).
University of California at Irving.
University of New Mexico School of Medicine.
University of Arizona School of Medicine.

Mr. DEVINE. Mr. Chairman, I yield 3 minutes to the gentleman from New Hampshire (Mr. WYMAN).

Mr. WYMAN. Mr. Chairman, in coming from a State that has no tobacco industry, but does have retail and wholesale outlets, I cannot help but make two or three observations. I think it is important that we do in this field only what we should do and, as the gentleman from California has said, our responsibility in the House is to apply an appropriate warning to all advertising media.

There is no question, but smoking does not help. It does not help anyone. It sets the stage for heart disease, for emphysema, and all kinds of risks. But it does not cause cancer in everyone and the danger in smoking to the individual varies with his use of tobacco. It has been said here that people who smoke less than 10 cigarettes a day increase their susceptibility to serious disease by 40 percent. I do not agree with that, but I am not a doctor. I cannot believe that is true. I think whether it hurts you really depends upon how much you inhale and how excessively you smoke. I cannot believe that anyone who smokes less than 10 cigarettes a day is really hurting himself very much if at all—especially if he or she does not inhale.

The point to the legislation under consideration here is the extent to which a regulatory agency, acting in the protection of the general public, should have the power to impose requirements that have vast economic effects upon people and industry and upon jobs. You just cannot cut off something that is not a poison, because you do not like it. No matter if you are Chairman of the Federal Communications Commission or not, you cannot arbitrarily act by fiat. We have courts, and a system of laws with rights and responsibilities. We are not here dealing with poison. We are not here dealing with something, as the Chairman of the Commission said before us in the Independent Offices Subcommittee on Appropriations, that can be equated with poison. That is not so. The doctor who has spoken here on the floor of the House knows that you cannot equate cigarettes with pure poison. I would like to read the transcript of Chairman Hyde's testimony before my subcommittee on this.

LIMITATION ON CIGARETTE ADVERTISING

Mr. WYMAN. Mr. Chairman, what is the nature of your proposal on the cigarette restriction?

Mr. HYDE. Our proposal, of course, is subject to the rulemaking notice and subject to our consideration of comments that may be submitted by interested parties and subject, of course, to any action that Congress might take. The proposal would preclude the advertising of cigarettes on either radio or television.

Mr. WYMAN. All advertising?

Mr. HYDE. Right. We have in our notice a possibility that some advertising regarding nicotine and tar content might be appropriate but that is just in the notice for the advice of interested parties. The overall proposal is to bar cigarette advertising on radio and TV.

Mr. WYMAN. What is the statutory authority? If you don't have it at your fingertips——

Mr. HYDE. To establish regulations in the public interest and our basic theory is that these regulations would be justified to protect public health.

Mr. WYMAN. Is it your position that unless Congress renews the Cigarette Labeling and Advertising Act of 1965, you have the authority to do this under existing statute?

Mr. HYDE. It is our position that we would have legal authority to prescribe such a rule.

Mr. WYMAN. In U.S. News and World Report issue of February 17 you are quoted as saying that the product poses a unique danger, "a danger measured in terms of an epidemic."

How great is the threat to public health, in your opinion, from what I would call "moderate smoking of cigarettes"?

Mr. HYDE. Well, we do not undertake in our shop to make judgments on this. We rely entirely on the findings of the reports of the Departments of Health, Education, and Welfare, Federal Trade, and the Surgeon General.

Of course, we do cite in our notice of proposed rulemaking the statistics which have been issued by the departments, that there are 50,000 deaths a year from lung cancer, and the department says that the most important cause of lung cancer is cigarette smoking.

Mr. WYMAN. But a regulation or a rule by the Federal Communications Commission outlawing all advertising on radio and television would, to be justifiable, virtually equate cigarette smoking with poison, would it not?

Mr. HYDE. We base our ruling on the findings of the Department of Health, Education, and Welfare and it does give figures along the lines which I have just mentioned.

Mr. WYMAN. Isn't it a fact that the danger in the smoking of cigarettes—admitting that perhaps the smoking of a single cigarette by an individual each day is not good for him—isn't your evidence in regard to the danger of cancer or emphysema, or any of these things, that it is confined to excessive use. Would not the public be adequately protected against excessive use by advertising which, by regulation of the FCC, was required to appropriately warn—not just at the end of the advertisement, but perhaps by incorporation in the text, of appropriate warning of the individual against excess of use?

Mr. HYDE. We have the information that was published by the department and under the title of "General Mortality Information" there is a finding—this is in the 1967 report:

"In addition evidence herein presented shows that life expectancy among young men is reduced by an average of eight years in "heavy" cigarette smokers, those who smoke over two packs a day and an average of four years in "light cigarette smokers, those who smoke less than one-half pack per day."

Mr. WYMAN. What troubles me in part, in connection with this is, is it the function of the agency in the absence of specific statutory authority to attempt to spoon feed the public in regard to how many cigarettes they should smoke or should not smoke?

Mr. HYDE. I think we have here a unique situation. The Commission must make a finding when it issues a license for the operation of a TV or radio station that such operation will be in the public interest. I would suggest there is nothing that has a more clear and important bearing on public interest than public health.

Now, when the Commission is on notice of a finding by these several agencies of Government that cigarette smoking is a hazard to health in terms which they have mentioned, we just cannot ignore that.

Mr. JONAS. Would the gentleman yield?

Mr. WYMAN. Yes.

Mr. JONAS. You think you have more of an obligation to follow—not a recommendation, but to abide by or to accept the findings of a department of the executive of the Government than Congress?

Mr. HYDE. Well, sir, I would say that Congress itself has found the use of cigarettes—that cigarettes may be a hazard to health. It states so on the side of the package.

Mr. JONAS. But it specifically refused to bar the manufacture of cigarettes and how can you then assume the responsibility of undertaking to bar the advertisement of something that is legal to manufacture in the United States? I think you are exceeding your authority.

I want you to read into the record the specific statutory authority. You have a right to your opinion and I have a right to mine but I think the record should show the words of the statute you contend gives you the authority, as an administrative agency of the Government, to bar the advertisement of anything that it is legal to manufacture in the United States. It seems to me that it would have been more in keeping with your obligation, if you have such strong feelings on the subject, to have recommended to Congress that it bar the manufacture or to bar the advertising of cigarettes. Your ban does not even touch advertising in the periodicals and newspapers. You have no control over them or you would have undertaken to bar the advertising of cigarettes in the newspapers of the country.

Mr. HYDE. No, really, our responsibility runs to the licensing of stations. We are aware that about 75 percent of the advertising budget of the cigarette manufacturers is invested in radio and TV advertising but we, as members of the Commission, are charged as a matter of duty of licensing stations under conditions that will serve the public interest and we——

Mr. JONAS. I think the Commission has arrogated unto itself a prerogative of Congress.

Mr. HYDE. We don't believe we have arrogated to ourselves the responsibility of making the overall determination of what is in the public interest; rather, we have taken cognizance of the findings of the two departments I have mentioned. We have taken cognizance of the concern of Congress here and then, of course, we have to refer to our own responsibilities under the act which we administer.

You have asked me to cite statutory authority——

LEGAL AUTHORITY FOR COMMISSION ACT

Mr. JONAS. You are going to do that later?

Mr. HYDE. I have it in front of me.

Mr. JONAS. All right, please read it.

Mr. HYDE. I am quoting from paragraph 15 of our order:

"We believe in view of the public health basis uniquely authenticated by official action, that we do have authority to act here under the public interest standard set out in sections 303, 307, 308, 309 and 315 of the Communications Act, 47 United States Code 303, 307, 308, 309, 315."

Mr. JONAS. Mr. Wyman wants the law and not the citation.

Mr. HYDE. I will supply the text for these citations.

Mr. JONAS. Has the Commission ever undertaken to bar the advertising on radio and television of anything else that is legally manufactured in the United States?

Mr. HYDE. I believe not. I cannot recall a single instance where we have undertaken——

Mr. JONAS. Have you ever undertaken to bar the advertising of anything other than cigarettes?

Mr. HYDE. Not so far as I can recall.

Mr. JONAS. And you take the position that cigarettes, the use of cigarettes, regardless of whether they are used to excess or not, is the only article that the public interest would be involved in and, therefore, you single it out and bar its advertising. You have no such compunctions about tightening upon the showing of horror, crime, and sex pictures and pornographic material and many other things that could be cited which probably, have caused more damage and more trouble and caused more crime than cigarettes?

Mr. HYDE. We do not believe that we have singled out a product. We believe——

Mr. JONAS. Wait a minute. You don't think those things—the public has any interest in those things?

Mr. HYDE. I would not say that at all.

Mr. COX. The statute bars obscene matter, all right.

Mr. HYDE. Yes, that is barred, but what I wanted to say is, we didn't single out cigarette smoking. It was the findings of the Department of Health, Education, and Welfare, Federal Trade and, as I mentioned before, Congress itself, that singled out this item.

Mr. JONAS. Congress acted and the way it singled it out was to require the placing of this legend on the packages, but you weren't satisfied to follow the judgment of Congress. You arrogated to yourselves the right to go beyond the congressional mandate after Congress had already acted in this very field. Is that not right?

Mr. HYDE. No; I wouldn't believe that is our position in the matter.

The Commission, recognizing that the Cigarette Labeling Act would, by its terms, expire on June 30 or July 1, being on notice of the substantial amount of cigarette advertising that is being presented on TV, all hours of the day, every day of the week and, of

course, on notice of the findings as to the impact upon health, found it appropriate—subject to review by Congress, of course, and we thought it would be helpful to Congress to report to Congress what the administrative agency would feel required to do if Congress didn't give some other guidelines.

Mr. JONAS. How many times have you recommended to the legislative committee that it take action similar to this?

Mr. HYDE. This is the only instance in which we have——

Mr. JONAS. And this is not merely a recommendation; this is a formal order under your rulemaking power which goes into effect, unless Congress affirmatively acts?

Mr. HYDE. We have indicated in our——

Mr. JONAS. Yet you go before the legislative committee of the Congress every year and you have never recommended legislation to accomplish what you undertake to do by fiat.

Mr. HYDE. Well, Congressman, we do believe that not only our powers in the Communications Act, but our responsibilities do require us to take some action in this area.

Mr. JONAS. Well, wouldn't the first action normally be to make a recommendation to Congress?

Mr. HYDE. If it required legislation, it would; but we don't believe legislation is required.

Mr. WYMAN. That is just what I am trying to find out.

Mr. JONAS. Thank you for yielding for my few little, mild questions.

Mr. WYMAN. There is a big difference between outlawing all advertising and requiring a certain type of minimum content of the advertising. Was that considered in detail by the Commission before it arrived at this notice of intention of proposed rulemaking?

Mr. HYDE. There was some discussion of the fact that our area of regulation would be limited to TV and radio and that advertising might very well be presented on other media——

Mr. WYMAN. I didn't mean that, I mean did you talk within the Commission about the warning? I see these things on the television too—I don't happen to smoke cigarettes, but I see the ads suggesting the big wild open West and urging smoking a certain cigarette and that makes you a certain type of he-man when the truth is actually the opposite. But wouldn't the public interest be served, or wouldn't what the Commission, I think, has in mind—which is the public health—be served if, within the text of that advertising you required that it be repeated again and again, or appropriately interpolated, that any person using cigarettes excessively may shorten their life expectancy and may kill themselves and cause themselves an agonizingly slow death, or have emphysema or one thing or another?

Mr. HYDE. We didn't seriously discuss any halfway measures. We were pretty well convinced that we should, on the basis of these reports, propose to prohibit the——

Mr. WYMAN. Stop it completely?

Mr. HYDE. Yes.

Mr. WYMAN. Do you know whether there has been any opportunity to coordinate this policy with other agencies that might regulate advertising content in other public media such as newspapers, magazines and so on?

Mr. HYDE. No; there hasn't. We had some very limited staff liaison with Federal Trade, but we did not undertake any coordination with respect to advertising in other media.

Congressman, we felt compelled to act with respect to the media which we do license because it is the primary advertising media for cigarettes.

Mr. WYMAN. You are aware of the fact, for example, that there is pending in the Congress resolutions calling for a study of how to curb violence within the Constitution, if it can be.

Have you every considered within the Commission outlawing advertising in support or any program in which the dominant theme is violence, or that sort of thing? I realize the unconstitutional problems, but have you ever given that any consideration?

Mr. HYDE. We haven't given consideration to any specific proposals. It has been subject to some comment, of course, in the Commission.

We prepared a statement for the Eisenhower Commission which, of course, was discussed. We have not given serious thought to promulgation of a rule which would undertake to regulate in that area.

Mr. WYMAN. But actually violence causes a lot more deaths in America every month than cigarette smoking, doesn't it?

Mr. HYDE. The reason why we felt that this was a unique situation and the reason why we felt compelled to act is that this product, used in the normal way, according to what might be the directions, according to the report of the Department of Health, Education, and Welfare, has very serious health consequences.

Mr. WYMAN. Is that report available?

Mr. HYDE. I don't know of any other product that has been the subject of such a finding.

Mr. WYMAN. Is that report available to the public?

Mr. HYDE. Oh, yes. There is a report and then there is a supplemental report.

Mr. WYMAN. What is the date of it? The original and the supplemental. Do you know?

Mr. HYDE. Yes, it is in our statement. I understand it is June of 1967 and June of 1968.

Mr. WYMAN. Would it be possible ultimately, before the text of this copy is ready for the printer, for you to include the sentences or paragraphs from that report that impelled you to act?

Mr. HYDE. Yes, sir. We have included what we thought were some very significant excerpts in our notice of proposed rulemaking, but I will submit a separate statement for the record.

(The following pages taken from the Commission's notice of proposed rulemaking are submitted for the record:)

As stated in the 1967 Report to Congress on the Health Consequences of Smoking by the Department of Health, Education, and Welfare:

"In the 3½ years since the publication of that report, an unprecedented amount of pertinent research has been completed, continued, or initiated in this country and abroad under the sponsorship of governments, universities, industry groups, and other entities. This research has been reviewed and no evidence has been revealed which bring into question the conclusions of the 1964 report. On the contrary the research studies published since 1964 have strengthened those conclusions and have extended in some important respects our knowledge of the health consequences of smoking."

The present state of knowledge of these health consequences can, in the judgment of the Public Health Service, be summarized as follows:

1. Cigarette smokers have substantially higher rates of death and disability than their nonsmoking counterparts in the population. This means that cigarette smokers tend to die at earlier ages and experience more days of disability than comparable nonsmokers.

2. A substantial portion of earlier deaths and excess disability would not have occurred if those affected had never smoked.

3. If it were not for cigarette smoking, practically none of the earlier deaths from lung cancer would have occurred; nor a substantial portion of the earlier deaths from chronic bronchopulmonary diseases (commonly diagnosed as chronic bronchitis or pulmonary emphysema or both); nor a portion of the earlier deaths of cardiovascular origin. Excess disability from chronic pulmonary and cardiovascular diseases would also be less.

4. Cessation or appreciable reduction of cigarette smoking could delay or avert a substantial portion of deaths which occur from lung cancer, a substantial portion of the earlier deaths and excess disability from chronic bronchopulmonary diseases, and a portion of the earlier deaths and excess disability of cardiovascular origin.[1]

The 1968 supplement has the following highlights:

"GENERAL MORTALITY INFORMATION

"Previous findings reported in 1967 indicate that cigarette smoking is associated with an increase in overall mortality and morbidity and leads to a substantial excess of deaths in those people who smoke. In addition, evidence herein presented shows that life expectancy among young men is reduced by an average of 8 years in 'heavy' cigarette smokers, those who smoke over two packs a day, and an average of 4 years in 'light' cigarette smokers, those who smoke less than one-half pack per day.

"SMOKING AND CARDIOVASCULAR DISEASES

"Current physiological evidence, in combination with additional epidemiological evidence, confirms previous findings and suggests additional biomechanisms whereby cigarette smoking can contribute to coronary heart disease. Cigarette smoking adversely affects the interaction between the demand of the heart for oxygen and other nutrients and their supply. Some of the harmful cardiovascular effects appear to be reversible after cessation of cigarette smoking.

"Because of the increasing convergence of epidemiological and physiological findings relating cigarette smoking to coronary heart disease, it is concluded that cigarette smoking can contribute to the development of cardiovascular disease and particularly to death from coronary heart disease.

"SMOKING AND CHRONIC OBSTRUCTIVE BRONCHOPULMONARY DISEASE

"Additional physiological and epidemiological evidence confirms the previous findings that cigarette smoking is the most important cause of chronic nonneoplastic bronchopulmonary disease in the United States.

"Cigarette smoking can adversely affect pulmonary function and disturb cardiopulmonary physiology. It is suggested that this can lead to cardiopulmonary disease, notably plumonary hypertension and corpulmonale in those individuals who have severe chronic obstructive bronchitis.

"SMOKING AND CANCER

"Additional evidence substantiates the previous findings that cigarette smoking is the main cause of lung cancer in men. Cigarette smoking is causally related to lung cancer in women but accounts for a smaller proportion of cases than in men. Smoking is a significant factor in the causation of cancer of the larynx and in the development of cancer in the oral cavity. Further epidemiological data strengthen the association of cigarette smoking with cancer of the bladder and cancer of the pancreas."[2]

4. We shall not set out the many detailed reports (e.g., the Hammond study; the Dorn study) discussed in these documents. We do point out that among the diseases as to which cigarette smoking is the main or most

[1] *The Health Consequences of Smoking, a Public Health Service Review*, 1967, Public Health Service Publication No. 1696, pp. 3–4 (Revised January 1968).

[2] *The Health Consequences of Smoking, 1968*. Supplement to Public Health Service Publication No. 1696, pp. 3–4.

important cause,[3] there is an alarming rate of increase in mortality. There were 25,416 deaths from emphysema and/or chronic bronchitis in 1966 which represent a 25-percent increase over 1964.[4] It is estimated that "* * * within 10 years, the death toll from these two diseases, which doubles every 5 years, could be well over 80,000." (The Dark Side of the Marketplace, 1968,, by Senator Warren G. Magnuson and Jean Carper, p. 187.) The annual number of deaths in the United States from cancer of the lung increased from 18,313 deaths in 1950 to 48,483 in 1965.[5] It is stated that "by 1976, unless the epidemic is checked, twice that number or 80,000 yearly, will die of the disease" (ibid). The 1967 report indicates that cigarette smoking is associated with as much as one-third of all deaths among men between 35 and 60 years of age.[6] The 1968 report of the Secretary of Health, Education, and Welfare to Congress concludes that "* * * smoking is a serious health hazard in this country, one which is bringing about much unnecessary disease and death within our population. In the words of the 1964 report, adequate remedial action is required. In my opinion, the remedial action taken until now has not been adequate."[7] See also The Dark Side of the Marketplace, 1968, *supra*.

Mr. WYMAN. For example, you just referred earlier in your testimony to the fact that it came to your attention that for young people smoking less than half a pack a day would shorten their lives by 4 years.

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[3] As to other diseases such as in the heart disease field, consider the following statement:

For the population as a whole, cigarette smoking increases the likelihood of death by coronary disease by about 70 percent. But for those people who already suffer from high blood pressure, cigarette smoking jumps the risk to over 200 percent. (1967 World Conference on Smoking and Health, a Summary of the Proceedings, p. 122).

[4] 1968 supplement, *supra* at 66.

[5] Id. at 94.

[6] Health Consequences of Smoking, 1967, supra, p. 14. The foregoing is just a sketch of some of the highlights and does not represent a history of all the significant statistics in the reports. Thus, the following statistics in the reports were cited before the 1967 World Conference on Smoking and Health:

"Over a quarter of a million premature deaths each year from diseases associated with cigarette smoking."

"Eleven million extra cases of chronic disease in the cigarette smoking population."

* * * * *

"The quarter of a million early deaths are a little less than a seventh of all the deaths in America each year. At present rates, then, one-seventh of all Americans now alive—about 28 million people—will die prematurely of diseases associated with cigarette smoking. These are round figures, but they are not far from the mark." (Speech of Senator Robert Kennedy, 1967 World Conference on Smoking and Health, a summary of the proceedings, pp. 4–5.

The recent book, The Dark Side of the Marketplace, by Senator Warren G. Magnuson and Jean Carper, refers (pp. 185–186) to a "recent autopsy study of cross sections of human lung tissue [which] revealed that 93.2 percent of the smokers had abnormal lung cells as compared with only 1.2 percent of the nonsmokers," and to the 7-percent drop of the lung cancer rate of British doctors (16 percent of whom gave up cigarettes between 1951 and 1958) as against a 22-percent increase in the rate among the general public in Great Britain.

[7] Report to Congress on Smoking and Health by the Secretary of Health, Education, and Welfare, July 1, 1968, p. 1.

Mr. HYDE. I think that was from 1967 report.

Mr. WYMAN. This troubles me. How do they get to that conclusion?

Mr. HYDE. That is a statistical finding.

Mr. PRYOR. Mr. Chairman, has any similar study been made on alcohol?

Mr. HYDE. I know of none on alcohol.

Mr. JONAS. You say there has been no similar study on crime? I thought the books were full of reports of various commissions about crime and violence. They even wanted to bar the manufacture of pistols and firearms but nobody has ever seriously proposed to bar the manufacture of cigarettes. They have proposed it, but it hasn't gotten anywhere. That is the reason I can't understand why you pick out cigarettes, a harmless little product of agriculture, to direct all of your ire against and leave the whole field of violence and crime untouched.

Mr. WYMAN. Of course, alcohol is outlawed by agreement as far as advertising is concerned.

Mr. HYDE. By voluntary action the broadcasting industry, by and large, does not accept advertising for hard liquor. They carry some advertising for wines and beers and, as a matter of fact, in connection with the release of this notice of proposed rulemaking, we invited industry's attention to the problem, hoping that there might be some voluntary interest in taking some corrective action.

Mr. WYMAN. I don't want to pursue this any further at this time, but I would like to ask would it be possible, Mr. Chairman, if the industry came forward with some voluntary reduction like 50 percent plus a warning, that the notice of porposed rulemaking in this instance might be dismissed?

Mr. HYDE. I am not in position, really, to do any negotiating, but I would certainly welcome any reduction.

Mr. JONAS. You take the position that a man doesn't have the constitutional right to smoke himself to death, if he wants to?

Mr. HYDE. Oh, no. No, sir. I wouldn't interfere at all. I wouldn't think of it.

Unless this Congress should act affirmatively and give this agency regulatory power to do what it proposes to do, it does not have that power.

What we should do is to require a fair warning, and we ought to require the warning on television as well as on the cigarette packages: a warning that excessive use may contribute to disease—excessive use.

I agree that it is difficult to define these things. They do not lend themselves to a yardstick of measurement of the type we would like to be able to legislate. But we cannot do any more than this, nor should we.

An item in the New York Daily News published on June 12 stated:

The Chairman of the Federal Communications Commission said today that any TV or radio station that continued to broadcast cigarette commercials could run the risk of not having its license renewed.

Chairman Rosel H. Hyde pointed out in an interview that the United States had said that 300,000 persons in the country die prematurely each year as a result of cigarette smoking.

The Department of Health, Education and Welfare, he added, has circulated warnings on smoking. Therefore, he said, smoking could not be in the public interest.

"The law says that a station must operate in the public interest," Hyde said. "But when a license is up for renewal by a station that broadcasts cigarette commercials, how can the FCC find that this station operates in the public interest when it promotes a product that a government agency says is harmful?"

This is wrong. A regulatory agency that is an arm of Congress itself ought not to be permitted to do indirectly that which it may not do directly.

I urge responsible warnings, but not prohibition of cigarette advertising. This makes sense.

The record simply does not back up factually or medically the conclusions the Chairman of the FCC seems to make.

The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER assumed the chair.

The SPEAKER. The Chair will receive a message.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Leonard, one of his secretaries, who also informed the House that on June 13, 1969 the President approved and signed bills of the House of the following titles:

H.R. 2718. An act to extend for an additional temporary period the existing suspension of duties on certain classifications of yarn of silk;

H.R. 2940. An act for the relief of Henry E. Dooley;

H.R. 10015. An act to extend through December 31, 1970, the suspension of duty on electrodes for use in producing aluminum; and

H.R. 10016. An act to continue until the close of June 30, 1971, the existing suspension of duties for metal scrap.

The SPEAKER. The Committee will resume its sitting.

PUBLIC HEALTH CIGARETTE SMOKING ACT OF 1969

The Committee resumed its sitting.

The CHAIRMAN. The Chair recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. ADAMS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Washington.

Mr. ADAMS. Mr. Chairman, I simply want to state to the gentleman who was just in the well, the gentleman from New Hampshire (Mr. WYMAN), that cigarettes have been treated in a very unique fashion. With every other product, the FTC and the FCC, on any charges as to what their effects may be or can or cannot be, are subject to review in the courts, and so on, including products such as prescription drugs and many others which are not allowed to be sold, or are required to carry warnings.

I thank the gentleman from Michigan for yielding.

Mr. DINGELL. Mr. Chairman, we have before us a most remarkable piece of legislation, legislation which has prompted the membership of this body

to most ferociously slay strawman after strawman this afternoon.

We have effectively raised the strawman that the prerogatives of the Congress are being usurped, that the FTC and FCC are usurping the prerogatives of this body. We have raised the strawman that those outstanding experts in the field of research and medicine who continuously and without cessation in the medical and scientific community have warned this Congress and this Nation and the people of the world about the hazards of smoking either do not know what they are talking about, or for some strange or devious reason are seeking to mislead the American people, this Congress, and the administrative agencies in the exercise of their functions into actions which are out of keeping with the public interest.

My colleagues will remember when this legislation was last before the House of Representatives, I supported it. I supported it at that time on the basis that it was the best piece of legislation whose enactment we could then secure.

However, during the interim time much has happened. The remarks of the American Cancer Society before the Commerce Committee I believe give us strong reason why at this time this body should act to provide for stronger legislation. The American Cancer Society, when it was before the Commerce Committee which was taking testimony on this matter said frightening things. They said that from 1965, when the Cigarette Labeling and Advertising Act was enacted, through 1968, more than 210,000 Americans died of lung cancer. They estimated about 158,000 of these deaths were due to cigarette smoking.

In 1965, when the act was passed, 48,500 Americans died of lung cancer. In 1969 the toll will be close to 60,000.

I have spoken of lung cancer, but that is not the only disease which strikes cigarette smokers. Although the death rate for lung cancer is 10 times as high as lung cancer for nonsmokers or among those who never smoked, in passing let it be noted that for those who smoke two packs or more a day, the odds are 20 to 1.

The fact is that the legislation passed 2 years ago is totally inadequate to provide what many of us expected and hoped when the legislation was passed.

The answer is it does not warn the young people of this Nation. The answer is that it does not even warn smokers, who daily disregard the warnings on the cigarette pack and who consume these instruments either without awareness or understanding, or else oblivious to great hazard.

Mr. WYMAN. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from New Hampshire.

Mr. WYMAN. Does not the gentleman think they know the hazards, without having to be warned?

Mr. DINGELL. I have no way of knowing precisely what the smoker feels, The fact of the matter is he persists in smoking.

I might be willing to consign the smokers of this Nation to the fate they bring upon themselves, but I am not willing to consign the young people of this Nation to that fate. I am not willing to consign the young people of this Nation to the fate the smoking advertising and advertisements blandished daily before the eyes and senses of our young people of this Nation by radio and television and by periodicals, would lead them to.

It is my feeling that young persons seeking to grow up, seeking to become adults, seeking to exercise the social graces that these advertisements make cigarettes so much a part of, should be protected by a wise society from cigarettes and from cigarette advertising for at least as valid a reason as that for which many of my colleagues would protect them from marihuana, pornography and narcotics.

I would point out it is very plain that the burden and the bulk of medical sentiment—national, local, State, and international—is strongly in favor of vigorous action to warn everybody, and to repress and control not only cigarette advertising but also cigarette smoking.

We have heard some of my colleagues down here in the well say there is no medical evidence that cigarettes and smoking cause cancer.

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. STAGGERS. Mr. Chairman, I yield the gentleman 3 additional minutes.

Mr. DINGELL. Those statements mislead this body. There is one standard way of detecting a medical hazard that is utilized by all responsible researchers, and that is the epidemiological method. I would point out that this method has always been enormously persuasive to all responsible medical and research personnel.

Study after study, researcher after researcher, has found direct and irreproachable relationship between smoking and diseases like cancer of the mouths, lungs, throat, stomach, esophagus.

Emphysema, cardiovascular disorders, heart disease, circulatory disorders are directly related to smoking by the statistical method by responsible researchers with no axe to grind or interest to serve.

In the hearings before the Committee on Interstate and Foreign Commerce we find resolution after resolution on this subject. The hearings are full of responsible medical authority on the hazards of smoking.

The American Medical Association House of Delegates has presented a very strong resolution warning of the hazards of smoking.

There is a resolution of the board of regents of the American College of Physicians re tobacco, March 31, 1968, which points to the clear and evident hazard.

There are resolutions by the Pennsylvania Medical Society and by the Massachusetts Medical Society doing the same.

The California Medical Association had a strong and lengthy position paper on the hazards of smoking. There are statements and resolutions on cigarette smoking and lung cancer by health agencies and professional societies in the United States.

The American Academy of Pediatrics; the American Association for Thoracic Surgery; the American Cancer Society; the American College of Chest Physicians; the American College Health Association; the American Heart Association; the American Medical Association Reference Committee on Public Health and Occupational Health; the American Public Health Association on two different occasions; the Association of State and Territorial Health Officers; the Surgeon General of the U.S. Public Health Service; the National Tubuerculosis Association; the President's Commission on Heart Disease, Cancer, and Stroke; the Public Health Cancer Association; the Society of State Directors for Health, Physical Education, and Recreation; the Society of Thoracic Surgeons; and an abundance of other associations, both national and international, have presented resolution upon resolution pointing out the hazards.

Now, who is on the other side? We do not know where the broadcasters are. It is plain, however, from lengthy hearings before our committee, consuming a whole day, that their code means very little and is less enforced. But on the other side we very clearly see only one group, the manufacturers of cigarettes and tobacco products.

It is not my purpose to drive the cigarette industry out of business. It is only my purpose to see to it that they pose no undue hazard to our society. I cannot allow the debate in this body to induce the membership to believe that our committee received responsible testimony on the other side. It did not. We received weasel words in abundance, to be sure; industry payrollers said their prepared pieces; but the opinion of responsible researchers free to assess the truth was uniformly and unanimously clear on one point, cigarettes are a major health hazard.

It is only my purpose to see to it that these groups and these people be truthful in their advertising and present truthfully the hazards existing with regard to smoking. For that reason I intend tomorrow to offer one amendment which will be directed principally at preventing advertising from this group which has so much to gain from advertising of this kind influencing the young people of this Nation to start smoking.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from California.

Mr. MOSS. When Mr. Wasilewski, the president of the National Association of Broadcasters, appeared before the committee last week did he not make it quite clear that in the past year under the continuing oversight of commercials their code authority had reviewed two commercials of the many thousands that were broadcast?

Mr. DINGELL. That is correct. And we sought very diligently to find evidence on the part of the National Association of Broadcasters of the type of oversight we have been discussing, but, alas, none was to be found.

