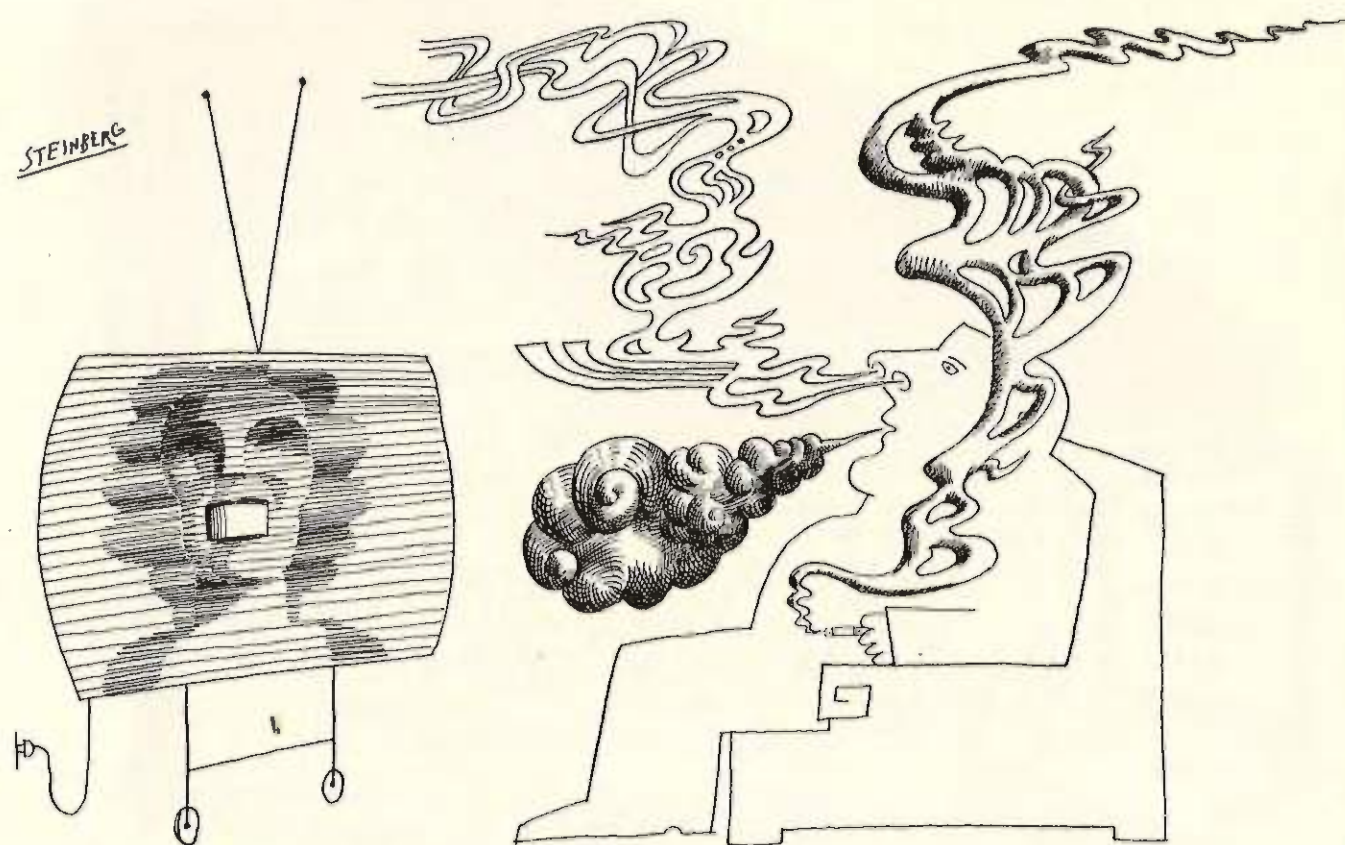


## ANNALS OF ADVERTISING

## CUTTING DOWN



AT midnight next January 1st, all television and radio commercials for cigarettes will go off the air for good. Their removal by that time is mandatory under federal law. This ban is the principal result of the Public Health Cigarette Smoking Act, which was passed by both houses of Congress last spring for the purpose of protecting smokers from being exposed, over public airwaves, to advertisements for a product that the Surgeon General of the United States Public Health Service has declared to be hazardous to health. The act is an extraordinary piece of legislation. It was passed in spite of massive pressure that had been brought to bear against it, and against the regulation of cigarette advertising generally, by the tobacco industry, the broadcasting industry, and their lobbyists and political allies. This was a combination that for years had proved itself invincible against a counterforce of scientists and public-health and public-interest advocates who, armed with formidable statistics on the damage to health and life caused by cigarette smoking, had sought to protect consumers by requiring all cigarette advertising to provide adequate warnings of these dangers.