The bill, H.R. 6543, which comes be-

fore the House today is clearly inadequate to make any meaningful contribution toward the control of one of the gravest health problems of our time. It falls disappointingly short of the minimum needs to stem the rising tide of deaths and disabilities associated with cigarette smoking.

In light of every increasing evidence incriminating cigarette smoking as a hazard to health, the bill is but a feeble gesture toward remedial action.

Any Member of the House who votes for this bill on the assumption that the case against cigarette smoking has not been proved is out of step with the vast majority of the Nation's physicians and research scientists and his own constituency. The scientific community and the public overwhelmingly accept the evidence against cigarettes.

Two years ago the Surgeon General, speaking before the World Conference on Smoking and Health, put it this way:

> The proposition that cigarette smoking is hazardous to human health long ago passed the realm of possibility. It has now gone beyond the probable, to the point of demonstrable fact. We no longer need to use the conditional tense of the verb. The sentence with which all of us are familiar—"Caution: Cigarette smoking may be hazardous to your health"—is inadequate as a description of the present state of our knowledge. Cigarette smoking is hazardous to health.
>
> This is no longer a matter of opinion, nor an evangelical slogan. It is flat scientific fact. Establishing it and demonstrating it is no longer our goal; rather, this scientific fact is our starting point. We begin here.

The tobacco industry, however, is not satisfied to begin here. During the House hearings witnesses for the industry harked back to arguments that have been answered time and again. They were telling us that the evidence is inconclusive, that there were inconsistencies and contradictions in the evidence which suggest that the hazards of cigarette smoking may not be so real as we have been led to believe.

To be in disagreement with a medical consensus does not necessarily mean one is wrong. But it should be pointed out that some tobacco industry witnesses spoke for a small minority, usually for themselves alone. This is in contrast to the witnesses who came before the committee as representatives of major health and medical organizations.

I mean no disrespect for those who hold the minority view. Their sincerity is not in question. It is a tribute to their dedication that several of the witnesses who appeared before the committee later traveled to Canada to testify before the Parliamentary Health Committee which is also considering cigarette legislation in the wake of a decision of the Canadian Broadcasting Corporation to ban cigarette advertising on radio and television.

Unanimity on any scientific question is rare, and smoking and health is no exception. Some of the same people who contested the research which identified cigarette smoking as a cause of lung cancer about 20 years ago, do so today. Others remain unconvinced that smoking can be a contributory factor in other diseases. The arguments against the evidence have been answered many times. Just 14 years ago the American Cancer Society replied to many of the doubts raised about the evidence in the May 1956 issue of CA, a bulletin of Cancer Progress.

In January 1959, six distinguished research scientists coauthored an exhaustive reply to many of the same charges against the evidence in an article published in the Journal of the National Cancer Institute. The 1964 report of the Surgeon General's Advisory Committee on Smoking and Health also took into account the claims of those who voiced doubt over the findings. One year ago—in March 1968—the Public Health Service and the American Cancer Society replied in detail to a rehash of the same charges against the evidence published in True magazine, an article widely promoted by the Tobacco Institute. Again, only a few weeks ago, the Surgeon General, at the request of the chairman of the House Commerce Committee, provided still another reply to the criticisms against the evidence expressed during the House hearings.

With these sources of information available, it would be pointless to comment now on the testimony of each witness who appeared on behalf of the tobacco industry. It would be instructive, however, to examine two areas of the smoking problem in which it is claimed the evidence is vulnerable.

The first concerns the evidence concerning cigarette smoking and lung cancer; the second concerns the use of statistics in research methodology.

On lung cancer, the 1964 report of the Advisory Committee on Smoking and Health reported:

> Cigarette smoking is causally related to lung cancer in men; the magnitude of the effect of cigarette smoking far outweighs all other factors. The data for women, though less extensive, point in the same direction.
>
> The risk of developing lung cancer increases with duration of smoking and the number of cigarettes smoked per day, and is diminished by discontinuing smoking.

Three years later, the 1967 PHS report on "The Health Consequences of Smoking" stated that "the case for cigarette smoking as the principal cause for lung cancer is overwhelming."

Fifty years ago lung cancer was a rare disease. Today among American men, it is the most common cause of death from cancer.

Yet a witness last month said that if cigarette smokers all stopped smoking cigarettes it would make no difference; they would still have the same death rates from lung cancer. The minority who take this view point to what they consider loopholes in the evidence. The true increase in lung cancer deaths, they say, is exaggerated because it is based on poor diagnosis, unreliable reporting, and padding of the statistics to include undesignated lung cancers along with the primary cases. The dissenters ignore the demonstrable fact that diagnostic accuracy of lung cancer in large general hospitals and reporting in tumor registers in large population centers support the thesis of a real increase in lung cancer.

Other doubts have been expressed concerning the relationship of cigarette smoking and lung cancer. Why, we are asked, is lung cancer rare among women smokers, although there has been a tremendous increase in women smokers? The answer is that it is not so rare. Lung cancer has increased by more than 50 percent in the last 14 years and by 400 percent since 1930. The rate of increase in women is not as great as it is among men because women smoke differently than men. And they have not been smoking as long. The trend in rates for women however is the same as for men—upward.

It is also asked why, if cigarette smoking causes lung cancer in humans, it has not been produced in animals by inhalation of cigarette smoke? These questions ignore the reasoning that animals do not receive as large a dose of cigarette smoke through indirect exposure as a human being does by voluntary deep inhalation. They ignore the reasoning that animals do not live long enough to develop lung cancer.

Another question is why only relatively few cigarette smokers develop lung cancer out of the millions who smoke but never contract the disease. The answer is that few disease-producing agents cause disease in all individuals exposed to the agents. Some people are more susceptible to disease than others, and cancer is no exception.

It is interesting that these and similar questions, which were raised more than a decade ago, and answered then and since, were raised again at the recent House hearings. The effect of raising these questions repeatedly while ignoring the answers is to encourage young people to think cigarette smoking is not hazardous and to give smokers false assurances that the case against cigarette smoking is still in doubt.

A second major area of contention is statistics. Over and over the position of the tobacco industry and some of its witnesses has been the case against smoking is based almost entirely on inferences drawn from statistics, and statistics can be made to prove anything.

The 1964 report of the Surgeon General's Advisory Committee on Smoking and Health made it clear that the finding which established cigarette smoking as a health hazard were not based on statistics alone, but on the convergence of the three lines of evidence: population studies, clinical and autopsy studies, and animal experiments. The report made clear its criteria for judging causality, and these included the consistency of the association, the strength of the association, the specificity of the association, the temporal relationship of the association, the coherence of the association.

Even if the evidence against cigarettes was only statistical, which it assuredly is not, the case would be strong enough to act on. As the distinguished scientist Warren Weaver said:

Various groups, in order to shake public confidence in statements which they find uncomfortable, are taking the position that it is silly to be impressed by evidence that is "only statistical."

An early case of the industry's discomfiture over statistics was recalled during the recent hearings by Dr. David D. Rutstein, professor of preventive medicine at Harvard. In an antismoking article he wrote for the Atlantic Monthly in October 1957, he stated that over 25,000 people in the United States die from lung cancer each year and the number is increasing by about 2,000 each year. The tobacco industry, he said, ridiculed the data at the time. It turns out that his projection of 48,827 deaths from lung cancer in 1966 was underestimated. A total of 51,478 deaths from lung cancer were reported in that year, or about 2,500 more than his original prediction.

This year, the American Cancer Society estimates that 59,000 men and women in the United States will die of lung cancer.

Another instance of skepticism of statistical associations was expressed during the hearings by a witness who said:

It will be up to this Congressional body to decide whether or not it will take action on the basis of hypotheses, possibilities or correlations, or whether it will take action on the basis of facts.

It is converging lines of research, including correlations, that have led to the findings incriminating cigarette smoking as a health hazard. From these have come the facts on which the House must take action. Here are some of the facts from the Public Health Service reports:

The risk of death from all causes is 70 percent higher for men who smoke cigarettes than for male nonsmokers. It is also significantly higher for women who smoke cigarettes than for those who do not.

The risk of death from lung cancer is over 10 times greater for cigarette smokers than for nonsmokers.

The risk of death from bronchitis and emphysema is six times greater.

The risk of death for cigarette smokers from coronary artery disease, which is the major killer of smokers and nonsmokers alike, is 70 percent greater than for nonsmokers.

In general, the greater the number of cigarettes smoked daily, the higher the death rate for men who smoke fewer than 10 cigarettes a day the rate is 40 percent higher; for those who smoke 10 to 19 cigarettes a day, 70 percent higher; for those who smoke 20 to 39 a day, 90 percent higher and for those who smoke 40 or more a day, 120 per cent higher.

The risk is greater for those who inhale.

In 1964, the year of the first government report on smoking, there were nearly 46,000 deaths (about 24 per 100,000 in the population) from lung cancer. In 1969 the figure, as previously noted, will be more than 59,000 deaths (about 29 per 100,000).

In 1964, there were 20,000 deaths (10.6 per 100,000) from emphysema and chronic bronchitis. In 1969 it is estimated that nearly twice this number (20.1 out of every 100,000 Americans) will die of these respiratory diseases.

It should be noted, in light of the charge that Government reports keep repeating the same studies, that new studies have yielded evidence which underscores the indisputable health hazards of cigarette smoking. Overall, these new studies have strengthened and expanded conclusions based on the older studies.

For example, the 1968 PHS report, "The Health Consequences of Smoking" states flatly that—

Cigarette smoking can contribute to the development of cardiovascular disease and particularly to death from coronary heart disease.

The report also deals with the shortened lifespan of the smoker:

Life expectancy among young men is reduced by an average of 8 years in "heavy" cigarette smokers, those who smoke more than 2 packs a day, and an average of 4 years in "light" cigarette smokers who smoke less than the one-half pack a day.

One further point needs to be made concerning the recent testimony. Most of it was directed against the findings in the 1964 report of the Surgeon General's Advisory Committee on Smoking and Health. The tobacco industry continues to promote the impression that this report was the creation of the Surgeon General. This inaccuracy is carried into the wording of the health warning in the proposed bill. The revised warning now reads:

The Surgeon General has determined that cigarette smoking is dangerous to your health and may cause lung cancer and other diseases.

The report was not a creation of the Surgeon General nor is it accurate to assert that it was his determination that cigarette smoking is dangerous to health. That determination was made by a panel of experts drawn from a list of 150 scientists and physicians working in the fields of biology and medicine, men who were competent to evaluate the elements and factors in the complex relationship between smoking and health. The tobacco industry, among other groups and organizations, was given full opportunity to veto any of the names on the list, no reasons being required.

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In general, the greater the number of cigarettes smoked daily, the higher the death rate. For men who smoke fewer than 10 cigarettes a day the rate is 40 percent higher; for those who smoke 10 to 19 cigarettes a day, 70 percent higher; for those who smoke 20 to 39 a day, 90 percent higher and for those who smoke 40 or more a day, 120 percent higher.

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In 1964, there were 20,000 deaths (10.6 per 100,000) from emphysema and chronic bronchitis. In 1969 it is estimated that nearly twice this number (20.1 out of every 100,000 Americans) will die of these respiratory diseases.

It should be noted, in light of the charge that Government reports keep repeating the same studies, that new studies have yielded evidence which underscores the indisputable health hazards of cigarette smoking.

The judgments of the committee have been accepted by the overwhelming majority of the world's physicians and of those in other fields of science concerned with the problem. To our knowledge no medical or scientific body anywhere has taken an cpposite position.

If the industry fails to accept the evidence, the American public apparently does accept it. A Public Health Service survey has shown that 72 percent of the cigarette smokers questioned indicated that they believed smoking to be harmful. By a ratio more than 2 to 1, those polled favored a compulsory warning on cigarette labels and in advertising. Eight out of 10—including 7 out of 10 smokers—also said they believed that a statement on tar and nicotine content should be required on each package.

In addition a Harris survey conducted in March found that 56 percent of the smokers surveyed favored changing the warning on cigarette packages to read: "cigarette smoking can cause lung cancer and heart trouble which can cause death."

The people, in other words, want stronger action against cigarettes than this bill permits.

The 1965 bill on cigarette advertising and labeling is generally acknowledged as a victory for the tobacco lobby. Passage of the bill before us would assuredly guarantee another victory for the tobacco lobby, and we cannot afford to let this happen. The proposed bill would extend until 1975 a prohibition against Federal, State, and local regulatory action against cigarettes as a health hazard.

From now until 1975, if present trends continue, some 450,000 Americans will die of lung cancer and tens of thousands of Americans will die prematurely of emphysema, chronic bronchitis, and other diseases associated with cigarette smoking. This is a terrible price to pay for failure to enact a stronger bill.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from South Carolina (Mr. McMILLAN).

Mr. McMILLAN. Mr. Chairman, I rise in support of this proposed legislation. I am not here trying to protect the

cigarette manufacturers, but I do represent thousands of tobacco producers in my congressional district and certainly hundreds of thousands of other farmers throughout the United States who depend on this product for a livelihood. We want to be definitely sure that the smoking of cigarettes does cause cancer before we outlaw smoking. I think we should be very careful at a time like this as to how we permit the Government agencies to act in possibly preparing regulations that would prevent thousands of farmers from making a decent livelihood.

Mr. Chairman, I want to thank the committee for taking your valuable time to give consideration to the thousands of people who would be affected should the Federal Communications Commission outlaw the advertising of cigarettes on television. I have come from a tobacco-growing area and I presume we produce about as much cigarette tobacco as any other congressional district in the United States. In fact, we have thousands of tobacco farmers in my congressional district and many more thousands who make their living on the tobacco farm.

It is rather difficult for us to understand just how a Government agency created by the Congress of the United States could have authority to make laws to the extent that they could forbid the advertising of one of the leading farm products in this country and, in fact, the only farm product where the Federal Government collects between $3 and $4 billion annually in taxes to help administer the affairs of the Government. In addition, every State and practically every county and every town in the United States collects cigarette taxes to assist in maintaining their State, county, and municipal governments.

I am certain that if the Federal Communications Commission has authority to make a far-reaching law of this magnitude they can also forbid the advertising or sale of animal fat, alcoholic beverages, automobiles, and numerous other items that will injure a person's life if a person overindulges.

I certainly would have testified before the committee if there had been any absolute scientific proof that lung cancer is the result of cigarette smoking. We all know that people have been smoking in this country since the time the Indians owned North America and it is my opinion they will be smoking as long as their is a country existing. I realize that about as many people will continue to smoke regardless of the Federal Communications Commission proposed law on this subject. However, I think we are permitting a Federal agency to step far beyond its jurisdiction in making laws of this nature which vitally affects hundreds of thousands of people who depend on this one industry for a livelihood.

Tobacco is the leading money crop in the State of South Carolina and especially in my congressional district and I am at a loss to know just how the Federal Government expects to feed and clothe these thousands and thousands of people who depend on producing and manufacturing tobacco.

We all know that any human being can injure his or her health by overindulging in any manner. Certainly, more people suffer from overeating and overdrinking than they do from oversmoking and if you want to go a little further we are quite certain that more people are losing their lives from driving too fast than they are from smoking cigarettes. I do not think anyone could truthfully state that smoking three packages of cigarettes each day would not in some manner prove to be injurious to a person's health; however, the same would be true of eating and drinking.

The minute we can get definite proof from all the scientists of any importance stating definitely that smoking causes cancer, I, of course. will be one of the foremost supporters of legislation to outlaw the sale of cigarettes. However, this proof has not been submitted and I have heard some of the leading physicians in the United States, employed by the tobacco companies to make scientific tests, make definite statements that they have not found any exact connection between the smoking of cigarettes and lung cancer. These physicians are among the top physicians in the United States and could not be considered biased or accused of making incorrect statements.

I think we are going much too far when we gamble on taking the livelihood of millions of workers away without having definite scientific proof on this subject.

Again, I would like to state that everyone with commonsense realizes that if one overindulges in smoking it could possibly weaken his entire health system including his heart. However, when we state definitely that smoking causes lung cancer we are going beyond any proof that has been made available at this time. It is my hope that the House of Representatives will not further reduce its authority in the legislative field by permitting some Government agency to issue rules and regulations outlawing the advertising of one of our leading farm products.

I include a statement recently sent to the Chairman of the FCC:

STATEMENT

We, the undersigned Members of the South Carolina Delegation, are unanimously opposed to the Federal Communications Commission's proposal to outlaw cigarette advertising on radio and television.

We feel that, since tobacco is the only farm product being taxed by the Federal government and the individual states, it should not be singled out to be compelled not to advertise over the news media in this country. Several hundred thousand persons will lose employment both in the production and manufacture of cigarettes if the government, who received approximately $4 billion dollars in taxes from this single farm product, forbids its advertisement through the regular news media.

We trust that the Members of the FCC will give further study to this important proposal before taking such drastic action as we have numerous other items, such as liquor, automobiles and numerous other commodities, that could fall in the same category if their health hazards were investigated.

STROM THURMOND,
U.S. Senate.
JOHN L. MCMILLAN,
Member of Congress.
TOM S. GETTYS,
Member of Congress.
JAMES R. MANN,
Member of Congress.
ERNEST F. HOLLINGS,
U.S. Senate.
L. MENDEL RIVERS,
Member of Congress.
ALBERT W. WATSON,
Member of Congress.
WILLIAM J. BRYAN DORN,
Member of Congress.

Mr. STAGGERS. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. HENDERSON).

Mr. HENDERSON. Mr. Chairman, I rise in support of H.R. 6543. The question involved in this legislation is a critical one and a very basic one. It is not really a question of whether cigarette smoking is or is not detrimental to health. Rather it is a question of whether Congress is willing for the Federal Communications Commission to make an arbitrary decision that prohibits cigarette advertising on radio and television. If we should permit the FCC to take this action in regard to cigarette smoking, what is there to prevent them from deciding next year that candy is detrimental to the public health in that it causes obesity, tooth decay, and other health problems? What about milk and eggs? Milk and eggs are high in saturated animal fat and no doubt increase the cholesterol in the bloodstream, believed by many heart specialists to be a contributing factor in heart disease. Do we want the FCC to be able to prohibit the advertising of milk, eggs, butter, and ice cream on TV?

What about high-compression automobiles capable of high speeds? Certainly, they are a menace on the highways. Are we going to let the FCC prohibit automobile advertising?

What about beer and wine? Their harmful potential is established beyond question and both are advertised on TV virtually without restriction.

The list is almost endless.

It is interesting, too, I believe, that since we passed the present act in 1965, there is really nothing new on just how harmful cigarette smoking may be. The evidence is still entirely statistical; not causative in nature. The statement: "Caution: Cigarette smoking may be hazardous to your health" is still as strong a statement as known and established facts justify, and certainly there have been no new discoveries or breakthroughs tying cigarette smoking to any disease directly enough to justify complete prohibition of all cigarette advertising.

We all know that no action by the Federal Government, however drastic, can or will be effective in eliminating cigarette smoking completely. National prohibiting of beverage alcohol was attempted but the 18th amendment after

only 14 years of stormy existence was repealed by the 21st.

Now I consider that it is right and proper for the Federal Government to disseminate for public consumption any and all factual data which it may have, tending to show that cigarette smoking is or may be hazardous to health. It is our proper prerogative and duty to warn the public about the dangers inherent in high-speed automobiles, about the dangers of overindulgence in beverage alcohol and high-calorie foods; about the dangers of improper use of barbiturates and other medicines sold without prescription across the counter. But it is quite another thing to prohibit advertising of these products.

The FTC can and should prohibit the advertiser of any product from making false, fraudulent, and misleading claims and if it can find and cite instances where the tobacco industry is making false, fradulent, and misleading claims about cigarette smoking, it can promptly take them to court in either criminal prosecution or civil action for injunctive relief. This the FTC has not done, nor does it even suggest that the advertising is false, fraudulent or misleading.

Unless and until the case against cigarette smoking is conclusively proved by causative evidence, such drastic action as that proposed by the FCC cannot be justified and the Congress must act and act promptly to extend the present labeling act to insure that such action does not take place.

Mr. STAGGERS. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Chairman, this Congress in 1965 carefully considered the facts concerning smoking and health and we did two things. We attempted to reflect what the true state of the art was at that time with respect to smoking and health and to leave it to the individual to make his choice whether or not to smoke. Now it seems to me, as we consider this matter once again, the prime question should be what new knowledge do we have that has been developed since we considered this matter 4 years ago. The answer purely and simply, as you have been told here today, is that there are no new facts. Indeed, the only new development is a requirement of the Federal Communications Commission that all stations, radio and TV, shall provide time for antismoking commercials. The FCC when it came before our committee made it quite clear that it has engaged in no research of its own whatever. The Federal Trade Commission made it clear it has engaged in no research of its own whatever. As a matter of fact, the medical societies which appeared before us made clear that they also had not engaged in any research of their own. Instead, each of these agencies and societies has relied primarily upon the statements of the Surgeon General of the United States and the Department of Health, Education, and Welfare. Because everything comes back to the pronouncements of the Surgeon General of the United States, it seems to me that we should concern ourselves now with what medical authorities who testified before our committee during 3 weeks of hearings, had to say about the Surgeon General's findings. Make no mistake about it, there is controversy. There is controversy with respect to the data upon which the Surgeon General has relied.

Death certificates, for example, upon which he has relied, do not reflect whether or not an individual smoked, or how much he smoked. There was evidence that death certificates are proved only when followed by an autopsy and that autopsies occur in only 10 percent of all deaths.

Furthermore, records showed that autopsy reports varied with the report of the physician on death certificates in one-third to one-half of cases where such records were kept. In essence, this means death certificates are proved in only 5 to 7 percent of all deaths.

Questions were raised with regard to control groups providing a basis for statistics in population studies. Also, there were questions as to the methodology employed in obtaining the raw information upon which population studies were made. But more important, there is a controversy about the basic judgment about the Surgeon General's exclusion of hypotheses which are fully compatible with existing data which, it is felt, should receive equal consideration with the smoking hypothesis. For example, there is the constitutional hypothesis based upon heredity, genetics, and the emotional makeup of the individual that might involve him in his susceptibility to disease such as "twin" studies have indicated and other things that might involve him in the problem may be involved with respect to coronary heart disease. It was pointed out he has ignored the virus hypothesis, and there is a growing feeling this hypothesis is concerned with these diseases. It is interesting to note some of the facts which experts, who testified before us, found incompatible with the smoking hypothesis. First, it was shown that an overwhelming majority of smokers do not contract lung cancer, while, at the same time, nonsmokers do. It was brought out that if, indeed, the increased incidence of per capita smoking is responsible for the claimed increase in lung cancer, it would follow that the average age at which lung cancer is contracted would be decreasing. The fact is that the average age is increasing. In 1949 it was 61, whereas today it is 65.

Mr. Chairman, another fact inconsistent with the smoking hypothesis and not adequately explained by smoking habits is that in England, where per capita cigarette consumption is one-half that of the United States, the incidence of lung cancer is twice that of the United States; whereas in Australia, where the per capita cigarette consumption equals that of England, the incidence of lung cancer is one-half that of England. Further, in Holland, where per capita cigarette consumption is lower than that in the United States, the incidence of lung cancer is 33 percent higher.

The CHAIRMAN. The time of the gentleman from Virginia has expired.

Mr. STAGGERS. Mr. Chairman, I yield to the gentleman 5 additional minutes.

Mr. SATTERFIELD. Furthermore, if cigarette smoking causes cancer, why is it that 80 percent of all lung cancer and 90 percent of cancer of the larynx occurs in men. If genetics are involved, and this is an obvious possibility, then clearly any association with cigarette smoking is only incidental. If cigarette smoking causes cancer, why is it that lung cancer has never been produced in laboratory animals even though exposed to the inhalation of cigarette smoke during their entire lives?

Mr. Chairman, what bothers me more than anything else, developed in our testimony was that highly qualified experts, pathologists, thoracic surgeons, general practitioners, and statisticians were able to demonstrate that certain published and well-known statements dealing with smoking which have generally been accepted as true, are in fact false and without basis. For example, there is the question of a smoker's lungs being of a different color. One of the most widely accepted myths about smoking is that a smoker's lungs are turned black as a result of smoking. A second myth is that it is easy to differentiate between the lung of a smoker and the lung of a nonsmoker. The overwhelming evidence, particularly of pathologists, is that it is impossible to tell a smoker's lung either by gross or microscopic examination and that smoking does not affect the color of one's lung.

We heard the claim that there are 300,000 excess deaths due to smoking. This figure was thoroughly discredited, Mr. Chairman. It was based upon an estimate which included a wide range of diseases far beyond any which are claimed to be connected with smoking.

You have to reduce those figures to embrace only those diseases included in the total which are suggested by the Surgeon General's committee to be causually connected with smoking; namely, lung cancer in men, cancer of the larynx in men, and chronic bronchitis. We find then that less than 53,000 of these estimated deaths can be included and I point out that this is an estimated figure which includes emphysema for which no casual connection is claimed. This 300,000 figure is pure conjecture and I submit its repetition gives it no weight or probity.

We have heard claims that smoking takes years off of one's life. That is clearly disproved. We have heard that there is an epidemic of lung cancer, and yet we have witnesses before us who contended that this increased incidence of lung cancer can be accounted for by improved diagnostic techniques.

In conclusion, Mr. Chairman, I want to make one thing very, very clear. I do not contend that any group in this controversy is right or that any other group is wrong, but I believe it is the responsibility of us here in the Congress not to bestow through legislation a creditability to supposition and conjecture beyond proven fact that we should report a bill which reflects the truth, the factual truth, and nothing but the factual truth.

The conclusion supported by our hearings is dear. There is a controversy about

the validity of the conclusions reached by the Surgeon General and HEW, dealing with smoking and health. There is an even greater question that there are sufficient facts upon which a reasonable decision will lie. The responsibility in this instance, Mr. Chairman, is ours. For here and only here has there been a forum in which this controversy could be developed. We should not change the provisions of the existing law unless and until facts are developed to substantiate and justify that change.

We should pass H.R. 6543 as reported from our committee.

Mr. Chairman, I yield back the balance of my time.

Mr. HULL. Mr. Chairman, it is interesting to note that antismoking organizations are strenuously lobbying within this body to put over their points of view. So far as I can observe, the tobacco industry has been content to put on its case articulately and convincingly in the forum of the 13 days of hearings which the committee conducted. This apparently is untrue of antismoking organizations which appear afraid to rely on the record.

Not only that, but in my own experience when a Member attempts to get additional and material information on this subject it is not that easy to come by. I wrote to the Surgeon General on the 20th of May with respect to certain smoking and health activities and I am still waiting for an answer. The good doctor had sent some information on the cost of his Department's antismoking activities to the distinguished chairman of the Committee on Interstate and Foreign Commerce on May 1. The $4.4 million that he itemized bore no resemblance to figures that I had seen previously as a member of the Committee on Appropriations, and I therefore asked for an explanation at an early moment. Nothing has happened, and yet the antismoking people have not been at all hesitant to supply all the Members of this House with self-serving material on an entirely gratuitous basis.

Just before hearings began on this issue anticigarette lobbying organization called Lash sent a number of its representatives throughout our corridors attempting to present each Member with a plastic lung-shaped ashtray. At the time the cigarette bill was originally scheduled for the floor debate, we were advised in a notice from this same organization that on the very eve of that debate it would stage a "Smoking-Withdrawal Workshop" for Members, their wives and their staff members, over at the Congressional Hotel.

All Members evidently have received a form letter from a Dr. Frommeyer of the American Heart Association, and a mimeographed statement from a Dr. Vincent of Roswell Park Memorial Institute, even though both of these organizations had witnesses at the hearings.

Dr. Vincent's communication was particularly striking, since accompanying it was a large box of book matches printed by Roswell Park, which is an agency of the State of New York. These matches conveyed antismoking propaganda to all of us. I do not know the costs of these various lobbying efforts, or who is really paying for them, but my colleagues may be interested in some of the recent publicity surrounding the finances of Roswell Park. According to these published reports, they are deeply in the financial hole because, among other things, questions have arisen concerning the payment for air transportation to Expo 67 for employees, and some hundreds of dollars worth of—of all things—cigarettes and cigars.

Mr. Chairman, I should like to furnish at this point in the RECORD reports from the Syracuse Post-Standard of April 24, and from the Buffalo Courier-Express of May 15. I call attention to the fact that Roswell is substantially supported by the U.S. Department of Health, Education, and Welfare, and, therefore, any mismanagement of funds should be of great concern to the Congress. The articles follow:

[From the Buffalo, (N.Y.) Courier Express, May 15, 1969]

HEALTH RESEARCH, INC.: AUDITORS DISALLOW CARPETING CLAIM

(By Jim McAvey)

Claims of $2,305 for carpeting in the office of Dr. James T. Grace, Roswell Park Memorial Institute director, and $1,201 to renovate and $539 to paint the office of former director Dr. George E. Moore were among those disallowed by federal auditors in a check of the tangled 1964 records of Health Research Inc. (HRI).

The auditors also questioned a claim of $870 for cigars and cigarettes and one of $500 for the expenses of a Dr. Zbindus of Hoffman-Laroche Inc. at a meeting in Manila.

Considerable research concerning possible connections between smoking and cancer has been done at Roswell Park, but it could not be determined if the cigars and cigarettes were used in these projects.

NOT OVERHEAD ITEM

In any event, the auditors contended, and HRI officials subsequently agreed, the expense could not be considered an overhead item as originally proposed by HRI.

The auditors noted that while HRI claimed $500 to cover Dr. Zbindus' expenses, Hoffman-Laroche, a drug firm, later sent a $500 check to Roswell to cover this cost. HRI officials agreed to withdraw the claim.

Health Research Inc. was organized to obtain grants for cancer research at Roswell Park.

The audit was conducted by the U.S. Defense Contract Audit Agency for the U.S. Dept. of Health, Education & Welfare (HEW). HEW supplied about 80 per cent of the funds distributed through HRI, funds which totaled about $7 million last year.

REPORT QUALIFIED

As they stated in a report on an examination of HRI's 1965 records, the auditors noted the report of the 1964 records had to be "qualified" because of "the many inaccuracies and imbalances in HRI's accounts."

The findings of the examination of the 1965 records were reported in The Courier-Express last Sunday. The report on the audit of the 1964 records was released to the newspaper Wednesday.

HRI, reported by New York State Comptroller Arthur Levitt to be $1.4 million in the red, is attempting to recover $412,000 it contends the federal government owes it for overhead costs connected with HEW funded research projects.

The federal auditors indicated it would be highly unlikely HRI would ever receive any of the $412,000.

OVERPAYMENTS OF $522,238

For one thing, the auditors said, between Aug. 27, 1964, and Dec. 13, 1967, HRI was given $259,111 in sick leave costs in excess of its actual costs for this purpose.

In addition, they said, as of Dec. 31, 1967, HRI had received from HEW $263,127 for pension plan payments in excess of what it was actually entitled to for these payments.

These overpayments, totaling $522,238, "completely negate the effect of withholding the $412,208," the auditors reported.

HEW withheld the $412,208 in 1967, claiming HRI had been paid that much in excess of what it was entitled to for overhead costs.