The emphasis on controlling the content of cigarette advertising rather

than the sale of cigarettes themselves is an indication of the power that advertising has attained in American society, particularly advertising for products that, like cigarettes, have no useful external function but that come under the merchandisers' category of "pleasure products," the need for which is essentially subjective. Such subjective needs are capable of being aroused and maintained on a socially acceptable scale with the help of advertising. Fifty years ago in this country, advertising was a mere adjunct to the selling of consumer goods; nowadays it lies at the core of the whole merchandising and consuming process.

The merchandising of cigarettes on a large scale became practical with the development, around the time of the First World War, of a slightly acid cigarette tobacco, which allowed smokers to inhale without an immediate unpleasant effect. (Tobacco smoke that is alkaline produces an automatic cough reflex when inhaled.) Mass production of cigarettes really got under way in the mid-twenties, with the help of big advertising campaigns that, in further expanding the market, employed such slogans as "Reach for a Lucky Instead of a Sweet" and "Blow Some My Way," by way of encouraging women as well as men to take up the habit.

Pushed by such campaigns in the press, the per-capita consumption of cigarettes in the adult population of the United States doubled between 1920 and 1930. Between the latter half of the thirties and the latter half of the forties, cigarette consumption, urged on now by hard-driving advertising campaigns on network radio as well as in the press, approximately doubled again. The increase continued in the formative period of commercial television; between 1950 and 1952, for example, the per-capita consumption of cigarettes in the adult population increased from thirty-five hundred and twenty-two cigarettes a year to thirty-eight hundred and eighty-six.

Apart from all the smoke that was being blown everybody's way, these increases in the cigarette habit had certain consequences for the adult population. The nature of these consequences showed up in a series of medical studies on the apparent effects of smoking that were conducted or completed during the fifties and the sixties. In 1950, three medical studies concluded that an ominous association existed between cigarette smoking and ill health. In 1954, a study made for the American Cancer Society by Dr. E. Cuyler Hammond, an epidemiologist, and Dr. Daniel Horn, a statistician, dwelt in great de-

tail on the relationship between the incidence of smoking and excessive death rates. The results of the study made the front pages of the press in this country but were virtually ignored on network-television news shows—which, as it happened, were nearly all sponsored by cigarette companies.

In 1957, a further study by Drs. Hammond and Horn elaborated upon these conclusions. In 1962, a report of a committee of the Royal College of Physicians in Great Britain declared, "Cigarette smoking is a cause of lung cancer and bronchitis, and probably contributes to the development of coronary heart disease and various other less common diseases." In January, 1964, a report issued by a select advisory committee to the Surgeon General concluded that cigarette smoking is causally related to lung cancer in males. It found an association between the incidence of cigarette smoking and that of heart disease, and it found the habit to be the most important of the causes of chronic bronchitis and to increase the risk of dying from emphysema. In summary, the Surgeon General's report found that "cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action."

This call for remedial action aroused officials of the normally passive Federal Trade Commission. In June, 1964, Paul Rand Dixon, the chairman of the Commission, declared in testimony before the House Committee on Interstate and Foreign Commerce that the F.T.C. had decided on a ruling that a strong health warning be put on all cigarette packages and appear in all cigarette advertising, including advertising on television. The committee gave Mr. Dixon a hostile reception. The F.T.C.'s proposed ruling led those sympathetic to the tobacco industry to accuse it of discriminating against a legally sold product and of usurping the legislative functions of Congress. The F.T.C. got no support from President Johnson, either; in fact, the White House is said to have intervened to get the agency to delay putting

its ruling into effect. All told, no matter what the Surgeon General said about the malign effects of cigarette smoking, the opposition to the regulation of cigarette advertising was of formidable proportions. Tobacco is a one-billion-dollar-a-year agricultural product, a crop that the Department of Agriculture regularly subsidizes with millions of dollars in price supports. It is a ten-billion-dollar-a-year consumer product, from which federal and state governments derive almost four billion dollars a year in tax revenues, and tobacco advertising has accounted for about eight per cent of the entire advertising revenues of the television networks. At the time of the Surgeon General's report, the tobacco companies were spending two hundred and fifty million dollars a year on advertising, three-fifths of which went for TV commercials. The weight of the combined forces of the tobacco industry and its allies was soon felt in the form of proposed legislation called the Cigarette Labelling and Advertising Bill of 1965, which purported to protect smokers by making a warning on cigarette packages ("Caution: Cigarette Smoking May Be Hazardous to Your Health") mandatory but would actually constitute a legislative triumph for the tobacco lobby, in that it prohibited the F.T.C. or

any other federal agency from requiring tobacco companies to include a health warning in their cigarette advertising for the next four years. The tobacco industry then went on merchandising cigarettes with renewed vigor.