SUM OF $237,268 IS QUESTIONED

In all, the auditors questioned $237,268 of the $890,021 HRI claimed in overhead costs for 1964. As reported Sunday, the auditors concluded HRI was claiming $208,807 for 1965 alone to which it was not entitled. Audits of HRI's accounts through 1968 are being conducted.

In questioning the claim of $870 for cigars and cigarettes, the auditors said it might have been an allowable cost if charged to a specific grant, but could not be considered an overhead item. HRI had not determined the "final disposition" of the expense but agreed it was not an overhead cost, the auditors said.

The largest of the overhead costs claimed by HRI which the federal auditors questioned, were $131,925 of the total claimed for sick leave payments; $14,726 of the total claimed for pension payments; $15,976 for computer operation; $13,251 in depreciation; $18,160 in miscellaneous and $21,747 for expenditures at West Seneca projects.

Since the disclosure of the financial mess at HRI began, Dr. Robert K. Ausman has resigned as director and taken a federally paid position as a medical director in Tampa, Fla. He has been joined there by Dr. Granville W. Larimore who helped found HRI in 1953 and was first deputy state health commissioner at the time of his resignation.

Gov. Nelson A. Rockefeller has included $1.2 million in his supplementary budget to extricate HRI from its $1.4 million financial hole.

[From the Syracuse (N.Y.) Post-Standard, Apr. 24, 1969]

ROSWELL FUNDS BADLY MISMANAGED

BUFFALO.—The funding agency for Roswell Park Memorial Institute, Buffalo's big cancer research hospital, is at least $1.4 million in the red and has been mismanaged so badly that taxpayers in Syracause and throughout the rest of New York State may have to pay hundreds of thousands of dollars to bail it out, a series of reports disclosed here this week.

The funding agency, called Health Research Inc., was set up in 1955 to channel federal and private grants to Roswell Park.

These grants, amounting to millions of dollars a year, were responsible in large measure for the research center's success in finding some of the causes and developing treatments for the terrifying and baffling killer which is cancer.

But while the doctors and scientists at Roswell Park were battling cancer, the authorities at Health Research Inc. were taking actions which have resulted in complaints of an overdrawn bank account, charging the federal government for research funds that never were spent as claimed, failure to take competitive bids on major purchases totaling more than $1 million, and possibly diverting $394,000 in employe pension trust funds.

State auditors have charged that Health Research Inc. has been operating $1.4 million in the red, writing checks against an $831,000 bank deficit and failing to mail some 300 checks drawn on the agency's bank account.

"Since many of the expenditures are still under audit, the $1.4 million deficit may be increased in any of the expenditures charged to grants were not valid," State Comptroller Arthur Levitt said in an audit of the agency's accounts through December 1966.

One of the more colorful charges which has cropped up in the investigations of Health Research Inc.'s troubled financial affairs is that the agency owned an airplane in 1967 which was used to take employes on junkets to Expo 67 in Montreal.

The agency was forced to dispose of the twin-engine Cessna early this year on orders from Albany. The plane, seating six persons including the pilot, made regular runs between Buffalo and Expo 67 for the convenience of Roswell Park employes, according to scientists at the research center.

The passengers were charged $50 apiece—$15.73 less than a commercial flight—and the private plane made the trip in one hour less than the scheduled airliners.

The Buffalo-Expo run, by an outfit called—"Roswell Airways" was advertised on bulletin boards at Roswell Park Memorial Institute as being "scheduled at the passengers' convenience, during the week as well as the weekend."

The State Budget Division would not be specific, but there were indications the requested appropriation would be well in excess of $600,000.

Such an appropriation, of course, would have to be paid by the taxpayers throughout New York State.

Health Research Inc. has been investigated in the last six years by at least seven federal and state agencies in an effort to unravel claims of financial mismanagement. Its director for most of that period was Dr. Robert K. Ausman, who now has a federally paid health job in Tampa, Fla.

The General Accounting Office complained in 1962 about alleged overcharges on federal research contracts dating from 1957. Dr. Ausman was 29 years old in 1962 and had been director of Health Research Inc. for less than a year.

As a result of the audits and investigations, a new contractual arrangement has been agreed to by Health Research Inc. and four state agencies—the Budget Division, the Health Department, the Division of Audit and Control, and the attorney general's office.

Under the new arrangement, federal grants for cancer research at Roswell Park would be paid to the state government and not channeled directly to Health Research Inc. as had been done in the past. Such grants have amounted to up to $7 million a year.

The new arrangement would, in effect, make Health Research Inc. a state agency subject to accounting systems approved by the U.S. Department of Health, Education and Welfare and by the State Division of Audit and Control.

One top research investigator said "All the problems are being progressively resolved now," but another said the audits so far have "touched only the top 10th of the iceberg."

It is against this background that Roswell Park is facing budget cuts of $1.5 million this year as a result of cuts in the projected state budget and reductions in federal grants.

These cuts will mean the elimination of 80 patient beds at a time when there is a substantial list of cancer patients waiting for care and treatment, the possible closing of the Roswell Park Laboratory for genetic research on cancer, and the possible reduction of studies linking tobacco with cancer.

The cuts could bring a 25 per cent reduction in the number of patients treated at the hospital, which accepts cancer sufferers from a wide area of Upstate New York, including Syracuse.

In a separate effort to make ends meet, Roswell Park within a few weeks will begin charging patient fees, like most other hospitals. Until now, treatment at the state-owned medical and research facility has been free.

Mr. JONES of North Carolina. Mr. Chairman, I will not impose upon the time of the Members of this House to reiterate the various arguments which have been projected here this afternoon as to the danger or lack of danger of the use of tobacco. Certainly, there are those who are convinced in their own minds that use of tobacco is harmful, and there are those of us who are equally convinced that the lack of scientific evidence raises many questions. What I do feel we should consider here this afternoon is the threat to free enterprise as it relates to bureaucratic controls and directives of the FCC and the FTC. Their proposed ban of cigarette advertising on TV and radio is without any statutory authority whatsoever, and it is unthinkable that this Congress, directly responsible to the citizens of this Nation, should by omission fail to check this proposed censorship. Therefore, Mr. Chairman, I rise in support of this legislation, H.R. 6543, and urge this House to adopt the committee report in its present form and, tomorrow, to defeat the many amendments which will be offered and, finally, pass by an overwhelming vote the committee bill which is before us.

Mr. EDWARDS of California. Mr. Chairman, I am not certain that it is politic to admit one watches television, at least commercial television, or even that one watches sporting events. But such events are of wide interest drawing many watchers of all ages from those just barely able to toddle to those able now only to toddle.

A part of each of those televised sports events, one of the most frequent parts, is the commercial.

Not long ago I saw one of these commercials, the "Me and my ——," commercial, which indicated a cigarette is as much of a treat for a young man as a beautiful woman. Most of the young men viewing, I would hope, have other opinions, but perhaps the cigarette industry, should receive our thanks for its contribution to ending the population boom. Even so, I seriously wonder about the continuing equation of cigarettes with sex appeal, cigarettes with the good things of life and cigarettes with pleasure. The only honest equation is that of cigarettes with the mortician.

Today we are debating legislation concerning cigarette advertising. Efforts will be made to strengthen the legislation, and I support those efforts. Efforts also will be made to weaken the legislation, and I will oppose those efforts.

There is but one statistic which is important in this debate. Two Surgeon Generals each have estimated that 300,000 people die each year of smoking.

For those who wonder why the youth of the Nation questions the motives of the older generation, consider this paradox of 300,000 people dying a year while Congress debates whether a simple warning of the cause of death should be issued.

I wish to join the gentleman from California, Congressman JOHN MOSS, in his call for the warning on cigarettes be included in all advertising of cigarettes. Only, if such warnings are carried in every advertisement, can those who see the advertisement realize at the same time the danger they face.

I also support the proposal that the warning be carried on the broad side of the cigarette package, instead of hidden, as is now the case.

Finally, I believe cigarette advertising should be banned from all radio and television shows with a high youth appeal.

Let us, for a change, be honest with the American people.

THE TOBACCO FARMER: FORGOTTEN MAN IN THE CIGARETTE INDUSTRY

Mr. Chairman, for all the $245 million a year the tobacco companies spend advertising cigarette smoking on radio and television as the American way of life, the tobacco farmer still remains low man on the economic totem pole in the United States.

While cigarette manufacturing becomes more automated and the number of employees—now around 32,000—dwindles each year, tobacco farming still remains a hand-to-mouth existence on a relatively small patch of ground using the same methods of 200 years ago.

And while the tobacco companies—until now, at least—have boasted of rising sales and profits, all the industry has done for the tobacco farmer is to leave him largely in the class of the have-nots.

By 1964, when the last census of agriculture was taken, 55 percent of the commercial tobacco farms had average incomes of about $2,600 or $50 a week for a family of four. Half of these families averaged only $1,300 or $25 a week. And these are farms where farming is mostly a full-time occupation.

The haves, some 30,000 tobacco farms of a total of 170,000, or 17.5 percent, had annual average incomes of $18,600. The rest, making up 27.5 percent of the tobacco farms, averaged $7,055 annually.

By contrast, nearly two-thirds of the commercial farms in the United States had annual incomes over $5,000. In fact, a full 40.2 percent of all commercial farms averaged $33,077 for the year 1964. Only one-third of all commercial farms in the United States had incomes under $5,000 a year.

In an attempt to supplement his meager income, the have-not tobacco farmer often sends his wife and children out to work. The Census Bureau reported about 70 percent of the have-not tobacco farms—those with product income under $5,000—derive income from sources other than their own farms. This additional income accounts for almost 50 percent of the total income of the poorest farms. Yet, despite this added income, some 45,000 tobacco farms—27 percent of the total—still averaged $2,300 for an entire year from all sources of income. Or less than $45 a week.

The well-being of tobacco farmers in relation to other types of farmers can

also be seen in a comparison of selected material possessions. For instance, only 47 percent of all tobacco farms have a telephone, compared with a high of over 88 percent for dairy farms, and an average of 76 percent for all commercial farms. About three-quarters of the tobacco farms possessed a car, while over 90 percent of the dairy farms and almost 85 percent of all commercial farms reported at least one car. Only 63 percent of the tobacco farms had a home freezer, against 83 percent of the dairy farms, and 72 percent of all commercial farms.

Ironically, the one item that tobacco farms did not lag behind in was television sets. Some 86.1 percent of the tobacco farms have a TV set, against a national average of 87.6 percent for all commercial farms, and 91.8 percent of the dairy farms.

Again we can break down commercial tobacco farms into the haves and the have-nots. Thus, while some 87 percent of the haves—farms with product income over $5,000—possess an automobile, only 68.3 percent of the have-nots do. About 57 percent of the haves have a phone, only 39.2 percent of the have-nots do. Likewise, 78 percent of the haves own a home freezer, only 50.7 percent of the have-nots do.

The plight of the poor tobacco farmer supplying the cigarette industry is borne out by the fact that most of the high-value tobacco farms, the haves, were largely farms on which shade-grown and cigar types of tobacco were grown. Thus, although these farms accounted for only 4 percent of all tobacco farms, they accounted for almost 20 percent of the value of all tobacco sold. Most of these farms were located in Ohio, Pennsylvania, and Connecticut.

The have-not tobacco farms were concentrated in the Appalachian region of the country, with five States—North Carolina, South Carolina, Virginia, Kentucky, and Tennessee—accounting for over 90 percent of the farms. These tobacco farms were relatively small, averaging 96.5 acres per farm in 1964. Over two-thirds contained less than 100 acres and over 40 percent contained less than 50 acres. The average size of all U.S. commercial farms stood at 445.8 acres, in 1964.

In 1964, tobacco farms accounted for some 8 percent of the 2.2 million commercial farms in the United States, but only 5 percent of the value of crops harvested, largely because of the relative inefficiency of the tobacco farm. According to the Department of Agriculture, the tobacco farm index of output per man-hour stood at 127 in 1967—1957–59 equaled 100—while that for all farms stood at 167.

I include the following tables at this point:

TABLE 1.—DISTRIBUTION OF COMMERCIAL FARMS BY ANNUAL INCOME FROM FARM PRODUCTS, TOBACCO, AND ALL U.S. FARMS COMPARED, 1964

Annual product value	Percent of farms	
	Tobacco	All United States
Over $10,000	17.5	40.2
$5,000 to $10,000	27.5	23.3
Under $5,000	55.0	36.5

Source: 1964 U.S. Census of Agriculture.

TABLE 2.—ANNUAL INCOME OF COMMERCIAL TOBACCO FARMS, SELECTED CLASSES, FOR THE UNITED STATES, 1964

Annual product value	Number of farms	Percent of farms	Population	Annual farm income
Over $10,000	29,729	17.5	129,212	$18,607
$5,000 to $10,000	46,754	27.5	195,711	7,055
Under $5,000	93,610	55.0	336,667	2,575

Source: 1964 U.S. Census of Agriculture.

TABLE 3.—ANNUAL FARM INCOME FROM PRODUCTS SOLD TOBACCO AND U.S. FARMS COMPARED, 1964

Annual product value	Annual income	
	Tobacco	All U.S. farms
Over $10,000	$18,607	$33,077
$5,000 to $10,000	7,055	7,240
Under $5,000	2,575	2,493

Source: 1964 U.S. Census of Agriculture.

TABLE 4.—FARM CHARACTERISTICS OF COMMERCIAL TOBACCO FARMS, BY ECONOMIC CLASS, FOR THE UNITED STATES, 1964

	Percent of farms	Percent of farms	Population	Annual farm income	Percent of farms with—				Annual farm income, all farms, United States
					Auto	Telephone	TV	Home freezer	
Total, commercial farms [1]	170,093	100.0	661,590	$6,527	76.5	47.0	86.1	62.6	$15,869
Class I	992	.6	3,884	92,029	94.4	90.7	94.6	88.7	105,786
Class II	5,689	3.3	23,366	26,196	95.6	81.5	97.6	90.2	27,373
Class III	23,048	13.6	102,002	13,525	90.1	62.8	96.2	85.1	14,160
Class IV	46,754	27.5	195,711	7,055	83.3	49.7	91.9	71.5	7,240
Class V	48,397	28.5	181,397	3,631	76.5	45.9	86.9	60.7	3,629
Class VI	45,213	26.6	155,270	1,301	59.7	32.1	72.5	40.0	1,044
All farms, United States					84.7	76.2	87.6	72.5	

[1] Commercial farms were divided into 6 economic classes on the basis of the total value of all farm products sold, as follows:

I ..... $40,000 or more
II ..... $20,000 to $39,999
III ..... $10,000 to $19,999
IV ..... $5,000 to $9,999
V ..... $2,500 to $4,999
VI [2] ..... $50 to $2,499

[2] Provided the farm operator was under 65 years of age and he did not work off the farm 100 or more days.

Source: 1964 U.S. Census of Agriculture.

TABLE 5.—CHARACTERISTICS OF COMMERCIAL FARMS BY TYPE, FOR THE UNITED STATES, 1964

[Percent of farms with specified equipment and facilities]

	Total commercial farms	Tobacco	Cash-grain	Cotton	Fruit and nut	Poultry	Dairy	Livestock farms	Livestock ranches	General
Automobiles	84.7	76.5	93.3	70.8	86.1	86.3	92.4	89.6	80.3	90.0
Telephones	76.2	47.0	85.3	46.2	87.5	85.4	88.2	85.0	72.1	81.5
Television sets	87.6	86.1	90.3	82.4	87.2	90.7	91.8	90.2	77.6	91.6
Home freezers	72.5	62.6	77.7	62.3	65.2	78.3	82.6	79.7	72.5	81.0
Average estimated value of products sold per farm	$15,869	$6,527	$13,621	$14,835	$28,231	$35,540	$14,593	$16,122	$21,271	$12,975

Source: 1964 U.S. Census of Agriculture.

TABLE 6.—DISTRIBUTION OF FARMS BY VALUE OF FARM PRODUCTS SOLD, U.S. AND APPALACHIAN REGION STATES COMPARED, 1964

	Percent of farms with products sold						
	Under $1,000	$1,000 to $2,499	$2,500 to $4,999	$5,000 to $9,999	$10,000 to $19,999	$20,000 to $59,999	$60,000 to more
United States	26.6	15.8	14.1	17.0	14.6	10.4	2.3
Appalachian region:							
Virginia	38.5	20.8	15.5	12.3	6.9	4.9	1.1
West Virginia	65.8	17.3	7.2	4.6	2.8	1.8	.4
North Carolina	28.5	15.3	16.1	19.5	13.3	6.3	.9
Kentucky	30.9	24.8	19.8	14.7	6.9	2.5	.4
Tennessee	37.9	26.2	17.5	10.3	4.9	2.6	.4

Source: 1964 U.S. Census of Agriculture.

TABLE 7.—CHARACTERISTICS OF COMMERCIAL FARMS BY TYPE, FOR THE UNITED STATES, 1964

[Percentage distribution of farms by size]

	Total commercial farms	Tobacco	Cash-grain	Cotton	Fruit and nut	Poultry	Dairy	Livestock farms	Livestock ranches	General
Less than 10 acres	3.9	12.9	0.1	4.6	9.2	18.9	0.5	1.8	0	0.2
10 to 49 acres	12.6	31.0	3.6	31.2	44.3	27.0	3.9	8.0	0	6.1
50 to 69 acres	4.8	11.3	2.4	7.3	9.6	8.7	3.3	3.9	0	4.5
70 to 99 acres	8.9	12.4	7.0	9.3	9.8	11.5	10.3	8.2	0	9.7
100 to 139 acres	10.3	11.7	8.1	8.3	7.9	10.0	15.7	9.2	3.6	12.1
140 to 179 acres	11.1	6.9	11.5	6.9	4.7	6.8	17.2	11.8	5.2	13.5
180 to 219 acres	7.3	4.3	7.2	4.4	3.0	4.2	12.3	7.7	3.5	8.6
220 to 259 acres	6.6	2.7	7.8	3.5	2.1	3.0	9.6	7.8	3.1	7.9
260 to 499 acres	18.9	5.2	27.2	12.2	5.1	6.7	21.1	22.9	14.0	22.1
500 to 699 acres	5.3	.9	8.8	4.6	1.4	1.5	3.6	6.6	8.0	6.2
700 to 999 acres	3.8	.4	6.9	3.4	1.0	.8	1.5	4.7	8.6	4.3
1,000 to 1,999 acres	3.8	.2	6.7	3.0	1.0	.6	.8	4.9	15.4	3.5
2,000 acres or more	2.7	.1	2.7	1.3	.8	.2	.2	2.7	38.6	1.4
Average size (in acres)	445.8	96.5	464.9	255.8	153.6	116.0	227.0	410.6	4,571.2	348.3

Source: 1964 U.S. Census of Agriculture.

TABLE 8.—CHARACTERISTICS OF COMMERCIAL FARMS, BY TYPE, FOR THE UNITED STATES, 1964—DISTRIBUTION OF FARMS BY VALUE

[In percent]

	Total commercial farms	Tobacco	Cash-grain	Cotton	Fruit and nut	Poultry	Dairy	Livestock farms	Livestock ranches	General
Less than $10,000	15.4	37.8	5.1	39.6	7.8	20.2	10.7	12.2	3.9	10.8
$10,000 to $19,999	15.8	23.8	7.7	15.5	11.8	26.4	21.9	14.9	7.7	15.9
$20,000 to $39,999	24.0	22.1	19.7	14.2	22.6	30.0	33.0	25.0	15.6	27.7
$40,000 to $69,999	19.7	10.1	24.6	9.8	20.3	14.2	20.5	23.0	17.2	23.4
$70,000 to $99,999	9.3	2.8	14.9	5.3	10.5	4.3	6.8	11.1	11.0	10.4
$100,000 to $149,999	7.1	1.6	12.8	5.3	9.3	2.5	3.9	7.7	12.2	6.9
$150,000 to $199,999	3.2	.5	6.0	3.1	5.1	.9	1.4	3.0	7.4	2.8
$200,000 to $499,999	4.1	.4	7.0	5.6	9.4	1.2	1.5	3.1	15.0	3.4
$500,000 or more	1.1	.1	.9	1.7	4.4	.2	.3	.5	8.2	1.0

Source: 1964 U.S. Census of Agriculture.

Mr. CORMAN. Mr. Chairman, I rise in opposition to H.R. 6543, as it was reported to the floor for consideration.

In view of the Surgeon General's recent statement that there are over 300,000 deaths a year from smoking; and, further, in view of a recent report from Dr. Luther Terry, former Surgeon General of the United States, that more than 40 percent of the total American adult population are regular cigarette smokers, and that half these people have tried to quit smoking at least once—and that 4,000 teenagers and young adults a day are being convinced through television and radio ads that "maturity and success can be bought in a cigarette package"—but not that smoking is deadly—I believe the bill we are debating today does not begin to go to the heart of the problem with which we are concerned. Its provisions are weak, inconsequential and, frankly, not worthy of our consideration.

The legislation we enacted in 1965 was admittedly weak. The warning we then permitted to be placed on cigarette packages was pure tokenism to what many of us felt was needed to solve a very serious national health problem. But, the controversy was new and the Interstate and Foreign Commerce Committee was in general agreement, more or less, that a simple warning statement on packages that "cigarette smoking may be hazardous to your health," would be sufficient to discharge the Congress' responsibility in the public interest.

I felt then, as some of my colleagues did, that the Congress should have approached the problem by warning the nonsmoker of the dangers to his health before he began the habit of smoking. This could have been done in the legislation we passed in 1965, but the measure that passed preempted the regulatory agencies from rulings requiring warnings on any advertising of cigarettes.

My grave concern now—as it was then—is not so much for the adult—but for the young people watching cigarette ads on television and listening to them on radio. They are at an impressionable age when habits are picked up so readily; especially when they are mesmerized by the kind of cigarette commercials the industry presents.

The bill before us today continues the warning label on packages but adds a few more incidental and inconsequential words to the phrase. Also, it increases the preemption clause for 6 years; nothing else. No attempt to permit the regulatory agencies to curb cigarette advertisements—a wholly inadequate bill.

It is an absolute necessity now, more than ever before in view of current statistics, that stronger warnings on cigarette packaging be enacted, and above all else, that something be done about cigarette advertising on radio and television. The responsibility of the Congress is clear cut. Over the past several years, the Federal Government's own Public Health Service has increasingly warned about the health hazards of the smoking habit and strongly urged that the habit be avoided by young people. How can we avoid the responsibility of warning Americans—young and old—about the dangers of the cigarette smoking habit and in the strongest possible ways? It seems to me, that as legislators for the citizens of this Nation, we are today standing at the cross roads of our responsibility in this issue.

Mr. Chairman, a number of amendments to H.R. 6543 will be offered on the floor tomorrow by five of my colleagues who are members of the Interstate and Foreign Commerce Committee and who are interested in a stronger bill. I firmly support the amendments they will offer.

Let me say at the outset, I believe that cigarette smoking is and should be and probably always will be a matter of individual choice. This is indisputable, but the Congress has the duty to see that the choice is an informed one. This duty can only be discharged by making certain, through Federal legislation, that uncomplicated, precise, and honest warnings are displayed properly on cigarette packages so that they can be seen instantly by anyone picking up a package.

Second, I support any amendment that would remove from the bill the preemption provision on FCC, FTC, and State regulation of cigarette advertising, so that these agencies would be able to regulate cigarette advertising after June 30, when the current preemption expires. Failing this, I would certainly be in favor of allowing the FCC to regulate cigarette radio and television advertising where programs with a high youth appeal are concerned.

I made the statement a few moments ago that every day about 4,000 teenagers and young adults try their first cigarette. Given the kind of cigarette advertisements that appears on television or heard on radio constantly throughout the days and evenings, I would seriously doubt if many of these 4,000 young people smoke their first cigarette and stop there. Statistics bear out the fact that most of them try another, and then another, until the dependency habit is

upon them. We all know from our own experience, or from that of our friends and family, that once the habit is established, it is almost impossible to break it. The struggle is often pitiful to watch. Sometimes it is a losing battle, and one returns to the habit even after weeks of private agony of trying to control the need for cigarettes. These are hopeless cases—but we can and we must—at least provide the necessary legislation to control this habit-forming menace for teenagers. Young people do not realize the health hazards that are involved in cigarette smoking. Youth is notorious for its inability to believe that "it can happen to me."

The National Association of Broadcasters' Code Authority—its advertising self-regulation unit—just last week reported that cigarette commercials have "substantial appeal to youth—and that with few exceptions the cigarette commercials of 1966 and 1969 are in no way significantly different." The testimony before the House Committee made it evident that the broadcasting industry has proven more effectively than anyone else could that it cannot regulate itself.

I would hope that the Members of this House would give very serious and careful consideration to these anticipated amendments to the bill. They spell life or death for many Americans—and I make this statement advisedly.

Mr. Chairman, there is one other aspect to this controversy I wish to bring to the attention of the House. The controversy, it seems to me, has also resolved itself into a tug of war between two departments of our Federal Government—one with vested interest to protect the tobacco industry, which carries in its wake the interests of the broadcasting media; the other with the vested interest to protect the health of this country's citizens—ofttimes their very lives.

The contradictions and curious actions of the U.S. Department of Agriculture and the U.S. Department of Health, Education, and Welfare present a ludicrous situation. On the one hand, HEW spends $2,100,000 a year to educate the public against smoking, while the Agriculture Department annually pays out $1,800,000 in price-support subsidies alone to tobacco farmers. Moreover, the Agriculture Department uses public tax money to promote oversea sales. For instance, under Public Law 480, the Secretary of Agriculture recently announced that he had approved a 1-year extension of a $210,000 Government subsidy to help pay for cigarette advertising in Japan, Thailand, and Austria. How can we, in good conscience, use public funds to subsidize own own tobacco farmers and promote overseas markets for tobacco products when we spend millions of Federal dollars in our own country in an attempt to educate the American people on the vital need to stop smoking? I am all in favor of keping our overseas markets healthy and sharing our expertise with other countries, but not at the expense of the health of innocent people.

I also recognize the fact that we are asking the communications industry to voluntarily divest themselves of vast sums of advertising income. I can also sympathize with those of my colleagues who are concerned with the economic effects of the curtailment of the tobacco industry in their own districts. As painful as an erosion of the tobacco industry must be, it cannot be permitted to outweigh the health of the Nation's citizens. Conversion in industry is not new to this country. Industries have successfully faced this problem after every war in which this Nation has engaged. But, what I cannot accept is the shocking lack of concern by both the tobacco industry and the broadcasting industry for the public interest.

The tobacco industry has used every means under the sun to negate the findings of the U.S. Public Health Service about the hazards of cigarette smoking. They have lobbied, they have cajoled, they have threatened, by arguing that any action damaging the industry would force Negro fieldhands out of jobs and cause them to move North, further swelling the already swollen ghetto and relief rolls. They have threatened with talk of decrease in tax intake by local, State and national governments if the tobacco industry is curtailed or stopped. They talk of deserted farms, silent factories, mass migrations—but these are exaggerations of the worst kind and are easily refused.

In the first place, no one expects cigarette sales to stop. I am certain that no amount of enacted legislation or education about health hazards will completely stop the sale of the product, even with the reported 300,000-plus deaths a year from smoking. Curtailment of one industry has always given way to the beginning of another. This is the experience of American industry. The cessation of one kind of crop planting has always given way to the planting of another kind. This has been the experience of the American farmer. It is not easy to do, but it has been done and can be done and the Nation's health is our first responsibility; and, I would pledge my support to any reasonable program to alleviate the plight of a tobacco farmer whose tobacco yield would be curtailed.

Just what would be the effects of an advertising blackout? I would like to quote parts of a discussion recently printed in Time on this point. I found it absolutely remarkable in its clarity. If I had any nagging fears that the broadcasting industry would go into the poor house as a result of my proposals, these statements have alleviated my fears. Let me quote:

> In the U.S. a complete ad ban on cigarettes would wipe out many new brands struggling to reach profitability; on the other hand, an FCC ban on broadcasting advertising would save the manufacturers the $225 million or so a year—about three-quarters of their total ad budgets—that they would spend on TV and Radio. They would invest that money in many ways—in other advertising media, in such promotions as games and coupons, in acquisitions, and in raising their already generous dividends. These possibilities have aroused new investor interests in the long-depressed tobacco stocks, and many of them have enjoyed a modest rally over the past few months.
>
> The most immediate effects would certainly be felt by the three major networks and by the nation's independent TV and radio stations. In anticipation of some sort of restriction, CBS has already set up its 1969 budget without including the $59 million—11 percent of its total revenue—that it took in from cigarette commercials last year. President Frank Stanton expects that CBS would eventually find other advertisers to take up the slack.

No, the industries would not suffer. They would be uncomfortable perhaps through the conversion period—nothing compared to the discomfort of emphysema. The small farmer would suffer only until his Federal subsidies could be directed to another product—a product undoubtedly far more healthful and important to the consumer than the tobacco leaf.

Mr. Chairman, I would earnestly urge my colleagues to give the utmost thought and consideration to the ramifications of the bill we are debating today. If it is not amended, the consequences for so many Americans, and particularly for so many of our young people, will be extremely dangerous. It is undeniably our responsibility to safeguard their health.

Mr. FOUNTAIN. Mr. Chairman, I rise in support of the Public Health Cigarette Smoking Act of 1969, although I am unalterably opposed to the new warning label which the committee bill will require to appear on cigarette packages.

Let me first dispose of the label question. I am opposed to the new label because I do not think it is accurate. I think we will be enacting into law something which is not fact. The far-reaching implications of the new warning label are unjustified. It is true that the Surgeon General of the United States, on the basis of statistical evidence—not basic research—has expressed his opinion that cigarette smoking is injurious to health and may cause this disease or that disease.

I know of no factual statement put out by the Office of the Surgeon General, or conclusions based thereupon, stating that the Surgeon General of the United States "had determined that cigarette smoking is dangerous to your health and may cause lung cancer or other diseases." That is the wording of the new label. However, the implications are that the highest and most expert medical and scientific authorities in the Nation—which the Surgeon General is not—have engaged in the necessary basic research and have examined all of the facts, scientific and otherwise, and that, on the basis of all such research and evidence about the relation of cigarette smoking to disease, the Surgeon General of the United States has made what would be tantamount to a scientific "determination" that "cigarette smoking is dangerous to your health, and may cause cancer or other diseases." Such use of the word "determination" can lead to no other conclusion than that "there is a direct causal relation between cigarette smoking and certain diseases." And yet admittedly, that has not been established. There has been no such finding or "determination."

I am not aware of any such basic research or finalized study of the facts, or any such findings and conclusions, or any official authoritative final "determination" by medical authorities, including the Surgeon General of the United States.

Not only has the Surgeon General himself not made "such a final determination" but the scientific evidence given before the House Interstate and Foreign Commerce Committee produced a record which cast far more than a reasonable doubt on the case against cigarette smoking. In fact, as I read the record, and as the record is understood by such members of the committee as our colleagues, Congressmen DAVID SATTERSFIELD and RICHARDSON PREYER and others, it reflects a substantial erosion of confidence in the so-called facts of the antismoking case.

In fact, HEW Secretary Finch himself, clearly noted gaps in the "facts" on April 25, 1969, during the hearings when he announced in a news release:

> I believe that industry and government, working together, offer great promise of finding the answers we need. I am confident our joint efforts will yield a cooperative research program which will strongly promote the public interest.

Like most people, the members of the House Interstate and Foreign Commerce Committee were well aware of the charges that had been made against cigarette smoking—just cigarette smoking, not "heavy smoking" or "excessive smoking," but plain normal cigarette smoking, like a normal amount of anything else. A constant barrage of antismoking commercials, newspaper stories, and pamphlets, buttressed by one-sided reports from the Office of the Surgeon General, and from a number of other sources favorable to the "big brother" approach of the Federal Government, created a bandwagon effect. And like most people, including many physicians, lack of familiarity with the actual scientific evidence led many committee members to accept the view that "where there is cigarette smoke, there must also be fire."

However, committee members, unlike the general public, were exposed through experts to the other side of the smoking and health controversy. Many of them have told me they were amazed. They had been led to believe that only tobacco farmers and the tobacco industry questioned the Surgeon General's report and the antitobacco campaign. And this evidence was revealing. Much of the testimony they heard flatly contradicted popular views. By the time the hearings ended, committee members were inclined to agree with my fellow North Carolinian, "RICH" PREYER, who observed in the words of Mark Twain:

> It's not what we don't know that hurts us. It's what we know that isn't so.

So what the committee learned and what I have learned, and on the basis of what the Surgeon General himself has said, and not said, I am, therefore, satisfied with the kind of authoritative "determination" which the new warning label would imply, simply has not and cannot honestly be made. Consequently, I am opposed to that language, but other provisions of the bill as amended by the committee are so meaningful, important, and necessary, as I will later point out, that I support the legislation. In other words, I want to make it clear that my vote for this bill does not mean that I favor the new warning label or that I am in accord with the seemingly popular idea that cigarette smoking, per se, causes diseases of any kind. It may or it may not cause disease; but until I know so, as a result of the right kind of basic research and authoritative findings, I am unwilling to say so in a statutory enactment by the Congress. Of course, cigarette smoking may be harmful in some way to some people—especially very young people; and excessive smoking, like an excessive amount of almost anything, may be harmful. It depends upon the individual. But whatever is done on the subject should be done by the Congress; even the Congress has the duty not to go beyond the facts.

Notwithstanding my objection to the new and confusing label—which of course was a compromise in language—I want to urge this committee to approve this legislation because I think it has the "fairness" approach that is designed to prevent "punitive and piecemeal regulations," which may otherwise reign. I would much prefer the legislation provided initially by H.R. 6543, introduced by Messrs. SATTERFIELD, BLANTON, STUCKEY, and PREYER; H.R. 6544 introduced by Messrs. BROYHILL of North Carolina, WATSON, CARTER, KUYKENDALL, SKUBITZ, and THOMPSON of Georgia; H.R. 6545, introduced by Mr. PERKINS; and H.R. 7177 introduced by the entire North Carolina delegation. These bills would retain the present caution label on cigarette packages reading:

> Cigarette smoking may be hazardous to your health.

But, under the circumstances, I will support the committee bill and oppose any and all additional amendments designed to further restrict the sale and advertising of cigarettes.

What is the great virtue of all these bills? In a word: "fairness."

They are fair to the purposes and intention and function of the Congress.

They are fair to the programs of the executive branch.

They are fair to large segments of the economy—to businessmen, to workers, and not the least to small farmers.

They are fair to the public and their right under the Constitution to make decisions for themselves.

And these bills are even fair to those antismoking pressure groups whose self-annointed propaganda campaigns cannot be distinguished by fairness. I wish I had time to read some of their literature such as "Don't Vote for Death."

Of course, we are not medical researchers. Neither are we scientific experts. Nor are we self-convinced possessors of "the truth." Indeed at this stage, there is no certain and convincing truth about the relationship between smoking and health. In this regard we may indeed stand just about where we stood in 1965. The experts disagreed then, they disagree now.

We are, however, legislators. We have responsibility to our constituents and to the entire Nation. And fortunately to guide us we have our faith in a few fundamentals, such as that a man—or an industry—is presumed innocent until proven guilty, and that reason and rationality are preferable to rash and impulsive action.

Upon this simple faith are these bills founded. H.R. 6543, now the committee bill, as amended—H.R. 6544, H.R. 6545, and H.R. 7177 preserve the purpose of the 1965 act. Mr. Chairman, 4 years ago, after lengthy hearings, and debate upon the recommendation of the distinguished House Interstate and Foreign Commerce Committee, under the leadership of its fine chairman, the gentleman from West Virginia (Mr. STAGGERS), Congress constructed "a comprehensive Federal program to deal with cigarette labeling and advertising in regard to any relationship between smoking and health."

Congress designed this structure to achieve two basic objectives:

First, to insure that the public is adequately informed that cigarette smoking may be hazardous to health by means of a warning on each cigarette package.

Second, to insure that commerce and the national economy are protected, consistent with this policy, and are "not impeded by diverse, nonuniform, and confusing cigarette labeling and advertising regulations."

On June 30 next, when the advertising provision terminates, this carefully constructed congressional structure will be seriously weakened. Like a dike that is half torn down, it will do little to halt the flood of "diverse, nonuniform and confusing" cigarette advertising regulation. When this happens, the Federal Trade Commission, the Federal Communications Commission, individual States, and local governments will be as free as wind-driven flood water not only to "impede" commerce and the national economy, but to devastate it.

A multiplicity of State and local regulations pertaining to labeling of cigarette packages would create "chaotic marketing conditions" and "consumer confusion," not to mention the terriffic burden it would place upon the whole tobacco industry. In the final analysis the tobacco producers and consumers would be the goats.

Without congressional guidance to provide some form of flood control, these regulatory agencies and Government officials will be limited solely by their individual taste for authority and their prospects for achieving it. For bureaucrats, like nature, abhor a vacuum.

The stakes are high and the time is short. Pressures mount and calmness fades. Emotions rise and reason fails. These are the signals for caution. These are the signs of danger ahead.

I have every confidence that this Committee and this Congress will heed the signals and obey the signs. For much depends on the calmness, rationality and objectivity of your deliberations.

Let me outline just how much.

About 3 million men, women, and children in American farm families are dependent for their living on the tobacco crop. They share approximately $1.4 billion each year from their crops. These are not statistics; these are people living on farms in some 22 States who buy large quantities of agricultural machinery, fertilizers, insecticides, as well as automobiles, trucks, television sets, electric stoves, refrigerators, food, and clothing. And they also pay taxes. Tobacco farms and tobacco farmers can be found as far north as Massachusetts, as far south as

Florida and as far west as Wisconsin and Missouri.

More than 100,000 workers are employed by U.S. tobacco manufacturing companies. Their total payroll—which they spend locally—exceeds half a billion dollars a year.

The value of manufactured tobacco products will amount to close to $5 billion this year. Its manufacture is a very important segment of industry in several States, notably North Carolina and Virginia, where tobacco manufacturing is the second and third ranking industry respectively. The income from manufactured tobacco flows out into the economic mainstream. The industry uses and pays for 40 million pounds of moisture-proof cellophane, 70 million pounds of aluminum foil, 27 billion printed packages, and nearly 3 billion cartons.

There are more than 4,500 wholesale firms that distribute tobacco products, and literally hundreds of thousands of retail merchants that derive a substantial share of their income from the sale of cigarettes and tobacco products.

All in all, about 1½ million businesses and their employees and their families are dependent on the tobacco trade. This constituency of tobacco includes paper mills, machinery plants, truckers, wholesalers, vending machine companies, advertising agencies, advertising media, and retailers. Consider all who work in these business establishments and you have millions of Americans who are dependent upon tobacco directly or indirectly, wholly or partly, for their livelihoods.

Not only is the United States first in tobacco production but it is also the world's leading tobacco exporter. The value of our tobacco exports in 1968 was a record $686 million, 95 percent of which was for "cold" cash. The value of our imports was $160 million. Thus, tobacco contributed in excess of half a billion dollars to our country's balance-of-payments position.

Finally, there are tobacco tax revenues. Over and above the income taxes—individual and corporate—paid by the people who grow, manufacture, supply and sell tobacco, the Federal Government, the States and local governments derived an all-time high of $4.2 billion last year—1968. On the average, about half the price of a package of cigarettes goes to the Federal or State tax collector, and is used to finance a host of necessary and beneficial projects. Much has been said about tobacco support programs. It should interest all of us to know that since tobacco and other farm programs were adopted in 1933 the Federal Government alone has collected over $50 billion in tobacco taxes. State and local taxes are said to amount to more than $25 billion over that same period—1933–68.

Cigarette taxes depend on cigarette sales. So smokers are paying a socially useful price for their voluntary pleasure.

However, more is at stake than economic considerations, as weighty as they are. Grave constitutional issues are involved.

Cigarettes are a legal product and, therefore, under the first amendment to the Constitution, the right to advertise is clear. Even in the absence of constitutional questions, such extreme measures at regulatory action on the part of any Federal commission, in the absence of affirmative authority from the Congress, should not be tolerated, and even the Congress itself must tread with caution in this whole area. Voluntary abstention from the acceptance of cigarette or liquor or other types of advertising on the part of broadcasters is one thing, but an order of a creature of the Congress prohibiting advertising is quite another.

Dr. Clarence Cook Little, scientific director of the Council for Tobacco Research, the scientist who has been associated with more research on tobacco and health than any other person in the world, said on Monday, February 3, 1969:

> There is no demonstrated causal relationship between smoking and any disease.

He went on to point out that—

> The gaps in knowledge are so great that those who dogmatically assert otherwise—whether they state that there is or is not such a causal relationship—are premature in judgment.

In fact, he said:

> If anything, the pure biological evidence is pointing away from, not toward, the causal hypothesis.

I understand there will be amendments from the floor to severely restrict advertising of cigarettes on radio and television. I hope this Committee will vote them down. Many serious questions have been raised as to whether or not even the Congress, without an appropriate constitutional amendment, would have the authority to outlaw cigarette advertising on television and radio or tell either radio or television stations what can or cannot be said over the air about a given legal product.

So this right to advertise clearly comes within the right of free speech and a free press which are protected by the first amendment. And what company wants to advertise his product and then say "but it is dangerous to your health and may cause lung cancer or other diseases"? This would have the effect of preventing indirectly what most of us are opposed to the FCC or FTC doing directly—stopping legitimate advertising over television and radio.

Mr. Chairman and Members, we might remind ourselves that in 1919, or thereabouts, when the excessive use of alcoholic beverages created so many problems, our people adopted a constitutional amendment forbidding the manufacture and sale of such products. Fourteen years later, in 1933, I believe, that amendment—the 18th—was repealed.

If an executive agency or any of the independent agencies of Government, or even the Congress, has the power to forbid the advertising of cigarettes by radio or television, would it not also have the power to prevent such advertising through the printed word? And if such prohibition were permitted or authorized, could it not be made to extend to all potentially harmful items, articles or instruments. If we should permit the FCC to take this action in regard to cigarette smoking, what is there to prevent them from deciding next year that candy is detrimental to the public health in that it causes obesity, tooth decay and other health problems? What about milk and eggs? Milk and eggs are high in saturated animal fat and are said by many medical experts to increase the cholesterol in the bloodstream, believed by many heart specialists to be a contributing factor in heart disease. What about starches and sugars against which so much has been said in recent years by members of the medical profession. Do we want the FCC to be able to prohibit the advertising of milk, eggs, butter, and ice cream on TV?

However, do we believe the Federal Communications Commission has or should have the power to prohibit the advertising on TV and radio of all of these things used by our people because of possible harm from their use? What about high-compression automobiles capable of great speeds? Certainly they can be a menace on the highways. Should the FCC, therefore, prohibit, or have the power to prohibit, automobile advertising? As someone has said, "What about beer and wine." Their harmful potential is clearly established and both are advertised on television virtually without restriction.

Under certain circumstances, State and local governments have adopted regulations relating to items sold to the general public, but no restriction is placed on advertising which offers these items for sale.

Surely the Federal Trade Commission can and should prohibit the advertiser of any product, cigarettes or otherwise, from making false or fraudulent and misleading claims, and if it can find and cite instances where tobacco industry is doing this about cigarette smoking, it has the power to take them to court. This the FTC has not done, nor does it even suggest that advertising is false, fraudulent, or misleading. The tobacco industries, like many other industries, have themselves adopted appropriate rules and regulations consistent with what is legal and right.

As Dave Lawrence said in one of his columns:

> Whether cigarette smoking is or is not dangerous to health is not the prime issue. What is actually involved is the power of Congress or the Federal Communications Commission or any other agency to issue regulations which determine what may or may not be advertised for sale to the public . . . If it is lawful to manufacture and sell the article itself, then the advertising is a proper exercise of the right to conduct a business through the sale of such products by any of the available methods of marketing.

He also pointed out that if a Federal agency has the power to tell any of the communications media what they may or may not offer for sale, it would be "discriminatory to allow the same product to be sold over the counter."

But if the legislation we are debating here today is not extended, the FCC proposes to say in effect: "Thou shalt not see cigarette advertising on television." The next order could well include advertising in print. In fact, the Federal Trade Commission without this legislation is set to force all cigarette advertising to include such dire warnings of death and disease that the industry would have to stop all advertising.

H.R. 6543 will prevent this form of

censorship and discrimination. It would prevent this form of pseudolegislation.

As I have previously said, individual States could "balcanize" the free flow of interstate commerce, replacing Federal uniformity with a patchwork of local laws and regulations. This legislation will prevent this form of economic chaos.

What bothers so many of us and should disturb all of us is that the motivating power generating the attacks on an industry, our economy, and our form of government is based on a presumption of guilt. The advocates of suppression, censorship, discrimination, and punitive measures may be just as convinced of the rightness of their ends and the justification of their means as we are.

But I respectfully remind this Committee that any study tends to find what it really seeks to discover. And the Surgeon General's Advisory Committee on Smoking and Health which issued its report in 1964 is no exception. In fact, this group's statement on its conduct of the study is revealing. I leave it to the Committee to judge whether the full truth would emerge from such a methodology. Or whether it would tend to reach a foregone conclusion by omitting the study of factors that might possibly work against the presumption of guilt.

Here is the statement on conduct of study:

At first an encyclopedic approach was considered to deal with all aspects of the use of tobacco and resulting effects, with all relevant aspects of air pollution, and all pertinent characteristics of the external and internal environments and makeup of human beings. It was soon found to be impracticable to attempt to do all of this in any reasonable length of time, and certainly not under the urgencies of the existing situation. The final plan was to give particular attention to the cores of problems of the relationship of uses of tobacco, especially the smoking of cigarettes, to the health of men and women, primarily in the United States.

Thus the antismoking forces may well be wrong, as much of the scientific testimony from unbiased witnesses has demonstrated. But regardless of what testimony may develop, I would expect any reasonable man's doubts to be increased if only slightly by the Surgeon General's remarks at an Appropriations Subcommittee hearing on March 6, 1968. Contrary to his many public utterances to the contrary, he admitted to committee members—and I quote:

We have not been able to establish an absolute cause and effect between [smoking and emphysema].

We have never said there was definite proof of a cause-and-effect relationship between coronary heart disease and cigarette smoking . . . We have never said cause and effect to the initiation of cardiovascular disease . . . I do not think one can make the statement that the scientific evidence supports it.

We know that some nonsmokers get lung cancer and we know that many heavy smokers never get lung cancer.

Mr. Chairman, the situation today is substantially the same as the situation was 4 years ago. The Committee of the Whole, the House, and the Congress acted wisely then. I have every confidence that we will do so again.

Regrettably, many tobacco battles lie ahead. That has always been the plight of the farmer—whether the battle be with insects or with human beings. And the tobacco war itself will never be brought to an end, one way or the other, until honest and proper basic research, with both animals and human beings, has been carried out.

As my distinguished colleague from North Carolina, "RICH" PREYER said:

Let's get the facts and stop the propaganda. This legislation will help in that direction.

Mr. STAGGERS. Mr. Chairman, we have no further requests for time.

The CHAIRMAN. There being no further requests for time, the Clerk will read.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Health Cigarette Smoking Act of 1969".

Mr. STAGGERS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. BROOKS, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6543) to extend public health protection with respect to cigarette smoking and for other purposes, had come to no resolution thereon.

PROPOSED AMENDMENTS TO H.R. 6543

Mr. ADAMS. Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point a proposed set of amendments that have been indicated to me would be offered to the bill tomorrow, for the use of the Members tomorrow in the event of process.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The amendments are as follows:

On page 2, line 7, immediately before the semicolon insert "and in any cigarette advertisement or promotional material".

On page 4, at the end of line 6, insert the following: "(A) fails to bear a statement of the average tar and nicotine yields per cigarette in such package as determined by a method approved by the Secretary of Health, Education, and Welfare, and (B)".

On page 4, line 11, strike out "Such statement" and insert in lieu thereof "Each such statement".

On page 4, line 15, insert after the period the following new sentence: "In the case of any cigarette package having more than one side, such statement shall be placed on the two widest sides of such package."

On page 4, line 20, insert ", other than the statement required by section 4 of this Act", immediately after "health".

On page 4, strike out lines 20 through 23.

On page 4, beginning in line 24, strike out "(c) Except as is otherwise provided in subsections (a) and (b) and inserting in lieu thereof "(b) Except as otherwise provided in subsection (a)".

On page 5, line 8, strike out "(d)" and insert in lieu thereof "(c)".

On page 4, line 23, insert after the period the following new sentence: "This subsection does not prevent any State or political subdivision thereof, which prohibits the sale of cigarettes to persons below certain ages, from requiring that any cigarette advertisement within its jurisdiction set forth the fact that persons below certain ages are prohibited by such State or political subdivision from purchasing cigarettes."

On page 4, line 23, strike out the period and insert in lieu thereof ", except that any State or political subdivision thereof may require that any cigarette advertisement within its jurisdiction include a warning relating to the health hazards presented by cigarette smoking."

On page 4, line 23, strike out the period and insert in lieu thereof the following: ", except that the Federal Communications Commission shall by regulation prohibit any holder of a station license under the Communications Act of 1934 from broadcasting any cigarette advertising in connection with such types of programs as the Commission determines would be most likely viewed or heard by a substantial number of individuals under the age of eighteen."

On page 4, beginning in line 24, strike out "Except as is otherwise provided in subsections (a) and (b), nothing" and insert in lieu thereof "Nothing."

On page 7, line 4, strike out "1975" and insert in lieu thereof "1972".

SIXTH ANNUAL REPORT ON SPECIAL INTERNATIONAL EXHIBITIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs:

To the Congress of the United States:

Herewith I transmit to the Congress the Sixth Annual Report on Special International Exhibitions conducted during Fiscal Year 1968 under the authority of the Mutual Educational and Cultural Exchange Act of 1961 (Public Law 87–256).

This report covers official United States participation in Trade Fair Exhibitions and the Montreal World's Fair through the U.S. Information Agency, Labor Missions and Exhibits arranged by the Department of Labor, and Trade Missions organized by the Department of Commerce.

RICHARD NIXON.

THE WHITE HOUSE, *June 17, 1969.*

ANNUAL COMPARISON OF FEDERAL SALARIES WITH SALARIES PAID IN PRIVATE ENTERPRISE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 91–131)

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with accompanying papers, referred to the Committee on Post Office and Civil Service and ordered to be printed:

To the Congress of the United States:

I forward herewith the annual comparison of Federal salaries with the salaries paid in private enterprise, as provided by section 5302 of title 5, United States Code.

The report, prepared by the Director of the Bureau of the Budget and the Chairman of the Civil Service Commission, compares the present Federal statutory

salary rates with average salary rates paid in private enterprise for the same levels of work, as reported in the Bureau of Labor Statistics Bulletin No. 1617, *National Survey of Professional, Administrative, Technical, and Clerical Pay, June 1968.*

Also transmitted is a copy of an Executive order promulgating the adjustments of statutory salary rates to become effective on the first day of the first pay period beginning on or after July 1, 1969. These adjustments were developed in the joint report from the Director and Chairman, and in accordance with the directions of section 212 of Public Law 90–206, the Federal Salary Act of 1967.

Public Law 90–206 provides that comparable adjustments shall be made, by administrative action of appropriate officers, in the salary rates of employees of the judicial and legislative branches and those of Agricultural Stabilization and Conservation County Committee employees.

RICHARD NIXON.

THE WHITE HOUSE, *June 16, 1969.*

DIRECTIVE OF THE SPEAKER IMPLEMENTING SALARY COMPARABILITY POLICY IN 1969 FOR OFFICERS AND EMPLOYEES OF THE HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following directive, which was read:

DIRECTIVE OF THE SPEAKER OF THE UNITED STATES HOUSE OF REPRESENTATIVES IMPLEMENTING THE SALARY COMPARABILITY POLICY IN 1969 FOR OFFICERS AND EMPLOYEES OF THE HOUSE OF REPRESENTATIVES REQUIRED BY SECTION 212 OF THE FEDERAL SALARY ACT OF 1967—JUNE 17, 1969

Pursuant to the authority and duty vested in the Speaker of the United States House of Representatives by section 212 of the Federal Salary Act of 1967 (81 Stat. 634; Public Law 90–206; 5 U.S.C. 5304, note) to implement the salary comparability policy set forth in section 5301 of title 5, United States Code, in the year 1969 for personnel of the House of Representatives, the rates of pay of personnel of the House of Representatives whose pay is disbursed by the Clerk of the House of Representatives are adjusted as follows:

IMPLEMENTATION OF SALARY COMPARABILITY POLICY IN 1969 FOR PERSONNEL OF THE HOUSE OF REPRESENTATIVES

SECTION 1. Subject to sections 216 and 225 of the Federal Salary Act of 1967 (81 Stat. 638, 642; Public Law 90–206; 2 U.S.C. 60e–14, note; 2 U.S.C. 351–361), the per annum gross rate of compensation (basic compensation plus additional compensation authorized by law) of each employee whose compensation—

(1) is disbursed by the Clerk of the House of Representatives, and

(2) is fixed at a rate of basic compensation plus additional compensation authorized by law,

is increased by 10.05 per centum.

SEC. 2. Subject to sections 216 and 225 of the Federal Salary Act of 1967 (81 Stat. 638, 642; Public Law 90–206; 2 U.S.C. 60e–14, note; 2 U.S.C. 351–361), the single per annum gross rate of compensation of each officer or employee, except an officer or employee within the purview of section 3 or 4 of the Directive of the Speaker of the United States House of Representatives of June 11, 1968 (2 U.S.C. 60a), or section 3, 4, or 5 of this directive, whose compensation—

(1) is disbursed by the Clerk of the House of Representatives, and

(2) is fixed at a single per annum gross rate,

is increased by 10.05 per centum.

SEC. 3. In order to preserve and continue the pay relationships existing immediately prior to July 1, 1969, between—

(1) positions on the United States Capitol police force and on the United States Capitol telephone exchange, respectively, the compensation for which is disbursed by the Clerk of the House of Representatives, and

(2) positions on such police force and telephone exchange, respectively, the compensation for which is disbursed by the Secretary of the Senate,

the respective single per annum gross rates of compensation of personnel on such police force and telephone exchange, respectively, whose compensation is disbursed by the Clerk of the House of Representatives are increased, subject to sections 216 and 225 of the Federal Salary Act of 1967 (81 Stat. 638, 642; Public Law 90–206; 2 U.S.C. 60e–14, note; 2 U.S.C. 351–361), by 10.05 per centum, adjusted to the nearest multiple of $219.

SEC. 4. The House Employees Schedule (HS) established pursuant to section 4 of the House Employees Position Classification Act (78 Stat. 1079; Public Law 88–652; 2 U.S.C. 293) is amended to read as follows:

"HOUSE EMPLOYEES SCHEDULE—PER ANNUM RATES (EFFECTIVE JULY 1, 1969)

HS levels	STEPS											
	1	2	3	4	5	6	7	8	9	10	11	12
1	$5,236.60	$5,433.05	$5,629.50	$5,825.95	$6,022.40	$6,217.62	$6,415.30	$6,610.52	$6,808.20	$7,003.41	$7,396.31	$7,789.20
2	6,022.40	6,217.62	6,415.30	6,610.52	6,808.20	7,003.41	7,199.86	7,396.31	7,592.76	7,789.20	8,180.89	8,573.78
3	6,938.34	7,167.94	7,396.31	7,625.91	7,854.28	8,083.89	8,312.26	8,541.86	8,771.45	8,999.82	9,459.02	9,915.77
4	7,985.66	8,214.03	8,443.64	8,673.23	8,901.60	9,131.20	9,359.58	9,589.17	9,817.55	10,047.15	10,505.12	10,963.09
5	9,163.13	9,425.88	9,687.40	9,948.93	10,210.45	10,471.97	10,734.72	10,996.24	11,257.76	11,519.29	12,043.57	12,566.61
6	10,471.97	10,734.72	10,996.24	11,257.76	11,519.29	11,780.82	12,043.57	12,305.08	12,566.61	12,828.13	13,352.41	13,875.46
7	11,912.19	12,213.01	12,515.04	12,815.85	13,116.67	13,416.26	13,718.29	14,019.10	14,319.92	14,621.96	15,223.58	15,826.44
8	13,527.14	13,830.18	14,131.98	14,433.79	14,735.59	15,038.64	15,339.21	15,641.02	15,944.06	16,245.86	16,849.48	17,454.33
9	15,277.54	15,619.72	15,963.15	16,304.10	16,647.54	16,989.73	17,331.92	17,675.34	18,017.54	18,358.49	19,044.10	19,729.73
10	17,053.84	17,395.92	17,736.77	18,078.86	18,418.49	18,759.34	19,101.43	19,442.28	19,783.14	20,124.00	20,805.70	21,488.65
11	19,199.21	19,584.23	19,968.03	20,351.81	20,735.60	21,120.63	21,503.18	21,888.20	22,271.99	22,655.77	23,423.34	24,190.92
12	21,515.49	21,930.42	22,344.08	22,758.99	23,172.66	23,587.58	24,001.24	24,414.90	24,829.81	25,244.73	26,073.31	26,900.63
13	24,005.11	24,465.58	24,923.52	25,381.46	25,839.40	26,297.34	26,757.80	27,215.74	27,673.68	28,131.62	29,050.03	29,965.91".

SEC. 5. Subject to sections 216 and 225 of the Federal Salary Act of 1967 (81 Stat. 638, 642; Public Law 90–206; 2 U.S.C. 60e–14 note; 2 U.S.C. 351–361), the single per annum rate of compensation in effect immediately prior to July 1, 1969, of each employee whose compensation—

(1) is disbursed by the Clerk of the House of Representatives,

(2) is fixed at a saved rate, and

(3) is increased by section 214(c) of the Federal Salary Act of 1967 (81 Stat. 636; Public Law 90–206; 2 U.S.C. 293c),

is increased by 10.05 per centum.

SEC. 6. The additional compensation provided by this directive for personnel whose per annum compensation is fixed at a rate of basic compensation plus additional compensation authorized by law shall be considered a part of basic pay for the purposes of subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement.

SEC. 7. The provisions of this directive shall become effective on July 1, 1969.

JOHN W. MCCORMACK,
Speaker, U.S. House of Representatives.

The SPEAKER. The directive is ordered to be printed in the Journal.

CERTAIN MINORITY EMPLOYEES, HOUSE OF REPRESENTATIVES

Mr. GERALD R. FORD. Mr. Speaker, I offer a priviliged resolution (H. Res. 441) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 441

Resolution relating to the positions of certain minority employees in the House of Representatives

Resolved, That, until otherwise provided by law—(1) The six positions of minority employees listed in House Resolution 8, Ninety-first Congress, as supplemented by House Resolution 238, Ninety-first Congress, and House Resolution 265, Ninety-first Congress, are hereby given position titles in the descending order in which those six positions are listed in House Resolution 8, as follows:

(A) the position title of the position listed first is "Floor Assistant to the Minority";

(B) the position title of the position listed second is "Floor Assistant to the Minority";

(C) the position title of the position listed third is "Floor Assistant to the Minority";

(D) the position title of the position listed fourth is "Floor Assistant to the Minority";

(E) the position title of the position listed fifth is "Pair Clerk to the Minority"; and

(F) the position title of the position listed sixth is "Staff Director to the Minority".

(2) Appointments to each position for which a position title is provided by subparagraph (1) of this section shall be made by action of the House of Representatives.

(3) The rate of pay of each position for which a position title is provided by subparagraph (1) of this section shall be a per annum gross rate equal to the annual rate of basic pay of Level V of the Executive Schedule in section 5316 of title 5, United States Code, unless a different rate is provided for such position by action of the House of Representatives.

SEC. 2. (a) The first section of this resolution shall not affect or change the appointments or continuity of employment of those employees who hold such positions on the date of adoption of this resolution.

(b) In accordance with the authority of the House of Representatives under subparagraph (3) of the first section of this resolution, the respective per annum gross rates of pay of those positions for which position titles are provided by clauses (C), (D), (E), and (F) of subparagraph (1) of the first section of this resolution are as follows:

(1) for the position subject to clause (C)—$29,160;
(2) for the position subject to clause (D)—$25,200;
(3) for the position subject to clause (E)—$28,440; and
(4) for the position subject to subparagraph (F)—$28,080.

SEC. 3. This resolution shall become effective as of the beginning of the calendar month in which this resolution is adopted.

The resolution was agreed to.

A motion to reconsider was laid on the table.

ADDITION TO LEGISLATIVE PROGRAM

(Mr. ALBERT asked and was given permission to address the House for 1 minute.)

Mr. ALBERT. Mr. Speaker, I take this time to announce that in addition to the program, the distinguished gentleman from Massachusetts (Mr. PHILBIN) will call up under unanimous consent tomorrow the bill S. 1647, to authorize the release of 100,000 short tons of lead from the national stockpile and the supplemental stockpile.

PERMISSION FOR JOINT COMMITTEE ON ATOMIC ENERGY TO FILE A REPORT ON THE ANNUAL AUTHORIZATION BILL

Mr. HOLIFIELD. Mr. Speaker, I ask unanimous consent that the Joint Committee on Atomic Energy may have until midnight tonight to file a report on the annual authorization bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

GENERAL LEAVE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill which we have been debating today, H.R. 6543.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

CURRENT SECRET PEACE NEGOTIATIONS

(Mr. HUNGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNGATE. Mr. Speaker, in the days of Woodrow Wilson, after whom a School of Public and International Affairs is now named at Princeton, and whose goal was "open covenants openly arrived at," a phonograph record became quite popular, which in some ways sounds acutely descriptive of our current secret peace negotiations. The record was by Moran and Mack whom Madison Avenue today would have to call "A Duo of Sun-drenched Starlings." People who actually saw them said they worked under the name of "Two Black Crows":

MORAN AND MACK

What was your idea in telling that man there is a man in the moon?

I believe there is a man on the moon—Do you?

No, I don't

Well, I still do.

Well, what was your idea in telling that man you spoke to the man in the moon?

I never said he answered me—I didn't say that.

Well, did you ever see the man in the moon?

Well, I don't believe I did.

Did you ever see anybody that said they saw the man in the moon?

I don't guess so.

Did you ever see anybody that said they saw anybody who said they saw the man in the moon?

I'd rather not be bothered, but I dreamed there was a man in the moon and I believe in dreams. I never did until one night I dreamed I was eating flannel cakes and when I woke up the blanket was gone.

CURRENT PEACE NEGOTIATIONS

What was your idea in telling these people you are engaged in secret peace talks?

I believe we are engaged in secret peace talks—do you?

No, I do not.

Well, I still do.

Well, what was your idea in telling people you secretly talked to the NLF?

I never said they answered me—I did not say that.

Well, did you ever see these secret peace talks?

Well, I do not believe I did.

Did you ever see anybody who said they took part in the secret peace talks?

I do not guess so.

Did you ever see anybody who said that they saw anybody who took part in the secret peace talks?

Moran and Mack had a good script. You really cannot blame President Nixon for borrowing from it.

TULSA PRESSMEN'S LOCAL SUPPORTS NEWSPAPER ACT

(Mr. EDMONDSON asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. EDMONDSON. Mr. Speaker I have received a copy of a telegram containing some very good news for the 101 of us who are sponsors in the House of the Newspaper Preservation Act. The telegram was sent to Senator PHILIP A. HART, whose Subcommittee on Antitrust and Monopoly Legislation of the Senate Committee on the Judiciary currently is holding hearings on the Newspaper Preservation Act.

The telegram is from Tulsa Local No. 226 of the International Printing Pressmen and Assistants Union, and reports that the local has unanimously adopted a resolution in support of the Newspaper Preservation Act.

The telegram says, in part,

We have been the beneficiaries of the efficiency, savings and stability that has come since the organization of Tulsa's Newspaper Printing Corporation thirty years ago. We in no way want to see this disturbed.

The Tulsa local also points out that the two newspapers served by the Newspaper Printing Corp.—the Tulsa Daily World and the Tulsa Tribune—"are highly regarded for their dedication to the public welfare and their independence in news and editorial voice."

Mr. Speaker, there are those in organized labor who oppose this legislation. The people of this local are fully acquainted with a successful newspaper joint operating agreement, and they support the legislation. I hope they are heard. Mr. Speaker, I would like this telegram to appear in the RECORD.

TULSA, OKLA.
June 8, 1969.

HON. PHILIP A. HART,
U.S. Senator from Michigan,
Chairman Sub-Committee of the Judiciary,
Senate Office Building, Washington, D.C.:

Tulsa Local No. 226 of the International Printing Pressmen and Assistants Union unanimously adopted a resolution at their meeting of this date urging passage of Senate Bill 1520 otherwise known as the Newspaper Preservation Act. We have been the beneficiaries of the efficiency, savings and stability that has come since the organization of Tulsa's Newspaper Printing Corporation thirty years ago. We in no way want to see this disturbed. The newspapers we produce are highly regarded for their dedication to the public welfare and their independence in news and editorial voice. Failure to pass this legislation could saddle our newspapers with extravagant and unnecessary costs and could face us with the uncertain and chaotic conditions this local lived through prior to 1940. Our resolution further directed this telegram sent to you, Congressman Celler of New York and all members of the Oklahoma delegation in the Congress.

A. J. BOONE,
President.
J. E. THOMPSON,
Secretary.
C. W. PFEIFER,
Recording Secretary.

FEDERAL COURTS HAVE NO JURISDICTION OVER DISPUTES BETWEEN MEMBER AND HOUSE

(Mr. FLYNT asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. FLYNT. Mr. Speaker, today I have introduced legislation declaring that the Federal courts shall have no jurisdiction over disputes between an individual Member of the House of Representatives and the House itself.

Until yesterday, all lawyers and students of the law, together with all judges save seven, thought that was the law under all established principles of American jurisprudence.

In the case of Powell against McCormack et al., Judge George L. Hart, Jr., of the U.S. District Court of the District of Columbia, and the unanimous panel of the Circuit Court of Appeals for the District of Columbia thought that such was the law. The district court denied jurisdiction and dismissed the action. The Circuit Court of Appeals for the District of Columbia unanimously affirmed the judgment of the district court.

The language of section 5 of article I of the Constitution is just as clear as words of the English language can be:

Each House shall be the Judge of the Elections, Returns, and Qualifications of its own Members . . .

This legislation when enacted will simply affirm what everyone until yesterday believed the law to be.

This action of the Congress will not be without precedents.

Congress possesses the power of investing the inferior Federal courts with jurisdiction either limited, concurrent, or exclusive and withholding jurisdiction from them in the exact degree and character which to Congress and to Congress alone may seem proper for the public good.

The Supreme Court of the United States in *Lockerty* v. *Phillips*, 319 U.S. 182, affirmed this principle that the Constitution of the United States established three coequal and coordinate branches of Government—the legislative, executive, and judicial—in articles I, II, and III of the Constitution respectively. In establishing three concurrent and coordinate branches of Government those who framed the Constitution never intended that either branch could assert functions which are specifically reserved to another branch.

The decision in the case of Powell against McCormack et al., handed down by the Supreme Court on yesterday, Monday, June 16, brings about a direct confrontation between the judicial and legislative branches.

The Supreme Court has challenged the authority of the Congress to be the judge of one of its members and has ascertained that it, the Supreme Court, has that authority. Members of Congress may differ as to the manner of responding to this usurpation of legislative power. No one can dispute the effectiveness of the intent proposed by the introduction of this legislation.

All Federal courts except the Supreme Court of the United States are ordained and established by the Congress, and as such possess only the jurisdiction which Congress confers.

The Supreme Court of the United States has only that jurisdiction conferred by article III of the Constitution. The issue raised by the Supreme Court decision, Powell against McCormack, et al., is crystal clear: the Congress has the power to resolve; it may accept this legislation and thereby affirm its sovereignty as a coequal and coordinate branch of Government; or it may reject this legislation and thereby acquiesce in the unprecedented decision of the Supreme Court.

POWELL CASE LAYS FOUNDATION FOR JUDICIAL OVERSIGHT OF CONGRESS

(Mr. RARICK asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. RARICK. Mr. Speaker, while this body was in session yesterday the news media reported the decision of the Supreme Court in the case of Powell against McCormack. Merely from the advices of the news, I felt impelled to caution our colleagues of the underlying danger of this most recent usurpation of power by the members of that Court—and to warn of the constitutional crisis which this decision precipitates.

Overnight I have had the opportunity to read the decision itself, and I find it is a fitting valedictory from Earl Warren, whose claim to fame is now clearly staked out. History will record his tenure as one of constant intemperate assaults on the Constitution. Whether history will record that the Constitution survived his attacks is largely up to this House.

I urge every Member of this body—and especially those who are trained in the discipline of the law—to personally and carefully read this decision. I urge that we all undertake a study of the pleadings, the briefs, and arguments; and the decisions of the district court and of the court of appeals. We must make some decisions in this House, and our decisions should be made on the basis of our own responsible understanding of the constitutional division of powers in our system of government.

Mr. Speaker, this decision of the Court should become a law school model of judicial impropriety. The Court reaches out to discover a constitutional question upon which it might rule. In doing so it reasons and at least inferentially decides in five complex areas, as outlined on page 7 of the opinion:

> Respondents press upon us a variety of arguments to support the court below; they will be considered in the following order. (1) Events occurring subsequent to the grant of certiorari have rendered this litigation moot. (2) The Speech or Debate Clause of the Constitution, Art. I, § 6, insulates respondents' action from judicial review. (3) The decision to exclude Petitioner Powell is supported by the power granted to the House of Representatives to expel a member. (4) This Court lacks subject matter jurisdiction over petitioners' action. (5) Even if subject matter jurisdiction is present, this litigation is not justiciable either under the general criteria established by this Court or because a political question is involved.

The Court discusses at length the difference between the power of this House to "exclude" and its power to "expel." In remarkable contrast to its erroneous decision to ignore history in the 1954 school decisions when history was plainly against the construction which the Court desired to give to the 14th amendment, the Court now occupies 25 pages of its 62-page opinion with a tortured study of the history of parliamentary exclusion and expulsion since 16th-century England. In doing so, it only reinforces the reasoning of Judge McGowan below, when he pointed out the absurdity of the distinction in the case:

> Appellant Powell's cause of action for a judicially compelled seating thus boils down, in my view, to the narrow issue of whether a member found by his colleagues . . . to have engaged in official misconduct must, because of the accidents of timing, be formally admitted before he can be either investigated or expelled. The sponsor of the motion to exclude stated on the floor that he was proceeding on the theory that the power to expel included the power to exclude, provided a 2/3 vote was forthcoming. It was. Therefore, success for Mr. Powell on the merits would mean that the District Court must admonish the House that it is form, not substance, that should govern in great affairs, and accordingly command the House members to act out a charade. (129 U.S. App. D.C., at 383–384, 395 F. 2d, at 606–607.)

Such cases as Bond against Floyd, Dombrowski against Eastland, Tenney against Brandhove and Baker against Carr, in which the Court has established dangerous constitutional precedents one at a time are cited in support of its current decision. What this means in short is that since succeeding attacks on the Constitution, unresisted by the people or by the Congress, have now weakened its protections in many major respects, the time is ripe to administer the final blow.

If we accept the principle that the Court can act at all in this area, if it can tell us that the exclusion was without authority, then it can review any other action we take in the matter. It can review the punishment which has been imposed—not only in substance, but in procedure. Suppose that the power of this House to punish a Member is to be limited by due process. Who is to determine the procedure? There is left in the case, for the resolution of the lower courts, the question of injunction of not only the employees of this House, but of you, Mr. Speaker.

For the convenience of our colleagues, I insert the conclusion of the Court at the end of its opinion, and the dissent of Association Justice Potter Stewart, following my remarks:

CONCLUSION

To summarize, we have determined the following: (1) This case has not been mooted by Powell's seating in the 91st Congress. (2) Although this action should be dismissed against respondent Congressmen, it may be sustained against their agents. (3) The 90th Congress' denial of membership to Powell cannot be treated as an expulsion. (4) We have jurisdiction over the subject matter of this controversy. (5) The case is justiciable.

Further, analysis of the "textual commitment" under Art. I, § 5 (see Part VI, Section B(1)), has demonstrated that in judging the qualifications of its members Congress is limited to the standing qualifications prescribed in the Constitution. Respondents concede that Powell met these. Thus, there is no need to remand this case to determine whether he was entitled to be seated in the 90th Congress. Therefore, we hold that, that since Adam Clayton Powell, Jr., was duly elected by the voters of the 18th Congressional District of New York and was not ineligible to serve under any provision of the Constitution, the House was without power to exclude him from its membership.

Petitioners seek additional forms of equitable relief, including mandamus for the release of Petitioner Powell's back pay. The propriety of such remedies, however, is more appropriately considered in the first instance by the courts below. Therefore, as to Respondents McCormack, Albert, Ford, Celler, and Moore, the judgment of the Court of Appeals for the District of Columbia Circuit is affirmed. As to Respondents Jennings, Johnson, and Miller, the judgment of the Court of Appeals for the District of Columbia Circuit is reversed and the case is remanded to that court with instructions to enter a declaratory judgment and for further proceedings consistent with this opinion.

It is so ordered.

SUPREME COURT OF THE UNITED STATES—No. 138.—OCTOBER TERM, 1968

ADAM CLAYTON POWELL, JR., ET AL., PETITIONERS, V. JOHN W. MCCORMACK ET AL.

On Writ of Certiorari to the United States Court of Appeals for the District of Columbia Circuit

[June 16, 1969.]

MR. JUSTICE STEWART, dissenting.

I believe that events which have taken

place since certiorari was granted in this case on November 18, 1968, have rendered it moot, and that the Court should therefore refrain from deciding the novel, difficult, and delicate constitutional questions which the case presented at its inception.

I

The essential purpose of this lawsuit by Congressman Powell and members of his constituency was to regain the seat from which he was barred by the 90th Congress. That purpose, however, became impossible of attainment on January 3, 1969, when the 90th Congress passed into history and the 91st Congress came into being. On that date, the petitioner's prayer for a judicial decree restraining enforcement of House Resolution No. 278 and commanding the respondents to admit Congressman Powell to membership in the 90th Congress became incontestably moot.

The petitioners assert that actions of the House of Representatives of the 91st Congress have prolonged the controversy raised by Powell's exclusion and preserved the need for a judicial declaration in this case. I believe, to the contrary, that the conduct of the present House of Representatives confirms the mootness of the petitioners' suit against the 90th Congress. Had Powell been excluded from the 91st Congress, he might argue that there was a "continuing controversy" concerning the exclusion attacked in this case.[1] And such an argument might be sound even though the present House of Representatives is a distinct legislative body rather than a continuation of its predecessor,[2] and though any grievance caused by conduct of the 91st Congress is not redressable in this action. But on January 3, 1969, the House of Representatives of the 91st Congress admitted Congressman Powell to membership, and he now sits as the Representative of the 18th Congressional District of New York. With the 90th Congress terminated and Powell now a member of the 91st, it cannot seriously be contended that there remains a judicial controversy between these parties over the power of the House of Representatives to exclude Powell and the power of a court to order him reseated. Understandably, neither the Court nor the petitioners advance the wholly untenable proposition that the continuation of this case can be founded on the infinitely remote possibility that Congressman Powell, or any other Representative, may someday be excluded for the same reasons or in the same manner. And because no foreseeable possibility of such future conduct exists, the respondents have met their heavy burden of showing that "subsequent events made it absolutely clear that the allegedly wrongful behavior could not reasonably be expected to recur." *United States* v. *Concentrated Phosphate Export Assn.*, 393 U.S. 199, 203.[3]

The petitioners further argue that this case cannot be deemed moot because of the principle that "the voluntary abandonment of a practice does not relieve a court of adjudicating its legality . . ." *Gray* v. *Sanders*, 372 U.S. 368, 376.[4] I think it manifest, however, that this principle and the cases enunciating it have no application to the present case. In the first place, this case does not involve "the voluntary abandonment of a practice." Rather it became moot because of an event over which the respondents had no control—the expiration of the 90th Congress. Moreover, unlike the cases relied on by the petitioners, there has here been no on-going course of conduct of indefinite duration against which a permanent injunction is necessary. Thus, it cannot be said of the respondents' actions in this case, as it was of the conduct sought to be enjoined in *Gray*, for example, that "the practice is deeply rooted and long standing," *id.*, or that, without judicial relief, the respondents would be "free to return to [their] old ways." *United States* v. *W. T. Grant Co.*, 345 U.S. 629, 632.[5] Finally, and most important, the "voluntary abandonment" rule does not dispense with the requirement of a continuing controversy, nor could it under the definition of the judicial power in Article III of the Constitution. Voluntary cessation of unlawful conduct does make a case moot "if the defendant can demonstrate that there is no reasonable expectation that the wrong will be repeated." *Id.*, at 633.[6] Since that is the situation here, the case would be moot even if it could be said that it became so by the House's "voluntary abandonment" of its "practice" of excluding Congressman Powell.

The petitioners' proposition that conduct of the 91st Congress has perpetuated the controversay is based the fact that House Resolution No. 2—the same resolution by which the House voted to seat Powell—fined him $25,000 and provided that his seniority was to commence as of the date he became a member of the 91st Congress.[7] That punishment, it is said, "arises out of the prior actions of the House which originally impelled this action." It is indisputable, however, that punishment of a House member involves constitutional issues entirely distinct from those raised by exclusion,[8] and that a punishment in one Congress is in no legal sense a "continuation" of an exclusion from the previous Congress. A judicial determination that the exclusion was improper would have no bearing on the constitutionality of the punishment, nor any conceivable practical impact on Powell's status in the 91st Congress. It is thus clear that the only connection between the exclusion by the 90th Congress and the punishment by the 91st is that they were evidently based on the same asserted derelictions of Congressman Powell. But this action was not brought to exonerate Powell or to expunge the legislative findings of his wrong-doing; its only purpose was to restrain the action taken in consequence of those findings—Powell's exclusion.

Equally without substance is the petitioners' contention that this case is saved from mootness by application of the asserted "principle" that a case challenging allegedly unconstitutional conduct cannot be rendered moot by further unconstitutional conduct of the defendants. Under this hypothesis, it is said that the "Court can not determine that the conduct of the House on January 3, 1969 has mooted this controversy without inferentially, at least, holding that the action of the House of that day was legal and constitutionally permissible." If there is in our jurisprudence any doctrine remotely resembling the petitioners' theory—which they offer without reference to any authority—it has no conceivable relevance to this case. For the events of January 3, 1969, that made this case moot were the termination of the 90th Congress and Powell's seating in the 91st, *not* the punishment which the petitioners allege to have been unconstitutional. That punishment is wholly irrelevant to the question of mootness and is in no wise before the Court in this case.

The passage of time and intervening events have therefore, made it impossible to afford the petitioners the principal relief they sought in this case. If any aspect of the case remains alive, it is only Congressman Powell's individual claim for the salary of which he was deprived by his absence from the 90th Congress.[9] But even if that claim can be said to prevent this controversy from being moot, which I doubt, there is no need to reach the fundamental constitutional issues that the Court today undertakes to decide.

This Court has not in the past found that an incidental claim for back pay preserves the controversy between a legislator and the legislative body which evicted him, once the term of his eviction has expired. *Alejandrino* v. *Quezon*, 271 U.S. 528, was a case nearly identical to that before the Court today. The petitioner was a member of the Senate of the Philippines who had been suspended for one year for assaulting a colleague. He brought an action in the Supreme Court of the Philippines against the elected members of the Senate[10] and its officers and employees (the President, Secretary, Sergeant-at-Arms, and Paymaster), seeking a writ of mandamus and an injunction restoring him to his seat and to all the privileges and emoluments of office. The Supreme Court of the Philippines dismissed the action for want of jurisdiction and Alejandrino brought the case here,[11] arguing that the suspension was not authorized by the Philippine Autonomy Act, a statute which incorporated most of the provisions of Article I of the United States Constitution.[12]

Because the period of the suspension had expired while the case was pending on certiorari, a unanimous Court, in an opinion by Chief Justice Taft, vacated the judgment and remanded the case with directions to dismiss it as moot. To Alejandrino's claim that his right to back pay kept the case alive, the Court gave the following answer, which, because of its particular pertinency to this case. I quote at length:

"It may be suggested, as an objection to our vacating the action of the court below, and directing the dismissal of the petition as having become a moot case, that, while the lapse of time has made unnecessary and futile a writ of mandamus to restore Senator Alejandrino to the Island Senate, there still remains a right on his part to the recovery of his emoluments, which were withheld during his suspension, and that we ought to retain the case for the purpose of determining whether he may not have a mandamus for this purpose. . . . It is sufficient for the Court to deal with this feature of the case, which is really only a mere incident to the main question made in the petition and considered in the able and extended brief of counsel for the petitioner, and the only brief before us. That brief is not in any part of it directed to the subject of emoluments, nor does it refer us to any statute or to the rules of the Senate by which the method of paying Senators' salaries is provided, or in a definite way describe the duties of the officer or officers or committee charged with the ministerial function of paying them.

* * * * *

". . . the remedy of the Senator would seem to be by mandamus to compel such official in the discharge of his ministerial duty to pay him the salary due, and the presence of the Senate as a party would be unnecessary. Should that official rely upon the resolution of the Senate as a reason for refusing to comply with his duty to pay Senators, the validity of such a defense and the validity of the resolution might become a judicial question affecting the personal right of the complaining Senator, properly to be disposed of in such action, but not requiring the presence of the Senate as a party for its adjudication. The right of the petitioner to his salary does not therefore involve the very serious issue raised in this petition as to the power of the Philippine Supreme Court to compel by mandamus one of the two legislative bodies constituting the legislative branch of the Government to rescind a resolution adopted by it in asserted lawful discipline of one of its members, for disorder and breach of privilege. We think, now that the main question as to the validity of the suspension has become moot, the incidental issue as to the remedy which the suspended Senator may have in recovery of his emoluments, if illegally withheld, should properly be tried in a separate proceeding against an executive officer or officers as described. As we are not able to derive from the petition sufficient information upon which properly to

Footnotes at end of article.

afford such a remedy, we must treat the whole cause as moot and act accordingly. This action on our part of course is without prejudice to a suit by Senator Alejandrino against the proper executive officer or committee by way of mandamus or otherwise to obtain payment of the salary which may have been unlawfully withheld from him." 271 U.S. at 533, 534–535.[13]

Both of the factors on which the Court relied in *Alejandrino* are present in this case. Indeed, the salary claim is an even more incidental and subordinate aspect of this case than it was of *Alejandrino*.[14] And the availability of effective relief for that claim against any of the present respondents is far from certain. As in *Alejandrino*, the briefs and memoranda submitted by the parties in this case contain virtually no discussion of this question—the only question of remedy remaining in the case. It appears from relevant provisions of law, however, that the Sergeant-at-Arms of the House—an official newly elected by each Congress [15]—is responsible for the retention and disbursement to Congressmen of the funds appropriated for their salaries. These funds are payable from the Treasury [16] upon requisitions presented by the Sergeant-at-Arms, who is entrusted with keeping the books and accounts "for the compensation and mileage of Members." [17] A Congressman who has presented his credentials and taken the oath of office [18] is entitled to be paid monthly on the basis of certificates of the Clerk [19] and Speaker of the House.[20] Powell's prayer for a mandamus and an injunction against the Sergeant-at-Arms is presumably based on this statutory scheme.

Several important questions remain unanswered, however, on this record. Is the Sergeant-at-Arms the only necessary defendant? If so, the case is surely moot as to the other respondents, including the House members, and they should be dismissed as parties on that ground rather than after resolution of difficult constitutional questions under the Speech and Debate Clause. But it is far from clear that Powell has an appropriate or adequate remedy against the remaining respondents. For if the Speaker does not issue the requisite certificates and Congress does not rescind Resolution 278, can the House agents be enjoined to act in direct contravention of the orders of their employers? Moreover, the office of Sergeant-at-Arms of the 90th Congress has now expired, and the present Sergeant-at-Arms serves the 91st Congress. If he were made a party in that capacity, would he have the authority—or could the 91st Congress confer the authority—to disburse money for a salary owed to a Representative in the previous Congress, particularly one who never took the oath of office? Presumably funds have not been appropriated to the 91st Congress or requisitioned by its Sergeant-at-Arms for the payment of salaries to members of prior Congresses. Nor is it ascertainable from this record whether money appropriated for Powell's salary by the 90th Congress, if any, remains at the disposal of the current House and its Sergeant-at-Arms.[21]

There are, then substantial questions as to whether, on his salary claim, Powell could obtain relief against any or all of these respondents. On the other hand, if he was entitled to salary as a member of the 90th Congress, he has a certain and completely satisfactory remedy in an action for a money judgment against the United States in the Court of Claims.[22] While that court could not have ordered Powell reseated or entered a declaratory judgment on the constitutionality of his exclusion,[23] it is not disputed that the Court of Claims could grant him a money judgment for lost salary on the ground that his discharge from the House violated the Constitution. I would remit Congressman Powell to that remedy, and not simply because of the serious doubts about the availability of the one he now pursues. Even if the mandatory relief sought by Powell is appropriate and could be effective, the Court should insist that the salary claim be litigated in a context that would clearly obviate the need to decide some of the constitutional questions with which the Court grapples today, and might avoid them altogether.[24] In an action in the Court of claims for a money judgment against the United States, there would be no question concerning the impact of the Speech and Debate Clause on a suit against members of the House of Representatives and their agents, and questions of jurisdiction and justiciability would, if raised at all, be in vastly different and more conventional form.

In short, dismissal of Powell's action against the legislative branch would not in the slightest prejudice his money claim,[25] and it would avoid the necessity of deciding constitutional issues which, in the petitioners' words, "touch the bedrock of our political system [and] strike at the very heart of representative government." If the fundamental principles restraining courts from unnecessarily or prematurely reaching out to decide grave and perhaps unsettling constitutional questions retain any vitality, see *Ashwander* v. *TVA*, 297 U.S. 288, 346–348 (Brandeis, J., concurring), surely there have been few cases more demanding of their application than this one. And those principles are entitled to special respect in suits, like this suit, for declaratory and injunctive relief, which it is within a court's broad discretion to withhold. "We have cautioned against declaratory judgments on issues of public moment, even falling short of constitutionality, in speculative situations." *Public Affairs Press* v. *Rickover*, 369 U.S. 111, 112. "Especially where governmental action is involved, courts should not intervene unless the need for equitable relief is clear, not remote or speculative." *Eccles* v. *Peoples Bank of Lakewood Village*, 333 U.S. 426, 431.

If this lawsuit is to be prolonged, I would at the very least not reach the merits without ascertaining that a decision can lead to some effective relief. The Court's remand for determination of that question implicitly recognizes that there may be no remaining controversy between the Petitioner Powell and any of these respondents redressable by a court, and that its opinion today may be wholly advisory. But I see no good reason for any court even to pass on the question of the availability of relief against any of these respondents. Because the essential purpose of the action against them is no longer attainable and Powell has a fully adequate and far more appropriate remedy for his incidental back pay claim. I would withhold the discretionary relief prayed for and terminate this lawsuit now. Powell's *claim* for salary may not be dead, but this *case* against all these respondents is truly moot. Accordingly, I would vacate the judgment below and remand the case with directions to dismiss the complaint.

FOOTNOTES

[1] See, *e. g.*, *United States* v. *Concentrated Phosphate Export Assn.*, 393 U.S. 199, 202–204; *Carroll* v. *President and Commissioners of Princess Ann*, 393 U.S. 175, 178–179.

[2] See *Gojack* v. *United States*, 384 U.S. 702, 707, n.4 ("Neither the House of Representatives nor its committees are continuing bodies."); *McGrain* v. *Daugherty*, 273 U.S. 135, 181. Forty-one of the present members of the House were not members of the 90th Congress; and two of the named defendants in this action, Messrs. Moore and Curtis, are no longer members of the House of Representatives. Moreover, the officer-employees of the House, such as the Sergeant-at-Arms, are re-elected by each new Congress. See n. 15, *infra*.

[3] See also *United States* v. *W. T. Grant Co.*, 345 U.S. 629, 633; *United States* v. *Aluminum Co. of America*, 148 F. 2d 446, 448. The Court has only recently concluded that there was no "controversy" in *Golden* v. *Zwickler*, —— U.S. ——, because of "the fact that it was most unlikely that the congressman would again be a candidate for Congress." *Id.*, at ——. It can hardly be maintained that the likelihood of the House of Representatives' again excluding Powell is any greater.

[4] See also *United States* v. *W. T. Grant Co.*, 345 U.S. 629, 632–633; *Local 74, United Bhd of Carpenters & Joinders* v. *NLRB*, 341 U.S. 707, 715; *Walling* v. *Helmerich & Payne, Inc.*, 323 U.S. 37, 43; *Hecht Co.* v. *Bowles*, 321 U.S. 321, 327; *United States* v. *Trans-Missouri Freight Assn.*, 166 U.S. 290, 307–310.

[5] With the exception of *Gray*, the "continuing controversy" cases relied on by the petitioners were actions by the Government or its agencies to halt illegal conduct of the defendants, and, by example, of others engaged in similar conduct. See cases cited, *supra*, nn. 1, 3, 4. The principle that voluntary abandonment of an illegal practice will not make an action moot is especially, if not exclusively, applicable to such public law enforcement suits.

"Private parties may settle their controversies at any time, and rights which a plaintiff may have had at the time of the commencement of the action may terminate before judgment is obtained or while the case is on appeal, and in any such case the court, being informed of the facts, will proceed no further in the action. Here, however, there has been no extinguishment of the rights . . . of the public, the enforcement of which the Government has endeavored to procure by a judgment of a court. . . . The defendants cannot foreclose those rights nor prevent the assertion thereof by the Government as a substantial trustee for the public under the act of Congress, by [voluntary cessation of the challenged conduct]." *United States* v. *Trans-Missouri Freight Assn.*, 166 U.S., at 309.

The considerations of public enforcement of a statutory or regulatory scheme which inhere in those cases are not present in this litigation.

[6] Certainly in every decision relied on by the petitioners the Court did not reject the mootness argument solely on the ground that the illegal practice had been voluntarily terminated. In each it proceeded to determine that there was in fact a continuing controversy.

[7] House Resolution No. 2 provided in pertinent part:

"(2) That as punishment Adam Clayton Powell be and hereby is fined the sum of $25,000, said sum to be paid to the Clerk to be disposed of by him according to law. The Sergeant at Arms of the House is directed to deduct $1,150 per month from the salary otherwise due the said Adam Clayton Powell, and pay the same to said Clerk until said $25,000 fine is fully paid.

"(3) That as further punishment the seniority of the said Adam Clayton Powell in the House of Representatives commence as of the date he takes the oath as a Member of the 91st Congress."

The petitioners' argument that the case is kept alive by Powell's loss of seniority, see *ante*, at —, is founded on the mistaken assumption that the loss of seniority is attributable to the exclusion from the 90th Congress and that seniority would automatically be restored if that exclusion were declared unconstitutional. But the fact is that Powell was stripped of seniority by the action of the 91st Congress, action which is not involved in this case and which would not be affected by judicial review of the exclusion from the 90th Congress. Moreover, even if the conduct of the 91st Congress were challenged in this case, the Court would clearly have no power whatsoever to pass upon the propriety of such internal affairs of the House of Representatives.

[8] Article I, § 5, of the Constitution specifically empowers each House to "punish its Members for disorderly Behaviour."

[9] The salary claim is personal to Congress-

man Powell, and the other petitioners therefore clearly have no further interest in this lawsuit.

[10] The Philippines Senate was composed of 24 Senators, 22 of whom were elected, and two of whom were appointed by the Governor General. Alejandrino was one of the two appointees. See 271 U.S., at 531–532.

[11] Under the Philippine Autonomy Act, 39 Stat. 545, this Court had jurisdiction to examine by writ of error the final judgments and decrees of the Supreme Court of the Phillippine Islands in cases under the Constitution or statutes of the United States. A subsequent statute substituted the writ of certiorari. 39 Stat. 726.

[12] "Section 18 [of the Autonomy Act] provides that the Senate and House respectively shall be the sole judges of the elections, returns and qualifications of their elective members, and each House may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds expell any elective members. The Senators and Representatives shall receive an annual compensation for their services to be ascertained by law and paid out of the Treasury of the Philippine Islands. Senators and Representatives shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place." 271 U.S., at 532.

[13] The petitioners rely on the following passage from *Bond* v. *Floyd*, 385 U.S. 116, 128, n. 4, as dispositive of their contention that the salary claim prevents this case from being moot:

"A question was raised in oral argument as to whether this case might not be moot since the session of the House which excluded Bond was no longer in existence. The State has not pressed this argument, and it could not do so, because the State has stipulated that if Bond succeeds on this appeal he will receive back salary for the term from which he was excluded."

I do not believe that this off-hand dictum in *Bond* is determinative of the issue of mootness in this case. In the first place, as the Court in *Bond* noted, it was not there contended by any party that the case was moot. Moreover, contrary to the implication of the statement, the legislative term from which Bond was excluded had not ended at the time of the Court's decision. (The Court's decision was announced on December 5, 1966; Bond's term of office expired on December 31, 1966.) In any event, he had not been seated in a subsequent term, so the continuing controversy had not been rendered clearly moot by any action of the Georgia House, as it has here by the House of Representatives of the 91st Congress. No one suggested in *Bond* that the money claim was the only issue left in the case. Furthermore, the considerations which governed the Court's decision in *Alejandrino* were simply not present in *Bond*. Because of the State's stipulation, there was no doubt, as there is here, see *infra*, at ——, that the Court's decision would lead to effective relief with respect to Bond's salary claim. And finally, there was no suggestion that Bond had an alternative remedy, as Powell has here, see *infra*, at ——, by which he could obtain full relief without requiring the Court to decide novel and delicate constitutional issues.

[14] *Alejandrino* was the only petitioner in the case, and since he was an appointed Senator, it appears that there was no group of voters who remained without representation of their choice in the Senate during his suspension.

[15] 2 U.S.C. § 83.

[16] U.S. Const., Art. I, § 6; 2 U.S.C. § 47.

[17] 2 U.S.C. §§ 80, 78.

[18] 2 U.S.C. § 35.

[19] 2 U.S.C. § 34.

[20] 2 U.S.C. § 48.

[21] The respondents allege without contradiction that the Sergeant-at-Arms does not have sufficient funds to pay Congressman Powell's back salary claims. Separate appropriations for the salaries of Congressmen are made in each fiscal year, see, *e.g.*, 80 Stat. 354, 81 Stat. 127, 82 Stat. 398, and, according to the respondents, "it is the custom of the Sergeant to turn back to the Treasury all unexpended funds at the end of each fiscal year." Thus, the only funds still held by the Sergeant are said to be those appropriated for the present fiscal year commencing July 1, 1968.

[22] "The Court of Claims shall have jurisdiction to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress, ..." 28 U.S.C. § 1491. The district courts have concurrent jurisdiction over such claims only in amounts less than $10,000. 28 U.S.C. § 1346.

[23] *United States* v. *King*, — U.S. —. The petitioners suggest that the inability of the Court of Claims to grant such relief might make any remedy in that court inadequate. But since Powell's only remaining interest in the case is to collect his salary, a money judgment in the Court of Claims would be just as good as, and probably better than, mandatory relief against the agents of the House. The petitioners also suggest that the Court of Claims would be unable to grant relief because of the pendency of Powell's claim in another court, 28 U.S.C. § 1500, but that would, of course, constitute no obstacle if, as I suggest, the Court should order this action dismissed on grounds of mootness.

[24] It is possible, for example, that the United States in such an action would not deny Powell's entitlement to the salary but would seek to offset that sum against the amounts which Powell was found by the House to have appropriated unlawfully from Government coffers to his own use.

[25] Relying on *Bank of Marin* v. *England*, 385 U.S. 99, 101, the petitioners complain that it would impose undue hardship on Powell to force him to "start all over again" now that he has come this far in the present suit. In view of the Court's remand of this case for further proceedings with respect to Powell's remedy, it is at least doubtful that remitting him to an action in the Court of Claims would entail much more cost and delay than will be involved in the present case. And the inconvenience to litigants of further delay or litigation has never been deemed to justify departure from the sound principle, rooted in the Constitution, that important issues of constitutional law should be decided only if necessary and in cases presenting concrete and living controversies.

A BILL TO AMEND THE FOOD STAMP ACT

(Mrs. MAY asked and was given permission to address the House for 1 minute, to revise and extend her remarks and include extraneous matter.)

Mrs. MAY. Mr. Speaker, I am today introducing a bill to amend the Food Stamp Act. This bill represents the administration's recommendations for a more effective stamp program. The need for such action was first ably and dramatically presented to the Congress by President Nixon in his message of May 6. This bill also incorporates the provisions of H.R. 10967, a bill I recently introduced to amend the Food Stamp Act.

As a member of the House Committee on Agriculture, I have been closely associated with the operation of the food stamp program. I feel that the changes sought by the administration will, for the first time, place the program on a truly effective legislative base—one that will permit the program to be soundly administered; one that will permit it to effectively contribute to the elimination of hunger and severe malnutrition.

These are the elements that have led me to that conclusion:

It recognizes that there must be a joint Federal, State, and local government sharing of responsibility;

It actively seeks the involvement of the private sector;

It concentrates financial aid upon the poorest of the poor—among whom hunger and severe malnutrition are most prevalent;

It retains the principle of self-help but places it on a practical basis;

It insures that those who participate will have a real, rather than an illusionary, opportunity to purchase an adequate diet;

It recognizes that supportive food and nutrition education is a critical element in the total program to improve national dietary standards;

It properly places upon States the responsibility for insuring that the needy—wherever they reside—should have access to a food assistance program; and

Finally, it recognizes that food programs should not be planned and operated in isolation from other social welfare programs. In fact, it looks forward to the time when special food programs no longer may be necessary.

I urge my colleagues to carefully review the provisions of this bill. I am confident that they will find it a carefully developed and practical approach. It promises not more than it can deliver.

The food stamp program is now operating in nearly 1,500 areas throughout the country. It is benefiting more than 3 million people. But even more needy people in those nearly 1,500 areas should be utilizing it. The bill I am sponsoring will eliminate some of the unnecessary barriers to participation. It will permit more of our neediest people to invest, according to their means, in an opportunity for improved family nutrition.

The President has not asked simply for more money for food stamps. He has wisely placed first emphasis on developing a sounder, more effective food stamp program.

In the past 2 years, there has been dramatic new evidence of the social costs of poor diets, especially among the young. With the bill I am today introducing, the Congress has the opportunity to move to eliminate those social costs in a country where its abundance of food is its greatest national resource.

The bill and section-by-section analysis follow:

H.R. 12223

A bill to amend the Food Stamp Act of 1964, as amended

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 2 of the Food Stamp Act of 1964, is amended to read as follows:

"It is hereby declared to be the policy of Congress, in order to promote the general welfare, that the Nation's abundance of food should be utilized cooperatively by the States, the Federal Government, local governmental

units, and other agencies to safeguard the health and well-being of the Nation's population and raise levels of nutrition among low-income households. The Congress hereby finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households. The Congress further finds that increased utilization of foods in establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of our agricultural abundances and will strengthen our agricultural economy, as well as result in more orderly marketing and distribution of food. To alleviate such hunger and malnutrition, a food stamp program is herein authorized which will permit low-income households to purchase a nutritionally adequate diet through normal channels of trade."

SEC. 2. Subsections (a) and (b) of Section 4 of the Food Stamp Act of 1964, as amended, are amended to read as follows:

"(a) The Secretary is authorized to formulate and administer a food stamp program under which, at the request of the State agency, eligible households within the State shall be provided with an opportunity to obtain a nutritionally adequate diet through the issuance to them of a coupon allotment which shall have a greater monetary value than the charge to be paid for such allotment by eligible households. The coupons so received by such households shall be used only to purchase food from retail food stores which have been approved for participation in the food stamp program. Coupons issued and used as provided in this Act shall be redeemable at face value by the Secretary through the facilities of the Treasury of the United States.

"(b) In areas where the food stamp program is in operation, there shall be no distribution of federally donated foods to households under the authority of any other law except that distribution thereunder may be made: (1) during temporary emergency situations when the Secretary determines that commercial channels of food distribution have been disrupted because of a disaster; (2) on request of the State agency, for such period of time as the Secretary determines necessary, to effect an orderly transition in an area in which the distribution of federally donated foods to households is being replaced by a food stamp program; or (3) on request of the State agency if the State agrees to finance, from funds available to the State or political subdivisions thereof, all of the costs, subsequent to the delivery of such foods within the State, of handling, storing, and issuing federally donated food to eligible households in the area."

SEC. 3. Section 5 of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"(a) Except for the temporary participation of households that are victims of a disaster as provided in subsection (b) of this section, participation in the food stamp program shall be limited to those households whose income and other financial resources are determined to be substantial limiting factors in permitting them to purchase a nutritionally adequate diet.

"(b) The Secretary, in consultation with the Secretary of Health, Education and Welfare, shall establish uniform national standards of eligibility for participation by households in the food stamp program and no plan of operation submitted by a State agency shall be approved unless the standards of eligibility meet those established by the Secretary. The standards established by the Secretary, at a minimum, shall prescribe the amounts of household income and other financial resources to be used as criteria of eligibility: *Provided*, That the Secretary may also establish temporary emergency standards of eligibility, without regard to income and other financial resources, for households that are victims of a disaster which disrupted commercial channels of food distribution when he determines that such households are in need of temporary food assistance, and that commercial channels of food distribution have again become available to meet the temporary food needs of such households."

SEC. 4. Subsections (a) and (b) of Section 7 of the Food Stamp Act of 1964, as amended, are amended to read as follows:

"(a) The face value of the coupon allotment which State agencies shall be authorized to issue to any households certified as eligible to participate in the food stamp program shall be in such amount as the Secretary determines to be the cost of a nutritionally adequate diet.

"(b) The maximum amount which State agencies shall be authorized to charge any eligible household for the coupon allotment issued to it shall not exceed 30 per centum of the household's income: *Provided*, That coupon allotments may be issued without charge to households with little or no income or other financial resources under standards of eligibility prescribed by the Secretary."

SEC. 5. Subsection (e) of Section 10 of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"The State agency of each State desiring to participate in the food stamp program shall submit for approval a plan of operation specifying the manner in which such program will be conducted within the State, the political subdivisions within the State in which the State desires to conduct the program, and the effective dates of participation by each such political subdivision. In addition, such plan of operation shall provide, among such other provisions as may by regulations be required, the following: (1) the specific standards to be used in determining the eligibility of applicant households; (2) that the State agency shall undertake the certification of applicant households in accordance with the general procedures and personnel standards used by them in the certification of applicants for benefits under the federally aided public assistance programs; (3) safeguards which restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the provisions of this Act or the regulations issued pursuant to this Act; (4) for the submission of such reports and other information as from time to time may be required; (5) that the State agency shall undertake effective action, including the use of services provided by other federally funded agencies and organizations, to inform low-income households concerning the availability and benefits of the food stamp program and ensure the participation of eligible households; and (6) for the granting of a fair hearing and a prompt determination thereafter to any household aggrieved by the action of a State agency under any provision of its plan of operation as it affects the participation of such household in the food stamp program. Upon the joint approval of the Secretary and the Secretary of Health, Education, and Welfare the State plan may provide for withholding the amount to be paid by a household for its coupon allotment from any payment made by the State agency to such household under a federally aided public assistance program, if such withholding is authorized by such household. In approving the participation of the subdivisions requested by each State in its plan of operation, the Secretary shall provide for an equitable and orderly expansion among the several States in accordance with their relative need and readiness to meet their requested effective dates of participation."

SEC. 6. Subsection (b) of Section 15 of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"(b) The Secretary is authorized to pay to each State agency an amount equal to 50 per centum of the sum of: (1) the direct salary, travel, and travel-related cost (including such fringe benefits as are normally paid) of personnel, including the immediate supervisors of such personnel, for such time as they are employed in taking the action required under the provisions of subsection 10(e)(5) of this Act and in making certification determinations for households other than those which consist solely of recipients of welfare assistance; (2) the direct salary, travel, and travel-related costs (including such fringe benefits as are normally paid) of personnel for such time as they are employed as hearing officials under section 10(e) of the Act; and (3) an amount equal to 25 per centum of the cost computed under (1) and (2)."

SEC. 7. Section 16(a) of the Food Stamp Act of 1964, as amended, is amended to read as follows:

"To carry out the provisions of this Act, there is hereby authorized to be appropriated not in excess of $315,000,000 for the fiscal year ending June 30, 1969, $610,000,000 for the fiscal year ending June 30, 1970, such sums as the Congress may appropriate for the fiscal years ending June 30, 1971, June 30, 1972 and June 30, 1973, and not in excess of such sum as may hereafter be authorized by Congress for any subsequent fiscal year. Sums appropriated under this section shall, notwithstanding the provisions of any other law, continue to remain available for the purposes of this Act until expended. Such portion of any such appropriation as may be required to pay for the value of the coupon allotments issued to eligible households which is in excess of the charges paid by such households for such allotments shall be transferred to and made a part of the separate account created under section 7(d) of this Act. This Act shall be carried out only with funds appropriated from the general fund of the Treasury for that specific purpose and in no event shall it be carried out with funds derived from permanent appropriations."

SEC. 8. State plans of operation approved by the Secretary of Agriculture under the Food Stamp Act of 1964, as amended, prior to the date of the enactment of amendments thereto by this Act shall continue in effect until such plans are changed to accord with such amendments: *Provided*, That no such previously approved plan shall remain unchanged for more than 180 days after the enactment of such amendments.

SEC. 9. (a) Notwithstanding any other provision of law, the Secretary of Agriculture, after June 30, 1970, shall not approve, or continue the approval of, the participation of any State in the food stamp program or the program for the distribution of federally donated foods to households unless the State makes provision for the operation of one of such programs in each political subdivision within such State: *Provided*, That the Secretary of Agriculture may extend the period for compliance with this section to June 30, 1971, upon notification by the Governor of any State that State legislative action is required to provide authority or funds to meet the requirements of this section and that the legislature of such State will not convene in regular session between the date of enactment of this Act and June 30, 1970: *Provided further*, That federally donated foods may be made available, under terms and conditions prescribed by the Secretary of Agriculture, to meet temporary emergency food needs of disaster victims of those States not approved in accordance with this section for participation in the food stamp program or the program for the distribution of federally donated foods to households.

(b) In making provision in accordance with subsection (a) of the section for operation of a food stamp program in any political subdivision, the State shall provide for the distribution of federally donated food to households in such political subdivision until the request by the State agency for the food stamp program in such political subdivision has been approved by the Secre-

tary of Agriculture in accordance with the requirements of section 10(e) of the Food Stamp Act of 1964, as amended, relating to the equitable and orderly expansion of the food stamp program among the several States.

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section of the bill amends section 2 of the Food Stamp Act of 1964, as amended.

While retaining the original policy of the Act that the Nation's abundance of food should be utilized to raise levels of nutrition among low-income households, the amendment changes the Declaration of Policy to reflect the finding of Congress that the limited food purchasing power of low-income households contributes to hunger and malnutrition. It also changes the current general purpose of the Act from that of "raising levels of nutrition" to that of enabling eligible households "to purchase a nutritionally adequate diet".

SECTION 2

This section of the bill revises subsections (a) and (b) of section 4 of the Act.

Subsection 4(a) of the Act sets forth a general description of the food stamp program authorized by the Act. The proposed amendment, by deleting the words "more nearly" from the first sentence of the subsection, will authorize the Secretary to formulate and administer a food stamp program which will provide eligible households with an opportunity to obtain a nutritionally adequate diet, rather than one which merely approaches this goal. Other provisions of the subsection remain unchanged.

The revisions in subsection 4(b) continue current authorities to temporarily operate a commodity distribution program in a food stamp area where a natural or other disaster disrupts commercial food distribution channels. The subsection contemplates that, in the event of such a disaster, federally donated commodities may be used to assist in mass feeding of households that are victims of the disaster and, when necessary, for distribution to individual households in the immediate aftermath of such a disaster until commercial food distribution facilities are again operating and the households have access to them.

In some disaster situations, commercial food distribution channels may become operative and available in some sections of a food stamp area before they are available in others. Therefore, revisions are also proposed in section 5 of the Act to authorize temporary food assistance through the food stamp program to households that are victims of a disaster, if and when such action is feasible. Thus, flexibility is provided in making the most effective use of Federal resources to provide emergency food assistance to households when disasters disrupt commercial food distribution facilities or prevent disaster victims from temporary access to such facilities.

The bill also amends subsection 4(b) to authorize the simultaneous operation of both the food stamp and commodity distribution programs in the same political subdivision in other than temporary situations caused by natural or other disasters when commercial food distribution facilities are disrupted. At the request of the State agency, such simultaneous operations can be authorized during the period deemed necessary (the initial months) to effect an orderly transition from the Commodity Distribution Program to the Food Stamp Program. During such a transition period, Federal payments would be available to help finance within-State administrative costs to the same extent such Federal payments are now, or may be, authorized under each of the two programs. If the State agency requests simultaneous operation for a period of time beyond that deemed necessary for an orderly transition to a stamp program, or if the State agency wishes to institute the Commodity Distribution Program in an existing food stamp area, the full cost of handling and issuing the commodities in the food stamp area would be at the expense of the State agency or the local government unit.

SECTION 3

This section of the bill revises section 5 of the Act.

The proposed amendment retains the concept that the food stamp program shall be limited to households whose income and resources are substantial limiting factors in the attainment of a nutritionally adequate diet. However, unlike the current Act which provides that maximum income limitations shall be consistent with those used by the State agency in the administration of its federally aided public assistance programs, the amendment directs the Secretary of Agriculture, in consultation with the Secretary of Health, Education and Welfare, to establish, from time to time, new uniform national standards of eligibility. At a minimum, these new uniform standards will include the amounts of income and other financial resources to be used as eligibility criteria for households of various sizes. The Secretary would also be authorized to establish eligibility standards to meet the temporary food needs of households through the food stamp program when such households have been victims of disasters which have disrupted commercial food distribution facilities if such facilities have again become available to meet these temporary needs.

SECTION 4

This section of the bill revises section 7 of the Act.

Subsection 7(a) of the Act would be amended to provide that the value of the total coupon allotment to be issued to eligible households will be equal to the cost of a nutritionally adequate diet, as determined by the Secretary.

Subsection 7(b) of the Act also would be changed to provide a new basis for determining the charges to be made (the purchase requirements) for coupon allotments. Unlike the present Act, which provides that households shall be charged an amount determined to be equivalent to their normal expenditures for food, the proposed amendment directs the Secretary to limit such charges to an amount not in excess of 30 percent of income.

Under the revised language it is intended that an increasing percentage of income will be charged as the income of the household increases but that no household will be charged more than the maximum of 30 percent of its income specified in the amendment. Compared with the current level of coupon charges, the revised system would provide relatively larger reductions in coupon charges for those eligible households with the lowest incomes, among whom the incidence of hunger and serious malnutrition is considered to be most prevalent.

The revised language of subsection 7(b) of the Act also authorizes the issuance of coupon allotments without charge to households with little or no income, under standards of eligibility determined by the Secretary. It is expected that, currently, these income standards of eligibility for free coupons will be set at a level of about $30 in monthly income for a household of four members.

SECTION 5

This section of the bill revises subsection 10(e) of the Act.

While retaining all of the existing minimum provisions to be included in the plan of operation to be submitted by a State agency which desires to participate in the program, the proposed amendment adds two new requirements, as well as language which will permit households to authorize the withholding of coupon purchase requirements from their public assistance payments.

New language added by the amendment would place a positive responsibility upon the State agency to take effective action to inform low-income people about the program and to encourage the participation of eligible households. In undertaking such outreach actions, the State agency would be required to utilize the resources of other federally funded agencies such as those financed under the Economic Opportunity Act, as amended.

State plans of operation also would be required to include provisions under which the State agencies will grant fair hearings to households aggrieved by action of the State agencies.

The revised language also provides that, with the approval of the Secretary of Agriculture and the Secretary of Health, Education and Welfare, a State agency may establish a system under which a food stamp household may elect to have its charge for the coupon allotment withheld from its public assistance check. The State agency could then automatically mail the monthly coupon allotment to certified public assistance households. State agencies may now issue coupons by mail but households must remit coupon charges to the State agency each month before the coupons can be mailed.

SECTION 6

This section revises subsection 15(b) of the Act.

The revised language will continue to provide for Federal payments to assist States in the costs they incur in the certification of non-welfare households. Federal payments now are available to pay a portion of the salary and travel costs of merit system caseworkers (and their immediate supervisors) used to make certification determinations in the local counterpart offices of the State welfare agency. The new language will provide Federal payments to assist States in the salary and travel costs incurred by personnel who undertake the outreach actions required under the new subsection 10(e)(5) and those who act as hearing officials under the new requirement for a State fair hearing procedure. It is deemed to be in the interest of the program to recognize the additional costs to States in insuring that there is a prompt and equitable system under which households can appeal State and local decisions concerning their program eligibility or basis of participation.

SECTION 7

This section of the bill revises subsection 16(a) of the Act.

The proposed amendment provides for appropriation authorities for the program through the fiscal year 1973. It also authorizes any portion of the sums appropriated for any fiscal year which are not expended in that fiscal year to remain available until expended.

SECTION 8

This section of the bill does not amend the Food Stamp Act of 1964, as amended. It provides for a period, not to exceed six months, in which existing State plans of operation may remain in effect while changes required in the plans by the proposed amendments are being made by the State agencies and the Federal Government. It is expected that State agencies will be able to carry out some changes in their plans of operation before others. In such cases these changes can be put into effect as soon as they have been approved in accordance with the provisions of section 10 of the Act.

SECTION 9

This section of the bill does not amend the Food Stamp Act of 1964, as amended.

Section 9 establishes a new requirement that each State shall provide for the operation of a food stamp or commodity distribution program in each of its political sub-

divisions if USDA food assistance is to be supplied to any of its low-income households. States will have until June 30, 1970, to meet the requirements of this section, or until June 30, 1971, if the Governor of any State notifies the Secretary of Agriculture that State legislative action is necessary to enable the State to meet this requirement and that the State Legislature will not convene in regular session by June 30, 1970. In the meantime, the Department will continue its plan to use all available alternatives to insure that every county will be committed to the operation of a USDA family food program by June 30, 1970.

However, the failure of a State to elect to participate in such USDA food programs will not preclude the continued use of federally donated foods to meet the emergency food needs of victims of natural or similar disasters in such a State.

It is contemplated that, over the period of the next few years, the Food Stamp Program will progressively replace the Commodity Distribution Program for households. Section 10(e) of the Food Stamp Act of 1964 authorizes the Secretary of Agriculture to approve new areas for the Food Stamp Program under a plan which, among other things, provides for the equitable and orderly expansion of the program among the several States. In the event that the sum appropriated for the program in any fiscal year is not sufficient to approve all new areas requesting participation, States will be required to operate a Commodity Distribution Program for households in such areas until their participation in the Food Stamp Program can be approved.

A NEW ANTITRUST POLICY?

(Mr. TIERNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. TIERNAN. Mr. Speaker, a great deal of controversy has been generated recently by what appears to be the beginning of a new antitrust policy.

I have been following the various statements being made by the Justice Department and have been equally interested in the reaction of the business community to these pronouncements.

A news dispatch yesterday, however, prompts me to comment on the subject.

I am referring to a story quoting Richard McLaren, the Assistant Attorney General for Antitrust, as saying that he is waging his antimerger war against U.S. business to head off a demand for antimonopoly legislation.

This statement seems to me to lack a basis of fact and, furthermore, expresses a rather odd view of the role of the Justice Department.

I know of no great clamor for antimonopoly legislation.

The Congress has been concerned lately with the social and economic impact of business concentration and possible effects of the current conglomerate trend.

But, as the legislative body of the Government charged with making the laws of the country, we are proceeding in a manner far more judicious and certainly more reasonable than the course apparently being taken by the Attorney General and his staff.

We are, as we should be doing, setting out to get the facts about the situation—facts to determine what, if any, course of action is called for and facts to assure that if legislation is necessary, the legislation will pinpoint a solution to the specific problem.

This approach seems to me far better than a shotgun technique of stopping all mergers.

The distinguished chairman of the House Judiciary Committee has scheduled hearings to examine the facts of economic concentration.

The House Ways and Means Committee is already considering legislation to pinpoint a solution to one aspect of the problem—the issuance of debt paper or "funny money" in acquisitions.

We also are awaiting the results of indepth studies of economic concentration and mergers now being conducted by the Federal Trade Commission.

The formulation of new law is Congress' role, and it is best equipped to do it.

It is the Justice Department's role to carry out and safeguard existing law.

It is not, as Mr. McLaren has stated, to "head off a demand for legislation."

If the Justice Department believes the current situation calls for stricter statutes, then let them come to us with their suggestions.

I am sure all Members of Congress would welcome their views and would give them the consideration they deserve—but only after full and complete hearings.

Along that line, I was interested to note that Mr. McLaren says that everyone of his cases is based on "solid, well-defined principles which the Supreme Court has applied in prior cases involving threats to competition."

This seems to be in contradiction to what he said during his confirmation hearing.

If my memory serves me, when asked by a Member of the Senate whether section 7 of the Clayton Act would reach conglomerates, he replied that he was not certain it did.

Since there has been no major cases decided since he took office, I am at a loss to know where all of these "well-defined principles" came from all of a sudden.

I do not mean to engage in a semantic debate, however, my real concern is that the Justice Department is on its own, breaking new and dangerous antitrust ground without the benefit of facts and the wisdom and scrutiny of Congress.

I was deeply disturbed to read the news reports of a speech made by Attorney General Mitchell in recent weeks in which he enunciated new and far-reaching policy with regard to mergers.

In that pronouncement, tantamount to an administrative fiat, he stated that the Justice Department intends to oppose any merger among the top 200 manufacturing firms or between any of the top 200 and any leading producer in any concentrated industry.

What bothers me about that statement is that it can be interpreted in no other way than a clear-cut attack on bigness.

There is no statute on the books that makes bigness illegal.

The "bigness is bad" philosophy has been rebuffed over and over by the courts.

Bigness is not, nor has it ever been a test for possible antitrust action.

Certainly, if bigness leads to some malpractice in the market, then there is plenty of law to take care of it.

What is even more bewildering to me is that the Attorney General and his staff have embarked upon this road in the face of expert advice to the contrary.

Within the last month, the reports of two separate task forces, one under Democratic sponsorship and one authorized by President Nixon himself have cautioned the Justice Department against such a drastic course of action.

The Nixon Task Force on Productivity attempted to draw some sound ground rules for establishing antitrust policy for the new administration.

That group, made up of educators and businessmen who are experts on the subject, stated clearly that the Justice Department should not take antitrust action against large diversified companies on the basis of "nebulous fears about size and economic power." The report also agreed that any antitrust policy should have benefit of the facts of the problem, as I suggested earlier.

It recommended calling semipublic conferences to study new guidelines for enforcement.

And yet, within weeks after the recommendations of the report became known, the Attorney General set forth his new policy.

And it seems clear that he did so on the basis of "nebulous fears about size and economic power," and in spite of the Nixon report warning that "vigorous action on the basis of our present knowledge is indefensible."

Mr. Mitchell's action also is inconsistent with the recently released Neal report.

This group, named by President Johnson, spent months studying the current scene with relation to a proper Government antitrust posture.

In its conclusions, it clearly stated that antimerger attacks on large companies using the Clayton Act would have to be through "a contrived interpretation."

In view of the findings of these two distinguished bodies, I doubt, not only the wisdom of Mr. Mitchell's action, but I sincerely question its legality.

Mr. Mitchell's recent sweeping edict could very well do irreparable harm to business and the economy.

His threat to oppose all mergers of the Nation's top 200 companies could stifle business development.

It is the duty of Congress to examine the situation and it is well prepared to do so.

But our determinations will be worth nothing if, in the meantime, the Justice Department persists in legislating by edict.

I would propose, therefore, that the Justice Department withhold any further actions until Congress has had an opportunity to perform its factfinding chores as it has set out to do.

Through this logical approach, we can be certain that all of the relevant information is examined and, if legislation is needed, it will be fashioned to fit the need.

INCREASE OLD-AGE BENEFITS UNDER SOCIAL SECURITY

(Mr. SKUBITZ asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, today I am introducing a bill which would increase social security benefits under the old age, survivors, and disability insurance program by an average of 8 percent. In addition, it provides for an automatic adjustment of benefits to increases in the cost of living.

The bill, if enacted, would raise the minimum social security benefits from $55 to $80 and would create an actual percentage increase ranging from 45.4 percent for those recipients at the lowest level to 5.6 percent for those at the highest benefit level. The people who would be assisted most from such a change are those at the lowest end of the scale and have the greatest need for increases in their social security payments.

In addition to the present need for greater benefits the rising cost of living will make further increases necessary in the future. Consequently, to avoid the necessity of additional legislation, this bill provides for benefits to automatically increase as the cost-of-living index rises. This would be on a percentage basis applying equally to all benefit levels.

To finance such legislation, this bill authorizes a contribution from general funds for the amount of the increased benefits. These would be benefits over and above what the recipients previously contributed to social security. The responsibility for taking up the slack in benefits belongs to all of society and should be financed by all segments of our economy—not just those persons paying into the social security fund.

Often, our elderly citizens must suffer because of meager incomes, and every rise in the cost of living increases their plight, for this burden hits hardest at those who live on a fixed income. If enacted, this bill would immediately raise the benefit payments to the elderly and would not allow the cost of living to destroy these gains by reducing their purchasing power. Thus, the present and expected future problems of social security recipients can be substantially relieved.

SCUTTLING TAX REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. SAYLOR) is recognized for 10 minutes.

Mr. SAYLOR. Mr. Speaker, yesterday, calling a spade a spade, the New York Times editorially spoke of the dilemma concerning extension of the surtax and its effect on the promised tax reform. I sincerely hope the administration is not planning to abandon tax reform, as intimated in the editorial. Such action would be worse than foolish. The editorial talks about "sweeteners," but I submit that the people to be "sweetened" are those carrying the heaviest load of taxes now—the middle-income taxpayers.

The long-suffering, middle-income taxpayer has been promised tax reform this year from every conceivable source. That same taxpayer is not, in my opinion, in the mood to have his justifiable expectations for a meaningful tax reform trifled with. Tax reform means tax relief to the middle-income taxpayer and extension of the surtax is no "tax relief" by any stretch of the imagination.

The editorial suggests a "safe" course in the temporary extension of the surtax while the Ways and Means Committee "hammers" out a tax reform bill. That seems to me to be putting the cart before the horse. The surtax was imprudently enacted last year as a "temporary" measure—to let it die its natural and legal death on June 30 would seem the "safest" course. Unfortunately, what seems to be in the wind now is an extension of the surtax, followed by a "tax reform," which will leave the middle-income taxpayer in the exact place he started.

The American taxpayer is not going to be fooled by such shenanigans. I predict that unless we let the surtax die its deserved death and enact a meaningful tax reform, we could end up with a taxpayer's revolt that could make the revolt of the college cowards seem pale by comparison.

The editorial follows:

[From the New York Times, June 16, 1969]

SCUTTLING TAX REFORM

Politics is full of paradox. At one moment the Administration warns the country that economic disaster will ensue if the income tax surtax is not extended beyond its June 30 expiration date. But at another, it places that very surtax in jeopardy by abandoning any serious efforts to close the more notorious loopholes in the tax law. The White House is apparently convinced that it can turn its back on tax reform and still push the surtax through Congress. It stands a good chance, however, of becoming the victim of an embarrassing miscalculation.

The precise nature of the agreement reached between the President and the Democratic leadership of the House will not be known until the Ways and Means Committee reports out a bill. But it is almost certain to embrace two "sweeteners." The first is a special low-income allowance that would remove from the income tax rolls about two million families now living at or below the poverty-line. It is a desirable reform, but because of the small liabilities that are involved, does little to lighten the total tax burden on the working poor.

The other "sweetener" is a loophole-opener rather than a reform. It would exempt aircraft, railroad box cars, and equipment outlays by small business from the proposed repeal of the 7 per cent investment tax credit. The revenue loss to the Treasury would amount to about $1 billion without corresponding benefits to society.

Aside from the low income allowance, the measure being readied by Ways and Means is bereft of reforms. The oil depletion allowances, the escapes from taxes on capital gains, the gift loopholes, the tax-free bonds—all of the abuses that shake the public's confidence in Congress would remain.

If abandonment of tax reform had no effect on the prospect of extending the surtax, the White House agreement with the Congressional leaders might be written off as a triumph of expediency over principle. But that is not necessarily the case. It appears doubtful now that the surtax can be carried on the floor of the House without support of liberal Democrats and Republicans. And the House liberals, already offended by the Administration's refusal to cut defense expenditures and reallocate funds to social programs, are cool toward a bill that perpetuates tax inequities. Indeed, tax reform and fiscal responsibility may prove to be inseparable issues.

The safest and most principled course of action is one that the White House rejects: to let Congress temporarily extend the surtax while it hammers out a bill for long overdue tax reforms.

BASEBALL HAS DUAL STANDARDS; ONE FOR STARS, ANOTHER FOR "OTHER GUYS"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. PIRNIE) is recognized for 5 minutes.

Mr. PIRNIE. Mr. Speaker, those of us who share a deep interest in the great game of baseball have had a good deal to talk about this year. Unfortunately, far too many of our conversations have been centered on controversies involving organized baseball and its personnel.

I have had a particular interest in the subject because of my involvement in the pursuit of justice for former American League umpires Al Salerno and Bill Valentine. In this effort I have been joined by Senator GOODELL and in recent weeks our fight for the rights of the two umpires has been gaining momentum. Hardly a day goes by without receiving inquiries and expressions of concern regarding the cavalier manner in which Salerno and Valentine were dismissed for attempting to organize their colleagues in the formation of an American League Umpires Association.

With so many major problems facing the Congress and the American people it has been impossible for Senator GOODELL and me to devote to the umpires' case as much time as we would have liked. There are simply too many other priority items. However, we have not given up because we remain convinced of the merits of our cause, and when given the opportunity we do our best to tell the story to others with the hope that in return we will receive their pledge of support. Our batting average is high—we have been able to make personal presentations to several of our colleagues and their response has been most encouraging. Basically, they have said "the cause is just, keep up the fight and count me in." As of today, we have received 17 such pledges of support, and I am pleased to list those who have become identified with our effort:

Senator JACOB K. JAVITS and Representatives JONATHAN B. BINGHAM of New York, JOHN R. DELLENBACK, of Oregon, HAMILTON FISH, JR., of New York, SEYMOUR HALPERN, of New York, JAMES M. HANLEY, of New York, RICHARD D. MCCARTHY, of New York, JOSEPH M. MCDADE, of Pennsylvania, MARTIN B. MCKNEALLY, of New York, DAVID R. OBEY, of Wisconsin, ARNOLD OLSEN, of Montana, ADAM C. POWELL, of New York, HOWARD W. ROBISON, of New York, DAN ROSTENKOWSKI, of Illinois, HENRY P. SMITH III, of New York, MORRIS K. UDALL, of Arizona, and CLEMENT J. ZABLOCKI, of Wisconsin.

Of course, we are continuing the battle and will do all we can to enlist additional support. If any of my colleagues require further information on the case, I hope they will not hesitate to contact me; my files are packed with factual reports to document the contention that Salerno

and Valentine were unjustly fired and deserve to be reinstated.

Before concluding, I wish to call my colleagues' attention to a revealing article by Francis Stann of the Washington Evening Star. In his Friday, June 13, column, Mr. Stann commented on some of the baseball controversies referred to in my introductory statement. I quite agree with the veteran sports writer's observation that baseball players have made headlines this year as a result of their off-the-field activities, and those in authority—the so-called "establishment"—have bent over backward to accommodate those who play for pay.

I refer to Mr. Stann's column not because of a desire to question the manner in which the various cases mentioned were resolved but only to ask why there is in baseball a dual standard for the treatment of players and the other personnel so necessary to the game. Everyone, from the team general manager to the commissioner gets into the act when a threat of retirement is issued by a player unhappy with the way he is being handled. We have even seen, in the case of Ken Harrelson, a summit meeting in the commissioner's office to work out an arrangement satisfactory to all interested parties, especially the player.

I do not wish to take anything away from Harrelson, as a matter of fact I think the "Hawk" is a most colorful player. However, is it right for baseball to have one standard for a home-run hitter and another for umpires. It is fine to be concerned about the rights of the men who bring the fans to the game. What about the rights of the men who are essential if the game is to be played—the umpires? Athletes are sensitive human beings and their feelings should be considered. The same applies to umpires. Discrimination, which so long was evident in major league baseball, continues. It no longer is the color of a man's skin that is a factor—and thank goodness for this progress—but rather the cut and color of his uniform.

We have been concerned about umpires Salerno and Valentine for a long time, since September, 1968. We remain concerned and will continue to do what we can for these two men because we sincerely believe their cause is just. Hopefully, baseball officials will eventually see the light and take action to rectify the situation to prove to all interested parties that whether an individual is a .300 hitter, a guy who warms the bench, or "just umpires" as Salerno and Valentine have been designated, his rights are protected and he is treated in a fair and equitable fashion. Baseball is the American game and that is the American way:

ATHLETES CALL THE TUNE FOR THE ESTABLISHMENT

(By Francis Stann)

All that remains now to complete the rout of the Establishment in sports is for Pete Rozelle to welcome Joe Namath back to pro football and allow him to retain his notorious gin mill, too.

This is the day of athletes calling the shots. Consider, if you please, the case of Maury Wills, who quit the Montreal Expos, announcing his retirement, and 24 hours later unretired. He can swear on a stack of Spink record books that it wasn't with the stipulation that he be traded—and to what club—and nobody will believe him.

Instead, children and even adults are bound to imagine a dialogue between Maury and Expo president John McHale that went something like this:

McHale: "I know the Expos aren't going anywhere except down, Maury. But these are expansion years. It's no time to retire. It's got to cost you and it leaves us a body short."

Wills (poker faced): "You may have a point, John. Like I said at my press conference I'm not helping the Expos. The fans are booing me. But . . ."

McHale: "Look, you've been around the block. I can talk to you. Have you given any thought to unretiring if we trade you?"

Wills: "John, you know I'm kinda tired and all. I'm 36 years old. Baseball hasn't been much fun lately. Did you have any particular team in mind if you swing a deal?"

McHale: "Well, if you unretire I might have a talk with the Dodgers. Those fun days you mentioned, they were spent in Los Angeles, weren't they? Four pennants, National League's most valuable player, movie stars and stuff . . ."

Wills: "Now that you mention it, I did like L.A. I guess if you got on the horn and they want me back, I could unretire. I might even help them win a division, although it never crossed my mind until now."

McHale: "I'll bet. Well, I'll check with you in a day or so."

Wills (humming softly as he exits): "My heart belongs to the Dodgers."

And so the Expos, instead of being shy a body, wound up a three-way deal with the Dodgers and Cubs by adding two bodies—Ron Fairly and Adolpho Phillips—plus a pitcher optioned to the minors.

And Wills got his way.

Earlier in the season Ken Harrelson called a tune and made the Establishment dance. When the Hawk was traded from the Red Sox to Cleveland as the key figure in a six-player deal he protested, "Gosh, no, I won't go." And he didn't for about four or five days, causing all sorts of consternation.

For perhaps the first time in history a club president (Cleveland's), a general manager (Boston's) and Baseball Commissioner Bowie Kuhn met to coax Harrelson out of his petulant "retirement." It was on this occasion that Kuhn uttered his immortal words, "It would be a tragedy for baseball if Harrelson retired."

Harrelson vowed that if he were shipped from the Boston area it would cost him as much as $750,000 from various enterprises, but, of course, he also unretired, just as everybody, except the very naive, knew he would. But he forced the Establishment to perform a jig and, for all anybody knows, he may have succeeded in receiving a salary adjustment.

Meanwhile, back on the pro football front, no progress has been reported in the O. J. Simpson-Buffalo Bills stalemate. O. J. hasn't encountered a pro line yet but he wants the kind of money the likes of even Namath didn't command.

It is getting close to training time for the football Hessians and owner Ralph Wilson of the Bills hasn't seen his way to yield or even effect a compromise with Simpson. Wilson is on the horns of dilemma. He has a pretty sad football team—1-12-1 last year—and without Simpson it has no box-office draw.

On the other hand, just one player, regardless of his skills, isn't apt to move up the Bills.

Simpson had a suggestion for Wilson. "Trade me," O. J. has invited.

"I might have to," Wilson has told confidants.

Everybody knows where Simpson would like to play—on the West Coast or in New York, where the off-the-field action and money are. O. J. fancies himself a movie actor. So does Namath. They are going to grow mustaches and beards to their hearts' content and play tough, horse-riding film heroes, rescuing Raquel Welch like Jim Brown does.

That's what they would like for club-owners and commissioner to think. Not being stupid, themselves, they know deep down that without perpetuation of their athletic reputations their names won't be worth a quarter on marquees or neon gin mill signs in two or three years unless they can act.

On second thought, who've you seen on screens lately who really can?

SPECIAL FLAG FOR FIVE EXPLORERS OF SPACE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. McDONALD) is recognized for 10 minutes.

Mr. McDONALD of Michigan. Mr. Speaker, on July 20 the work of thousands of men and women of many nations will be rewarded when an American astronaut, Neil Armstrong, walks on the surface of the moon.

We will be well on our way to making reality man's age-old dream of conquering the universe.

Such a dream only a few years ago was consigned to the realm of fantasy. If the dream of Columbus was considered ludicrous by an age that believed the world was flat, how much greater was the ridicule heaped on those who dreamed of traveling to other planets.

The creater of Buck Rogers, it now turns out, was only seeing into the future.

On July 20, it will be the moon. In future years, perhaps in terms of decades, it may be Mars, Saturn, and Venus. We have come a long way, and we have come at space-age speed.

We have come to this point because we have had the cooperation of thousands of men and women dedicated to the conquest of space. And this has not been a totally American effort.

Men and women in many other countries have contributed to every one of our space probes whether they have been operators of tracking stations or meteorologists.

Thus, on July 20, their work will be rewarded.

Mr. Speaker, I believe there is a very special way to honor those who have worked so many years in this program.

Two of my constituents, Bruce Thompson and Jim Saile, point out that in the early days of space exploration Russian and American scientists compared their findings. They also note that three American astronauts and two Russian cosmonauts have died in the line of duty.

They suggest that we honor man by placing on the moon alongside our own national flag a specially designed flag bearing the likenesses of these five explorers of space—Yuri Gagarin and Vladimir Komarov, of Russia, and Virgil Grissom, Roger Chaffee, and Edward White of the United States.

Mr. Speaker, the design for this flag is on display in the Speaker's lobby.

I plan to contact the members of the

Senate Aeronautical and Space Sciences Committee urging them to include language in their version of the NASA authorization bill which would permit the implementation of this fine suggestion. I would like to share with you the text of Mr. Thompson's letter:

THOMPSON, HUBERT & SAILE, INC.,
Pontiac, Mich., June 13, 1969.

Hon. JACK MCDONALD,
Washington, D.C.

DEAR JACK: I read in the Pontiac Press of Pontiac, Michigan, an editorial which appeared Wednesday, June 11, 1969, concerning the flag that should be planted by our astronauts on July 20 when man first steps on the moon.

May I make a suggestion?

In the last paragraph the following statement is made, ". . . and let the Star Spangled Banner, God willing, float proudly in the lunar breeze as evidence of man's greatest scientific achievement." Jack, there are six very important words in this statement: God willing—Man's greatest scientific achievement.

It is a known fact that during the early stages of space exploration the Russian and American scientists compared their findings with one another. It is a known fact that the Russian people put the first man in earth orbit. One of their cosmonauts was killed on re-entry from space. Three of our astronauts were killed in preparation and training for space exploration: God willing—Man's greatest scientific achievement.

Let's honor man.

When the astronaut makes the first step on the moon, television cameras will carry this historic feat world wide. With the turmoil, the mistrust, the bickering, the killing etc., not even mentioning our image worldwide, wouldn't it be wonderful if the United States who is Man's representative to the first landing on the moon, recognize man and pay tribute to the men who gave their lives for this purpose.

Jim Saile has designed a flag which we consider worthy of consideration by Congress to be placed on the moon July 20, 1969, along with the Stars and Stripes. I respectfully submit this drawing and design to you in hopes that you will present it to the proper authorities.

As the respected representative of Michigan's 19th District, I can think of no-one I'd rather have present this flag to our Government for consideration of Mans Greatest Scientific Achievement.

Sincerely,

BRUCE L. THOMPSON.

OLD GLORY FIT MOON FLAG

Now that history's first manned moon landing appears imminent, discussion has arisen in Washington as to whether the American astronauts should plant the Stars and Stripes or the United Nation's flag on lunar soil once they have landed.

Some people must be kiddin'!

Can anyone advance a sound reason for not raising the American flag in favor of that of the United Nations after we've spent $25 billion making it possible, and drawn on the resources of an army of Americans made up of scientists, technicians and astronauts?

The U.N. is an organization of 126 nations who've contributed little, at the expense of the U.S., to its own budget that last year amounted to $117 million.

Obviously, Russia is the only nation that had a chance to put a man on the moon before Apollo 11's July mission, and the Reds have all but scratched themselves from this race.

For once, let's think of the United States first, disdain the importunities of starry-eyed do-gooders, and let the Star Spangled Banner, God willing, float proudly in the lunar breeze as evidence of man's greatest scientific achievement.

USE OF MILITARY EQUIPMENT AND PERSONNEL BY PRIVATE INDIVIDUALS AND CORPORATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. WEICKER) is recognized for 5 minutes.

Mr. WEICKER. Mr. Speaker, yesterday I sent a letter to Secretary of Defense Melvin R. Laird which I am simultaneously inserting in the RECORD.

In this letter I ask the Secretary to outline the policy of the present administration in regard to the use of military equipment and personnel by private individuals and corporations.

My question to Secretary Laird was prompted by the use of the aircraft carrier *Yorktown* and five other naval ships as well as naval personnel and equipment by 20th Century Fox in making the motion picture "Tora, Tora, Tora," which portrays the Japanese version of the sneak attack on Pearl Harbor in 1941.

Permission for the use of U.S. Navy ships, personnel, and equipment had been granted by the previous administration.

At this point I am inserting in the RECORD an exchange of correspondence between my office and the office of Secretary of Defense Melvin Laird:

JUNE 16, 1969.

Hon. MELVIN R. LAIRD,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: I am enclosing a copy of my statement relative to the use of the U.S.S. *Yorktown* made on the floor of the United States House of Representatives on June 9, 1969. Even though it is clear that the acts complained of were formulated by the previous Administration, I would greatly appreciate knowing from you as to what the policy of this Administration will be in regards to the use of military equipment and personnel by private individuals and corporations.

In an advertisement dated Monday, June 16, 1969, which appeared in the Washington Post and the New York Times, and signed by Darryl F. Zanuck, President of Twentieth Century-Fox Film Corporation, the following statement is made:

"Tora! Tora! Tora!" is an American-Japanese historical film officially approved by the American Department of Defense as well as the Japanese Department of Defense.

The implication is approval by the Department of Defense under this Administration. I would greatly appreciate, Mr. Secretary, your indicating to me whether such is the case.

Thank you for your attention to this matter.

With kindest regards,

Sincerely,

LOWELL P. WEICKER, Jr.,
Member of Congress.

THE SECRETARY OF DEFENSE,
Washington, D.C., June 17, 1969.

Hon. LOWELL P. WEICKER, Jr.,
House of Representatives,
Washington, D.C.

DEAR LOWELL: This is in response to your letter concerning the use of the carrier U.S.S. *Yorktown* in the filming of the movie "Tora! Tora! Tora!". As you know, the decision to authorize the use of the carrier and other military equipment for the filming of this commercial movie was made late in 1968, prior to the time that I assumed my duties as Secretary of Defense. The fact is that most of the actual filming had been completed when I took office, particularly the scenes aboard the U.S.S. *Yorktown*.

The Defense Department has a directive covering cooperation for film producers and television documentaries. This directive stipulates that assistance will be provided only on a "no interference" basis and with no cost to the taxpayers. You may be certain, regardless of any actions taken in the past, that as Secretary of Defense in this Administration, I shall insist that the provisions of this directive are followed.

In your letter, you asked whether an advertisement signed by Mr. Darryl F. Zanuck might imply that the Department of Defense officially approves this film. I want to emphasize again that all decisions relating to "Tora! Tora! Tora!" were made before the Nixon Administration assumed office on January 20th. As far as I am concerned, I have no basis on which to approve or disapprove this film.

I do have a basis, however, for insisting that cooperation with film producers in future matters of this kind be restricted to situations in which such cooperation can be accomplished without interfering with normal operations and without cost to the government. I intend to see that these criteria are followed during my administration of the Defense Department.

Sincerely,

MELVIN R. LAIRD.

Mr. Speaker, to me it is perfectly clear that Defense Department policy was stretched by members of the previous administration to cater to the best interests of 20th Century Fox and was in flagrant disregard for the best interests of the Navy and the taxpayers of the United States.

I believe that this matter is proper subject for an investigation by Congress, and I again renew my request that the Subcommittee on Military Operations of the Committee on Government Operation take this matter up immediately. The subcommittee chairman has indicated to me today that he has turned my request over to the subcommittee staff for investigation. I believe that this investigation should be conducted in public by members of the subcommittee.

It is also clear that advertising statements by Darryl F. Zanuck, president of 20th Century Fox, in the New York Times and Washington Post, in which he stated:

'Tora, Tora, Tora', is an American Japanese historical film officially approved by the American Department of Defense and the Japanese Department of Defense.

This should not imply that there has been approval of this film by the Department of Defense under the present administration.

Mr. Speaker, I feel that the American public has a right to know the circumstances behind the decision by a previous administration to allow their tax dollars to be used to subsidize this film. However, the American public should know that this administration does not intend to bend policy to politics and that the criteria for using taxpayer's money will be what is in the national interest not Mr. Zanuck's.

THE AMERICAN SOLDIER

(Mr. HALL asked and was given permission to extend his remarks at this point in the RECORD and to include pertinent material.)

Mr. HALL. Mr. Speaker, the Order of Lafayette is an organization made up of officers who served in France during

World War I and/or World War II. Its purpose is to strengthen the traditional friendship of the United States with France. I think we can all agree, that any effort in that direction, by any group should certainly not go unnoticed.

Recently the Order of Lafayette conferred its Freedom Award, given for outstanding patriotism on Maj. Gen. Thomas A. Lane, U.S. Army, retired. General Lane's acceptance speech dealt succinctly with the role of the American soldier in our society.

I insert General Lane's speech at this point in the RECORD:

THE AMERICAN SOLDIER

(An address to the Order of Lafayette by Maj. Gen. Thomas A. Lane, U.S. Army, retired, May 24, 1969)

Mr. Chairman and fellow citizens, I accept with deep gratitude this honor bestowed by The Order of Lafayette. I salute this great patriotic organization which has stood through the years in stalwart service to our American political principles. I speak proudly for the thousands of supporters of Americans for Constitutional Action whom you honor tonight and who year after year give unswerving dedication to our common cause.

Because the Chairman of our Board of Trustees, Admiral Ben Moreell, so recently and eloquently addressed you about the work of Americans for Constitutional Action, I shall not repeat the story this evening. I shall speak instead about another vital issue affecting the welfare of our country, the political role of the soldier in our society.

From time to time I am approached by Americans who ask, "Is there any chance that the military leaders will take charge of the government and rescue us from the disasters which the politicians have contrived?" I answer, "No chance at all. Our military leaders are our strongest supporters of constitutional government."

I think such questions as this reflect a lack of understanding of our political system. It is a misunderstanding widespread among our people and extending even into our military services.

There are two ways to organize government. One is the ancient hierarchical order wherein power is centered in government and administered for the benefit of the people. In this order, the government is sovereign and the people are its wards.

The other way is the American way in which all men are equal. They create government to serve them. The citizen is sovereign and government is his servant.

The hierarchical order represents ancient custom into which we tend to relapse. It tempts leaders with centralized power. It comforts weak citizens with paternalism. It offers defined rank and authority to resolve all questions.

The citizen sovereign has a much more difficult role. He creates a system of law within which citizens may pursue their own interests. He must accept responsibility for the great decisions. He must define and limit government, keeping it his servant lest it become master.

These differences in the organization of the State are reflected in the organization of its military forces. In the hierarchical order, the military forces are one echelon in a chain of authority stemming from the sovereign. The military services have higher authority to which they look for guidance on all matters affecting their organization and operations. Life is relatively simple.

In the American system, life is more complex. No individual holds absolute authority. The President, the Congress, the Courts, all officials hold authority defined in and circumscribed by law. They are to be obeyed and respected only when they act within the law. Therefore, the chain of command is a chain of limited authority and the soldier bears a responsibility for knowing its limits.

I recall the story of a young engineer lieutenant who was building and maintaining fortifications on Corregidor during the nineteen thirties. A new commanding general issued instructions for the construction of new works. The lieutenant respectfully informed the general that the construction he proposed was prohibited by international treaty. The lieutenant said he could do the work only if he received instructions in writing.

Some years ago, I was a colonel directing a construction program controlled by higher headquarters. The local commander had great interest and past experience in the work. There were some difficulties. When a general officer from higher headquarters discussed the relationship with me, I said I fully understood the interest of the local commander and would cooperate in every way but that I could not allow him to interfere in matters which were my direct responsibility under orders of higher headquarters. In the course of the conversation, I assured my superior that I would obey all lawful orders received from the local commanding general. He asked me, "Who is going to decide whether an order is lawful?" I responded, "I am." He seemed surprised and doubtful. I realized then that many officers are not aware of the limited nature of authority in our services.

In the ordinary course of military service, the issue of authority does not arise because our officers are trained to operate within its proper limits. In my long career of service, I never received an unlawful order from a superior. Customs of the service and traditions of command assure a generally correct relationship.

The proper limits of authority and responsibility assume a critical importance for military personnel only in their dealing at top levels of command with the civilian elements of government. At this level the relationships are crucial, not only for military leaders but for our whole government.

At these levels too, questions of authority never arise as long as all officials function within their defined powers. The issue is raised when an official attempts to exercise authority which he does not possess. It is raised also when officials acting within their defined powers adopt policies damaging to the vital interests of the country. What response can a subordinate officer make in these circumstances?

It is my view that all usurpations of authority are injurious to the safety of the nation and must be resisted. No matter how urgent the crisis nor how solicitous the usurper, when the President without authority seizes the steel mills, industry must take him to court and have his action invalidated. Orderly government can be preserved only when usurpation is not tolerated.

The challenge to authority is especially difficult for military men. They have served in a military structure which is necessarily authoritarian and in which relationships are closely controlled by law and custom. In the civilian hierarchy, they encounter widely varying attitudes in the use of authority. If they are not alert, military leaders may make the false assumption that the civilian authority is analogous to command authority and consequently treat the civilian as they would a military superior.

The relationship is in reality quite different. The military leader must realize that he brings to his office a knowledge and experience which the civilian superior does not possess. The military leader must bring his knowledge and experience to bear so that the civilian leader will be guided to decisions which are best for the country. It is not enough merely to make a recommendation and then to abide by the political decision.

Let me give you an example of these relationships in action as they were practiced by an American who, better than any other in this century, knew the proper relationships of military and political authority.

When President Franklin D. Roosevelt took office in 1933, General Douglas MacArthur was Chief of Staff of the Army. In his economy program, the President had a bill before Congress to put half of the officer corps on leave without pay for six months each year, thereby cutting its effective strength in half. General MacArthur explained to the Secretary of War that this bill would effectively destroy the Army because officers placed on furlough would take other jobs and would give up their commissions.

When Secretary Dern was unable to persuade the President to withdraw the bill, General MacArthur obtained an appointment with the President. He presented his case cogently and fluently, but the President was unmoved. They talked for two hours. Finally General MacArthur said he could not condone such injury to the Army and to the country. If the President persisted in his course, the General would leave the service and carry the fight to the people.

General MacArthur left the White House believing that he had surrendered his office. Instead, President Roosevelt withdrew the bill. There was no doubt that he thereafter had heightened respect for General MacArthur.

In the light of this example, I think I can now define the military-political relationship in our society. I start from the foundation stone that we are all citizens of this great Republic. We are all sovereigns sharing responsibility for guiding our ship of state.

When we enter the military service, we submit to authority defined in the Military Code and limit our political activity in ways essential to order in a military organization. But we do not forfeit our citizenship. We accept military discipline as an obligation of higher service than other citizens are required to perform.

Everything we do in the military service must be subordinate to our obligations of citizenship. We can pursue a military career only as long as that career is consonant with the best interest of the country. If therefore we become convinced as General MacArthur did that the policy announced by duly constituted authority is hostile to the vital interests of the country, our obligations of citizenship compel us to withdraw from active service, resume our full political freedom and carry to the people our objections to the unsound policies of the administration.

This is why there cannot be a rebellion in our armed forces. Rebellion is the course of men who can see no other way to save the country. In our society where every man is sovereign, military leaders who would change our political policies have the right and duty to leave the military service and to stand with their fellow citizens in political action. There can be no other honorable course for them.

In opening these remarks, I addressed you as fellow citizens. I want now to say that this is the highest accolade which can be given to any American. All the honors of public life, to include the presidency, are subordinate to it. When a new immigrant takes his oath of citizenship and says, "I am an American", he has joined the sovereign ranks of those who bear in their minds and hearts the ultimate destiny of this great nation. I rejoice tonight to be in the presence of men and women who hold this honor dear.

CLEVELAND SUPPORTS DR. KNOWLES

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, I rise today to express my support for the immediate consideration of Dr. John H.

Knowles for the position of Assistant Secretary of Health, Education, and Welfare.

In late January, Secretary of Health, Education, and Welfare Robert Finch announced that Dr. Knowles was his choice for the important post as the country's chief medical official. Apparently, all that remained was formal announcement of the appointment. But it has not happened yet, and, meanwhile, this important post remains vacant.

Dr. Knowles is undoubtedly one of the best qualified men for this position. In his years as director of the Massachusetts General Hospital, he has displayed expertise in hospital supervision, modern medical techniques, health planning, and scientific research. I have met Dr. Knowles personally, and I can testify that this man, if finally appointed and confirmed, would serve his country with efficiency, dignity, and intelligence.

I offer the following resolution from the Massachusetts House of Representatives as testimony to the qualifications of Dr. Knowles for the position of Assistant Secretary of Health, Education, and Welfare:

RESOLUTION MEMORIALIZING THE PRESIDENT OF THE UNITED STATES TO NOMINATE DR. JOHN H. KNOWLES AS ASSISTANT SECRETARY OF HEALTH, EDUCATION, AND WELFARE, AND THE U.S. SENATE TO CONFIRM SAID APPOINTMENT

Whereas, Dr. John H. Knowles, the distinguished and able General Director of the Massachusetts General Hospital is being mentioned as Assistant Secretary of Health, Education and Welfare; and

Whereas, Dr. Knowles as General Director of the Massachusetts General Hospital, which in 1967 was rated number one in a list of ten of America's best hospitals, is a recognized expert in hospital supervision, medical affairs, health planning and scientific research, all fields which come under the supervision of the Assistant Secretary of Health, Education and Welfare; therefore be it

Resolved, That the Massachusetts House of Representatives respectfully urges the President of the United States to nominate Dr. John H. Knowles as Assistant Secretary of Health, Education and Welfare; and be it further

Resolved, That the Massachusetts House of Representatives respectfully urges the Senate of the United States to confirm said appointment; and be it further

Resolved, That copies of these resolutions be sent forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of the United States Senate and to the members thereof from this Commonwealth and the other New England states.

House of Representatives, adopted, April 28, 1969.

WALLACE C. MILLS,
Clerk.

Attest:

JOHN F. X. DAVOREN,
Secretary of the Commonwealth.

HIGHWAY SAFETY: COMMENTARY NO. 4

(Mr. CLEVELAND asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. CLEVELAND. Mr. Speaker, highway death statistics are one of the ugliest spillover effects of economic growth. The Subcommittee on Roads of the House Public Works Committee recently concluded hearings on the effectiveness of the National Highway Safety Act of 1966. I noticed during the proceedings, that everybody was eager to participate in the safety dialog. But, mere talk does not decrease the number of men, women, and children that are killed each year on our Nation's roads.

As the National Safety Council has so realistically remarked:

The real test is how much safety will actually emerge from all this talk. The answer, for the immediate future, is what it has been for 50 years—only so much as the individual citizen is determined it shall be. The cold-blooded fact is that it may be too late to do anything about the 50,000 people who are going to die this year, and probably those who may die next year, and perhaps even the year after. But, if we insist upon a mandatory program, we may be able to keep more of our parents and our husbands, and wives, and our children, and our friends, and ourselves, alive in the years after that.

This remark was made in 1966. During that year traffic accidents slaughtered 53,041 people. Two years later, in 1968, the death figure had risen to 55,200. This increase of 2,159 may seem like an improvement, if we consider that each year over 2 million new drivers and over 2 million new automobiles are being fed into the traffic stream. But, any way you look at it, 55,000 fatalities represents a tremendous waste of human life and resources. It is not enough to accept the fact that the ratio of deaths to the increase in new drivers and cars, represents a diminution of overall traffic fatalities.

Since January 1961, when the Nation started to keep toll of the grim casualties from Vietnam—now 36,000—over 400,000 persons have been killed in automobile accidents. This is not to mention the untold tragedies of the permanently impaired, both physically and mentally, with loss of limbs and sight, and other disablements, and the awful costs.

It is time to eliminate this senseless slaughter; and the best way is to renew our commitment to highway safety.

MASS TRANSIT BEFORE AIRPORTS

(Mr. KOCH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. KOCH. Mr. Speaker, I would like to direct your attention for a moment to the plan the President submitted yesterday for airport and airways improvement. While I support the President's efforts to improve air travel, I am surprised that an airport plan should be announced before any statement has been made by him on mass transit. When I met with Secretary Volpe during the last week in May, I was assured that mass transit had been given top priority by his Department.

I agree that airports must be improved. I use the airlines every week and I will support the President's proposal. But, every day tens of millions of people use inadequate mass transit. The President should hasten to indicate that he agrees with Secretary Volpe and that his priorities place mass transit before air travel. I urge that he submit a mass transit proposal just as soon as possible so that the Congress can move on in working on this matter of top priority.

I have submitted a bill, one which now has 74 cosponsors, to provide $10 billion for mass transit capital improvements over the next 4 years. And, I have been in communication with municipalities all over the country about their mass transit needs and the financial assistance they must have if they are to carry out their construction plans. The response I have received indicates that the need for improved mass transit is urgent all over the country; it is imperative that the President recognize this and act to untangle the traffic jams mushrooming on the ground just as he hopes to find a solution for those stacking in the sky.

THE PRIME RATE INCREASE: A FINANCIAL DISASTER

(Mr. PODELL asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. PODELL. Mr. Speaker, last week this country once more became the victim of what can only be regarded as a financial conspiracy against the people. For the fifth time since November 13, 1968, the bankers have raised their prime rate of interest, jacking it up a full percentage point to the usurious rate of 8.5 percent. This represents a 2-percent increase since December 1968. The bankers claim this measure was necessary to stem the tide of inflation and reduce the heavy demand for credit.

It is high time for Congress to take a long, hard look at the financial machinations of our banking industry. Was this boost in the prime rate necessary or was it simply a thinly veiled effort on the part of these latter-day robber barons to raise profit margins and squeeze more money out of our overtaxed populace?

Clearly, the banking community cannot complain about business under the old prime rate. Bank earnings are reported to be gaining 10 percent this year over 1968. Also, with the Federal Reserve discount rate at 6 percent, banks stand to make sizable profits from the difference between this Federal Reserve discount rate and their prime lending rate at 8.5 percent. The 2.5-percent differential is the widest since the Federal Reserve System was established; one can only hope that the Federal Reserve Board will act quickly to close this gap and insure that our financial overlords do not get any more ill-gotten gains than they are already getting.

Judging from past history, we must expect this prime rate rise to trigger increases in interest levels on all types of loans. These high interest rates are a major economic problem. They not only add to inflation but they also increase the possibility of an absolute drying up of funds for consumers and homeowners pushing this country into the brink of a serious recession.

One segment particularly burdened by these high rates is the middle- and lower-middle-income group which now finds it nearly impossible to purchase a new home. The wealthy have a wide freedom of choice in buying a home; the very poor have no realistic hope of homeownership and in some cases can look to

the Federal Government or to a local housing association for help. The middle-income group is the one left in the financial limbo; unless they earn at least $15,000, they can simply forget about considering buying a new home next year under these tight money conditions.

The prime rate increase will undoubtedly hasten the flight of lendable funds out of our thrift institutions and, as some mortgage experts believe, will precipitate a drying up of mortgage money. This money is already flowing out of banks and thrift institutions into the higher interest short-term securities and bonds further tightening the screws on mortgage funds. One large savings bank said that as a result of the prime rate increase it will be charging more "points" on home mortgages guaranteed by the Federal Housing Administration.

This point system and the high initial down payment are bad enough for our struggling potential homeowners; what is really a national disgrace is the fact that this mortgage squeeze does not really reflect a truly severe money shortage. Most banks say they have an adequate supply of funds to lend. The problem is that demand for all types of loans is strong and that even with the home mortgage interest rates at high levels, banks can earn a higher return on their money elsewhere. I just cannot see how this prime rate increase can be anything else than a severe blow to an already crippled housing industry.

Perhaps this prime rate increase could be somewhat justified if there was any truth in the bankers' statements that it was anti-inflationary in design. However, this increase will stoke rather than extinguish the inflationary fires and may lead us into a recession. Prime rate increases in the past have not had any measurable effects on business spending and have actually led to further price increases. Large companies can use this increase as justification for higher prices and thus offset their higher borrowing costs. In the long run, then, it is the consumer who suffers in these prime interest rate increases and the bankers and big businessmen who reap the rewards.

Under no circumstances can this prime rate increase be justified. It is neither anti-inflationary nor in the best interests of general economic stability. Congress cannot stand idly by watching certain segments of our society bear the full brunt of anti-inflationary measures while our bankers and big businessmen are allowed not only to escape but to actually thwart these measures. We must develop new measures aimed at fighting inflation that will spread the burden equitably on all our income groups. This, I feel, is more in keeping with the principles of our democracy and best exemplifies the true spirit of free enterprise.

INJUSTICE FACING SURVIVORS OF RAILROAD WORKERS

(Mr. SKUBITZ was granted permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. SKUBITZ. Mr. Speaker, today I am introducing a bill which would remove the provision of the Railroad Retirement Act and the provision of the Social Security Act which presently prevent a widow, widower, child, or parent from receiving survivors benefits under both acts at the same time.

This bill would direct the Secretary of Health, Education, and Welfare and the Railroad Retirement Board to formulate a set of regulations for allocating the benefits from the two programs in such a way as to result in the highest total of benefits. It would allow the survivors to receive benefits based on either some combination of the two programs or on using one of them separately so that the final result is the maximum amount of benefits.

Under present prohibitions, survivors are not allowed to receive benefits from both programs, and subsequently, they receive no payments at all or very low ones. This situation has meant that upon the death of the person employed by the railroad, the amount of benefits given to the family is substantially reduced. This is unfair to the survivors and may leave them in a precarious financial situation.

This bill, then, not only eliminates the provisions that have caused this situation but also clearly directs the Secretary of Health, Education, and Welfare and the Railroad Retirement Board to act to provide the optimum benefits to the survivors. The injustice facing survivors of railroad workers can thus be corrected and their payments raised to the level to which the survivors are actually entitled.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. THOMPSON of Georgia (at the request of Mr. BLACKBURN), on account of official business.

Mr. WOLFF (at the request of Mr. FRIEDEL), for today, June 17, and June 18, on account of illness.

Mr. BRADEMAS (at the request of Mr. TIERNAN), for June 17 to 19, on account of death in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. SAYLOR, for 10 minutes, today; to revise and extend his remarks and to include extraneous matter.

Mr. HANLEY, for 15 minutes, tomorrow, June 18.

(The following Members (at the request of Mr. MIZELL), to revise and extend their remarks and to include extraneous matter to:)

Mr. PIRNIE, for 5 minutes, today.

Mr. MCDONALD, for 10 minutes, today.

Mr. LLOYD, for 15 minutes, on June 18.

Mr. WEICKER, for 5 minutes, today.

(The following Member (at the request of Mr. OBEY), to revise and extend his remarks and include extraneous matter:)

Mr. GONZALEZ, for 10 minutes, today.

EXTENSIONS OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GROSS and to include a newspaper article.

Mr. SAYLOR and to include extraneous matter.

Mr. HULL to include extraneous matter in his remarks during general debate today.

Mr. BOW following the passage of the joint resolution.

Mr. MAHON following the passage of the joint resolution.

Mr. MURPHY of New York following the remarks of Mr. STAGGERS during general debate in the Committee of the Whole today.

Mr. ROONEY of Pennsylvania following the remarks of Mr. ADAMS in the Committee of the Whole today.

Mr. STAGGERS, his remarks during general debate in the Committee of the Whole today, and to include extraneous material.

(The following Members (at the request of Mr. MIZELL) and to include extraneous matter:)

Mr. UTT.

Mr. CEDERBERG.

Mr. STEIGER of Wisconsin in two instances.

Mr. BROYHILL of Virginia in four instances.

Mr. CONTE.

Mr. SCOTT.

Mr. REID of New York in two instances.

Mr. FRELINGHUYSEN in two instances.

Mr. WEICKER.

Mr. SHRIVER.

Mr. TAFT in two instances.

Mr. MILLER of Ohio.

Mr. KEITH in four instances.

Mr. CLEVELAND in two instances.

Mr. AYRES.

Mr. BROOMFIELD.

Mr. BOB WILSON.

Mr. MICHEL in two instances.

Mr. WYMAN in two instances.

(The following Members (at the request of Mr. OBEY) and to include extraneous matter:)

Mr. HANNA.

Mr. MANN in two instances.

Mr. LONG of Maryland.

Mr. EDWARDS of California in two instances.

Mr. CORMAN.

Mr. RODINO in three instances.

Mr. GALLAGHER.

Mr. BOLLING in two instances.

Mr. NATCHER in two instances.

Mr. BOLAND.

Mr. HUNGATE in two instances.

Mr. RARICK in four instances.

Mrs. SULLIVAN.

Mr. CLAY.

Mr. YOUNG in two instances.

Mr. FLOWERS in five instances.

Mr. RYAN in two instances.

Mr. GONZALEZ in two instances.

Mr. TIERNAN in three instances.

Mr. ST GERMAIN.

Mr. DINGELL.

Mr. REUSS in six instances.

Mr. DONOHUE in three instances.

Mr. FOUNTAIN in three instances.

Mr. PRICE of Illinois in two instances.

SENATE CONCURRENT RESOLUTION REFERRED

A concurrent resolution of the Senate of the following title was taken from

the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 12. Concurrent resolution to express the sense of Congress on participation in the Ninth International Congress on High Speed Photography, to be held in Denver, Colo., in August 1970; to the Committee on Foreign Affairs.

ENROLLED BILL SIGNED

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2667. An act to revise the pay structure of the police force of the National Zoological Park, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. FRIEDEL, from the Committee on House Administration, reported that that committee did on June 16, 1969, present to the President, for his approval, a bill of the House of the following title:

H.R. 4622. An act to amend section 110 of title 38, United States Code, to insure preservation of all disability compensation evaluations in effect for 20 or more years.

ADJOURNMENT

Mr. OBEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 10 minutes p.m.) the House adjourned until tomorrow, Wednesday, June 18, 1969, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

860. A letter from the Comptroller General of the United States, transmitting a report on improvements in the management of Government parking facilities by the General Services Administration; to the Committee on Government Operations.

861. A letter from the Chairman, Federal Trade Commission, transmitting the 54th annual report of the Commission, covering fiscal year 1968; to the Committee on Interstate and Foreign Commerce.

862. A letter from the Commissioner, Immigration and Naturalization Service, U.S. Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to the provisions of section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

863. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to provide for the expansion and improvement of the Nation's airport and airway system, for the imposition of airport and airway user charges, and for other purposes; to the Committee on Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STAGGERS: Committee on Interstate and Foreign Commerce. H.R. 11702. A bill to amend the Public Health Service Act to improve and extend the provisions relating to assistance to medical libraries and related instrumentalities, and for other purposes; with an amendment (Rept. No. 91–313). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK. House Resolution 440. Committee on Rules. A resolution providing for the consideration of S742. An act to amend the act of June 12, 1948 (62 Stat. 382), in order to provide for the construction, operation, and maintenance of the Kennewick division extension, Yakima project, Washington, and for other purposes; with amendment (Rept. No. 91–314). Referred to the House Calendar.

Mr. HOLIFIELD: Joint Committee on Atomic Energy. H.R. 12167. A bill to authorize appropriations to the Atomic Energy Commission in accordance with section 261 of the Atomic Energy Act of 1954, as amended, and for other purposes (Rept. No. 91–315). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ADAMS:

H.R. 12180. A bill to amend the Fish and Wildlife Coordination Act to provide for the establishment of a Council on Environmental Quality, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BLATNIK:

H.R. 12181. A bill to amend the Internal Revenue Code of 1954 to increase the standard deduction and the minimum standard deduction allowable to individuals; to the Committee on Ways and Means.

H.R. 12182. A bill to amend the Internal Revenue Code of 1954 to increase from $600 to $1,200 the personal income tax exemptions of a taxpayer (including the exemption for a spouse, the exemptions for a dependent, and the additional exemptions for old age and blindness); to the Committee on Ways and Means.

By Mr. BRINKLEY:

H.R. 12183. A bill to limit the jurisdiction of Federal courts in cases brought by a Representative or Senator against the House of Representatives or the Senate of the United States and any of its officials; to the Committee on the Judiciary.

By Mr. BUSH:

H.R. 12184. A bill to establish the Interagency Committee on Mexican-American Affairs, and for other purposes; to the Committee on Foreign Affairs.

By Mr. CORMAN:

H.R. 12185. A bill to amend the Internal Revenue Code of 1954 to disallow any deduction for depreciation for a taxable year in which a residential property does not comply with requirements of local laws relating to health and safety, and for other purposes; to the Committee on Ways and Means.

H.R. 12186. A bill to amend the act of October 19, 1949, entitled "An Act to assist States in collecting sales and use taxes on cigarettes," so as to control all types of illegal transportation of cigarettes; to the Committee on Ways and Means.

By Mr. DADDARIO:

H.R. 12187. A bill to assure an opportunity for employment to every American seeking work and to make available the education and training needed by any persons to qualify for employment consistent with his highest potential and capability and for other purposes; to the Committee on Education and Labor.

By Mr. EVINS of Tennessee (for himself, Mr. CORMAN, Mr. KLUCZYNSKI, Mr. ADDABBO, Mr. CONTE, Mr. BROYHILL of North Carolina, and Mr. BURTON of Utah):

H.R. 12188. A bill to amend the Small Business Act; to the Committee on Banking and Currency.

By Mr. FLYNT:

H.R.12189. A bill to limit the jurisdiction of Federal courts in cases brought by a Representative or Senator against the House of Representatives or the Senate of the United States and any of its officials; to the Committee on the Judiciary.

By Mr. HALEY:

H.R. 12190. A bill to amend the Internal Revenue Code of 1954 to increase from $600 to $1,200 the personal income tax exemptions of a taxpayer (including the exemption for a spouse, the exemptions for a dependent, and the additional exemptions for old age and blindness); to the Committee on Ways and Means.

By Mr. HANNA:

H.R. 12191. A bill to provide that certain members of the Retired Reserve shall be entitled to retired pay; to the Committee on Armed Services.

H.R. 12192. A bill to grant a Federal charter to the Meals for Millions Foundation; to the Committee on the Judiciary.

By Mr. HARVEY:

H.R. 12193. A bill to promote public health and welfare by expanding, improving, and better coordinating the family planning services and population research activities of the Federal Government, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. HASTINGS:

H.R. 12194. A bill to provide appropriations for sharing of Federal revenues with States and their local governments; to the Committee on Ways and Means.

By Mr. HELSTOSKI:

H.R. 12195. A bill to provide that disabled individuals entitled to monthly cash benefits under section 223 to the Social Security Act (and individuals retired for disability under the Railroad Retirement Act of 1937) shall be eligible for health insurance benefits under title XVIII of the Social Security Act without regard to their age; to the Committee on Ways and Means.

H.R. 12196. A bill to amend part B of title XVIII of the Social Security Act to include prescribed drugs among the items and services covered under the supplementary medical insurance program for the aged; to the Committee on Ways and Means.

By Mr. MIKVA:

H.R. 12197. A bill to amend the Immigration and Nationality Act to permit adjustment of status of nonimmigrants to that of persons admitted for permanent residence without regard to country of origin, and for other purposes; to the Committee on the Judiciary.

By Mr. O'NEAL of Georgia:

H.R. 12198. A bill to limit the jurisdiction of Federal courts in cases brought by a Representative or Senator against the House of Representatives or the Senate of the United States and any of its officials; to the Committee on the Judiciary.

By Mr. O'NEILL of Massachusetts (for himself and Mr. CLEVELAND):

H.R. 12199. A bill to authorize the Secretary of the Interior to establish the Bunker Hill National Historic Site in the city of Boston, Mass., and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. PEPPER:

H.R. 12200. A bill to provide increased annuities under the Civil Service Retirement Act; to the Committee on Post Office and Civil Service.

H.R. 12201. A bill to amend subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 12202. A bill to amend chapter 83, title 5, United States Code, to eliminate the re-

duction in the annuities of employees or Members who elected reduced annuities in order to provide a survivor annuity if predeceased by the person named as survivor and permit a retired employee or Member to designate a new spouse as survivor if predeceased by the person named as survivor at the time of retirement; to the Committee on Post Office and Civil Service.

H.R. 12203. A bill to amend chapter 89 of title 5, United States Code, relating to enrollment charges for Federal employees' health benefits; to the Committee on Post Office and Civil Service.

H.R. 12204. A bill to amend the Internal Revenue Code of 1954 to provide that the first $5,000 received as civil service retirement annuity from the United States or any agency thereof shall be excluded from gross income; to the Committee on Ways and Means.

By Mr. PODELL (for himself and Mr. PATMAN):

H.R. 12205. A bill to amend the Legislative Reorganization Act of 1946 to provide for annual reports to the Congress by the Comptroller General concerning certain price increases in Government contracts and certain failures to meet Government contract completion dates; to the Committee on Government Operations.

By Mr. PODELL (for himself and Mr. PERKINS):

H.R. 12206. A bill to amend the Legislative Reorganization Act of 1946 to provide for annual reports to the Congress by the Comptroller General concerning certain price increases in Government contracts and certain failures to meet Government contract completion dates; to the Committee on Government Operations.

By Mr. PRICE of Illinois:

H.R. 12207. A bill to amend the Fish and Wildlife Coordination Act to provide for the establishment of a Council on Environmental Quality, and for other purposes; to the Committee on Merchant Marine and Fisheries.

H.R. 12208. A bill to amend title II of the Social Security Act so as to liberalize the conditions governing eligibility of blind persons to receive disability insurance benefits thereunder; to the Committee on Ways and Means.

By Mr. SIKES:

H.R. 12209. A bill to amend the Fish and Wildlife Coordination Act to provide for the establishment of a Council on Environmental Quality, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. SKUBITZ:

H.R. 12210. A bill to amend the Social Security Act to provide an increase in benefits under the old-age, survivors, and disability insurance program, and for other purposes; to the Committee on Ways and Means.

By Mr. TIERNAN:

H.R. 12211. A bill to amend the Public Health Service Act to provide for the establishment of a National Lung Institute; to the Committee on Interstate and Foreign Commerce.

By Mr. WALDIE:

H.R. 12212. A bill to expedite delivery of special delivery mail, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. WHITEHURST:

H.R. 12213. A bill to expedite delivery of special delivery mail, and for other purposes; to the Committee on Post Office and Civil Service.

H.R. 12214. A bill to provide for improved employee-management relations in the postal service, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. BLATNIK:

H.R. 12215. A bill to promote the domestic and foreign commerce of the United States by modernizing practices of the Federal Government relating to the inspection of persons, merchandise, and conveyances moving into, through, and out of the United States and for other purposes; to the Committee on Ways and Means.

By Mr. DUNCAN:

H.R. 12216. A bill to amend the Railroad Retirement Act of 1937 and the Railroad Retirement Tax Act to provide for the continued payment of supplemental annuities in accordance with present law; to the Committee on Interstate and Foreign Commerce.

By Mr. MACGREGOR:

H.R. 12217. A bill to exempt a member of the Armed Forces from service in a combat zone when such member is the only son of a family, and for other purposes; to the Committee on Armed Services.

H.R. 12218. A bill to authorize the Secretary of Commerce to conduct research and development programs to increase knowledge of tornadoes, squall lines, and other severe local storms, to develop methods for detecting storms for prediction and advance warning, and to provide for the establishment of a National Severe Storms Service; to the Committee on Interstate and Foreign Commerce.

H.R. 12219. A bill to amend the Internal Revenue Code of 1954 to provide the same tax exemption for servicemen in and around Korea as is presently provided for those in Vietnam; to the Committee on Ways and Means.

By Mr. MATSUNAGA (for himself, Mr. HOLIFIELD, Mr. ANDERSON of California, Mr. ANNUNZIO, Mr. BOLLING, Mr. BYRNE of Pennsylvania, Mr. CLAY, Mr. EVANS of Colorado, Mr. FARBSTEIN, Mr. WILLIAM D. FORD, Mr. GALLAGHER, Mr. GONZALEZ, Mr. HANNA, Mr. HANSEN of Idaho, Mr. HICKS, Mr. HORTON, Mr. LEGGETT, Mr. LONG of Maryland, Mrs. MINK, Mr. MOSS, Mr. NEDZI, Mr. PODELL, Mr. REES, Mr. ROSENTHAL, and Mr. ROYBAL):

H.R. 12220. A bill to repeal the Emergency Detention Act of 1950 (title II of the Internal Security Act of 1950); to the Committee on Internal Security.

By Mr. HOLIFIELD (for himself, Mr. MATSUNGA, Mr. JOHNSON of California, Mr. O'HARA, Mr. O'NEILL of Massachusetts, Mr. SCHEUER, Mr. SISK, Mr. TEAGUE of California, Mr. TUNNEY, Mr. UDALL, Mr. ULLMAN, Mr. WALDIE, and Mr. CHARLES H. WILSON):

H.R. 12221. A bill to repeal the Emergency Detention Act of 1950 (title II of the Internal Security Act of 1950); to the Committee on Internal Security.

By Mrs. MAY (for herself, Mr. GERALD R. FORD, Mr. MCKNEALLY, Mr. ZWACH, Mr. ANDERSON of Illinois, Mr. ANDREWS of North Dakota, Mr. AYRES, Mr. BROOMFIELD, Mr. BROWN of Michigan, Mr. BUTTON, Mr. CAMP, Mr. DON H. CLAUSEN, Mr. CONTE, Mr. ESCH, Mr. FISH, Mr. GUDE, Mr. HALPERN, Mr. HOSMER, Mr. KUYKENDALL, Mr. MCCLOSKEY, Mr. MCDADE, Mr. MACGREGOR, Mr. MICHEL, Mr. RHODES, and Mr. SAYLOR):

H.R. 12222. A bill to amend the Food Stamp Act of 1964, as amended; to the Committee on Agriculture.

By Mrs. MAY (for herself, Mr. SCHWENGEL, Mr. STEIGER of Wisconsin, Mr. SHRIVER, Mr. TAFT, Mr. TALCOTT, Mr. RUPPE, Mr. FINLEY, Mr. WHITEHURST, and Mr. ROBISON):

H.R. 12223. A bill to amend the Food Stamp Act of 1964, as amended; to the Committee on Agriculture.

By Mr. POAGE:

H.R. 12224. A bill to amend the Internal Revenue Code of 1954 to increase from $600 to $1,000 the personal income tax exemptions of a taxpayer (including the exemption for a spouse, the exemptions for a dependent, and the additional exemptions for old age and blindness); to the Committee on Ways and Means.

By Mr. QUILLEN:

H.R. 12225. A bill to afford protection to the public from offensive intrusion into their homes through the postal service of sexually oriented mail matter, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. RIVERS:

H.R. 12226. A bill to amend article 85 of the Uniform Code of Military Justice (10 U.S.C. 885), relating to the offense of desertion from the Armed Forces of the United States; to the Committee on Armed Services.

By Mr. SHIPLEY:

H.R. 12227. A bill to amend section 2412 (a) of title 28, United States Code, to make the United States liable for court costs and attorney's fees to persons who prevail over the United States in actions arising out of administrative actions of agencies of the executive branch; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 12228. A bill to amend the Fish and Wildlife Coordination Act to provide for the establishment of a Council on Environmental Quality, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. SKUBITZ:

H.R. 12229. A bill to amend the Railroad Retirement Act of 1937 and title II of the Social Security Act to eliminate those provisions which restrict the right of an individual to receive survivor benefits simultaneously under both acts; to the Committee on Interstate and Foreign Commerce.

By Mr. VANDER JAGT:

H.R. 12230. A bill to establish in the State of Michigan the Sleeping Bear Dunes National Lakeshore, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MAHON:

H.J. Res. 782. Joint resolution making further continuing appropriations for the fiscal year 1969, and for other purposes; to the Committee on Appropriations.

By Mr. CORBETT:

H. Con. Res. 289. Concurrent resolution relating to an Atlantic Union delegation; to the Committee on Foreign Affairs.

By Mr. PEPPER:

H. Con. Res. 290. Concurrent resolution relating to an Atlantic Union delegation; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BIAGGI:

H.R. 12231. A bill for the relief of Winston G. Smith; to the Committee on the Judiciary.

By Mr. KEE:

H.R. 12232. A bill for the relief of Pietro Bertolino, his wife, Giovanna Accardi Bertolino, and their two children, Angela and Antonnino; to the Committee on the Judiciary.

By Mr. MCCLOSKEY:

H.R. 12233. A bill for the relief of Elena V. Revilla; to the Committee on the Judiciary.

By Mr. O'NEILL of Massachusetts:

H.R. 12234. A bill for the relief of Harvard Specialty Manufacturing Corp.; to the Committee on the Judiciary.

By Mr. PODELL:

H.R. 12235. A bill to provide for the free entry of certain cotton bags for Hamilton Specialties, Inc., of Brooklyn, N.Y.; to the Committee on Ways and Means.

By Mr. WALDIE:

H.R. 12236. A bill for the relief of Lt. Col. Harold E. Gladstone and Elsie Gladstone; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

224. By Mr. ULLMAN and Mrs. GREEN of Orgeon: Memorial of the 55th Legislative Assembly of the State of Oregon memorializing Congress to enact legislation that will: Clearly state that the Federal Government shall not have acquired or reserved any water right as a result of the reservation or withdrawal of any public lands; require compliance with State water laws by all Federal agencies, and adequately safeguard all water rights established under State laws against the action of Federal agencies; to the Committee on Interior and Insular Affairs.

225. By Mr. ULLMAN and Mrs. GREEN of Oregon: Memorial of the 55th Legislative Assembly of the State of Oregon memorializing Congress to amend the Constitution of the United States to abolish the electoral college, to create a system for a direct election of the President, and require that the successful candidate must receive no less than 40 percent of all the votes cast for President or there should be a runoff election; to the Committee on the Judiciary.

226. By the SPEAKER: A memorial of the Legislature of the State of Alabama, relative to recomputation of the pay of retired members of the Armed Forces on the same basis as the pay of military personnel on active duty; to the Committee on Armed Services.

EXTENSIONS OF REMARKS

SCHOLARSHIP TRIP

HON. JAMES R. MANN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 17, 1969

Mr. MANN. Mr. Speaker, we are all well aware of the many worthwhile programs activated by the civic and service organizations throughout our Nation. I would like to bring to the attention of my colleagues yet another worthwhile program, specifically for young people, made possible through the sponsorship of various service clubs in my district. This project is the Fourth District scholarship trip designed to give outstanding students from my district an opportunity to see what goes on in Washington through a 4-day tour of the Nation's Capital.

On Sunday, June 15, nine high school juniors from Greenville, Spartanburg, and Laurens Counties arrived in Washington to initiate the first Fourth District scholarship trip. These students were selected on the basis of outstanding leadership, scholarship, and participation in school activities. During the trip, they will be observing the legislative, judicial, and executive branches of our Government in action. They will meet with Representatives and Senators of both political parties, view sessions of the House and Senate, attend a Department of State foreign policy briefing, visit the Supreme Court, plus many more worthwhile educational activities.

This trip is being financed entirely by service clubs in the Fourth District and is certainly a credit to their recognition of the value of training young leadership and inspiring an interest among young people in the governmental process.

This trip's scholarship winners and their sponsors are: Lynn Louanne Cross, of Carolina High School, daughter of Rev. and Mrs. Louis Cross, sponsored by American Legion Post No. 3; Susan Hayes, a student at Greer High School, daughter of Mr. and Mrs. Gene Wylie Hayes, sponsored by the Greer Chamber of Commerce; Lucinda Bowens, of Washington High School, daughter of Mr. and Mrs. L. V. Bowens, sponsored by the North Greenville Rotary; Bill Stewart, a student at Spartanburg High School, son of Mr. and Mrs. William Grady Stewart, sponsored by the Hillcrest Optimists; Emory Joseph Derrick of Woodruff High School, son of Mr. and Mrs. Curtis W. Derrick, Jr., sponsored by the Woodruff Chamber of Commerce; Robert Farnsworth, of Greenville High School, son of Mr. and Mrs. James O. Farnsworth, sponsored by the Greenville Exchange Club; Gary Pittman, of Parker High School, son of Mr. and Mrs. W. K. Pittman, sponsored by the Greenville Lions; Edward Adkins, a student at Slater-Marietta High School, son of Mr. and Mrs. Thomas T. Adkins, sponsored jointly by the Slater-Marietta Parent Teachers Association and the Slater-Marietta Lions Club; and Bob Lentz, of Wade Hampton High School, son of Mr. and Mrs. Robert L. Lentz, Sr., sponsored by the Greenville Kiwanis Club.

I wish to commend these young men and women on their achievements and their interest. On their behalf, and on behalf of the people of my district, I thank the many service organizations, schools, and individual citizens whose generosity has made this experience possible.

THE PLIGHT OF PERSONS WHO LIVE ON FIXED INCOMES

HON. WINSTON L. PROUTY

OF VERMONT

IN THE SENATE OF THE UNITED STATES

Tuesday, June 17, 1969

Mr. PROUTY. Mr. President, recently Representative LOUIS C. WYMAN, from New Hampshire's First Congressional District, delivered a speech before the New England area conference of the American Association of Retired Persons and the National Retired Teachers Association in Manchester, N.H.

In his speech, he expressed the concern which many of us in Congress have for the plight of those persons living on fixed incomes. The cost-of-living index is rising at an alarming and unprecedented rate and is imposing particular economic hardship on our older citizens.

At a time when many of us are proposing legislative measures to alleviate the economic problems of older Americans, I believe that Members of Congress will find Mr. WYMAN's remarks pertinent.

I ask unanimous consent that the address be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH BY CONGRESSMAN LOUIS WYMAN

There is no subject of greater significance or more importance to those who are on fixed incomes than the cost of living. Despite the restraints being imposed upon our economy, living costs in March 1969 took their biggest monthly jump since the Korean war year of 1951.

The March increase was eight-tenths of 1 percent above the February level. The rise in the first quarter of 1969 was 1.5 percent. If that trend continues, living costs would go up 6 percent—compared with 4.7 percent for the preceding 12 months.

The March figures showed big rises in practically every item by which Americans' living costs are measured—among them: food, clothing, housing, transportation, medical care, and recreation.

Medical care is up 6.7 percent over a year ago. Home ownership is up 9.6 percent, apparel is up 6.2 percent, and food is up 3.8 percent. One effect of the March rise is that it slashed about 90 cents from the value of average weekly paychecks of $111.75 which is a record high for some 45 million workers. This virtually wiped out big pay gains for the month.

A Commerce Department report also illustrated inroads of inflation. In 1968, it said, personal income per capita—the total income of all Americans divided by the population—showed an 8 percent increase above 1967. But increased taxes and higher prices left only a 3 percent gain.

Inflation is no mystery, an increased quantity of money comes into existence in a specific way. It comes into existence, for example, because Government makes much larger expenditures than it can or wishes to meet out of the proceeds of taxes, or from the sale of bonds paid for by the people out of real savings. Suppose, for example, that the Government prints money to pay war contractors. Then the first effect of these expenditures will be to raise the prices of supplies used in war and to put additional money into the hands of the war contractors and their employees.

The war contractors and their employees, then, will have higher money incomes. They will spend them for the particular goods and services they want. The sellers of these goods and services will be able to raise their prices because of this increased demand. Those who have the increased money income will be willing to pay these higher prices rather than do without the goods—for they will have more money, and a dollar will have a smaller subjective value in the eyes of each of them.

When the process has been completed, nearly everybody in production will have a higher income measured in terms of money. But prices of goods and services will have increased correspondingly The Nation will be no richer than before. Meanwhile, however, the groups that have still had no advance whatever in their money incomes will find themselves compelled to pay higher prices for the things they buy, which means that they will be obliged to get along on a lower standard of living than before.

Thus, inflation may indeed bring benefits for a short time to favored groups, but only at the expense of others.

Economist Henry Hazlitt notes that "in the long run inflation brings ruinous consequences to the whole community. Even a relatively mild inflation distorts the structure of production and leads to the over-expansion of some industries at the expense of others. This involves a misapplication and waste of capital. When the inflation collapses, or is brought to a halt the misdirected capital investment—whether in the forms of machines, factories, or office buildings—cannot yield an adequate return and, in fact, loses the greater part of its value."