OVER the years, television had given the tobacco companies a remarkable tool for persuading people to smoke particular brands of cigarettes, because television advertising showed what print and radio advertising couldn't—smoking in action. It showed young people puffing away, inhaling deeply and blowing smoke around with obvious pleasure, and always in settings that made the habit seem attractive. The habituating nature of cigarettes made appeals of this kind increasingly effective as television became the overwhelmingly predominant form of mass communication in this country. For a month or two after the 1964 Surgeon General's report, the sales of cigarettes in the United States showed a significant drop, but sales gradually recovered and rose above their previous level. While the tobacco industry was vehemently denying that there was any causal connection between smoking and disease, individual cigarette companies reacted to the unwelcome suggestion by introducing and advertising new brands

of filter cigarettes, which, the television advertising for them implied without actually talking about health, were somehow a lot more beneficial, or somehow less harmful, to smokers than unfiltered cigarettes.

In a short time, with relentless advertising and promotion, the consumption of filter cigarettes soared. In 1950, when commercial television was just beginning, eighty-three per cent of the cigarette market was given over to five brands—Camel, Lucky Strike, Chesterfield, Philip Morris, and Pall Mall. But in the fifties, with the introduction of Kent and its "Mircronite Filter," of Winston, which was alleged to taste good "like a cigarette should," and of the new Marlboro, featuring the clean outdoors and the Marl-



"Hi-ho, Honeybun! Your favorite male-chauvinist pig is home!"



fought on the television screens across the country with round-ups, people running around in green fields or sailing on green seas, and with fusillades of jingles. If the problems of lung cancer and emphysema among smokers could be solved by song, the television commercials the tobacco industry put out would have eliminated those illnesses in a week.

In the latter part of the sixties, the big new development in cigarette advertising was the hundred-millimetre cigarette, the promotion of which was led by the campaign for Benson & Hedges 100's, which Philip Morris had been putting out as a minor brand in regular size. The advertising agency chosen for this campaign was the relatively new firm of Wells, Rich, Greene, headed by Mary Wells Lawrence, who is one of the most skillful advertisers around. Through a series of gag-filled commercials in which smokers of the new brand suffered mishaps because of the unusual length of the cigarette—getting the cigarette caught in a closing elevator door or burning a hole in the smoker's newspaper—the Wells, Rich, Greene cam-

paigned made an instant impression on the cigarette market. What Mrs. Lawrence believed, she told me when the campaign was under way, was that in the new longer cigarette "we had an elegant, classy product, tied in with affluence, appealing to mass buyers between twenty and forty who are slightly higher in education than most, and more sophisticated—people who've seen their supermarkets turn into the Folies-Bergères, people who are used to being entertained, people who are winner-oriented." One of the things that lay behind the Wells, Rich, Greene campaign was an approach in which the advertiser attempted to come to a kind of implicit understanding with the viewer that most advertising was, yes, rather a nuisance, and that in return for deciding to buy Benson & Hedges 100's the viewer would be spared a hard sell for the brand over the tube. It was an appeal to a certain kind of "knowing" viewer. It was also an appeal that made smoking seem a laughing matter—another plus for the industry. The result of the campaign was that sales of Benson & Hedges 100's rose from one billion six hundred million ciga-

rettes in 1966 to fourteen billion four hundred million cigarettes in 1970, for a total sale of well over fifty billion cigarettes in the four-year period.

Then, there were the commercials for Silva Thins, a hundred-millimetre cigarette that was introduced by the American Tobacco Company. The Silva Thins commercials seemed to have been designed for the sado-masochistic crowd as well as the hundred-millimetre crowd. They featured a male model with dark wraparound glasses and a surly expression who, in successive commercials, wordlessly showed by boorish or brutal treatment of beautiful girls that he preferred Silva Thins to their company. Driving along a deserted highway, he would reject the attempts that a pretty girl riding with him made to talk with him. He would knock her arm aside as she offered him a light. And when the girl picked up his pack of Silva Thins, he would jam the brakes on, fling open the door on the girl's side, brusquely order the girl out, then drive off, change his mind, back up, and, instead of picking the girl up again, grab from her hand the pack of Silva Thins and screech off, leaving her stranded by the roadside. The Silva Thins man would also leave girls stranded in elevators, in motorbike sidecars in Paris, in gondolas in Venice, and even in cable cars in the Alps. "Cigarettes are like girls. The best ones are thin and rich," a Silva Thins announcer intoned in a later series of commercials. The slogan with which the American Tobacco people accompanied the stranded-girl commercials was "Silva Thins, the Impossible Cigarette"—impossible, presumably, because the cigarette was "lowest in tar and nicotine of all 100's... yet Silva Thins taste better." Such television campaigns sold more than four and a half billion Silva Thins in 1970.

And there was the TV advertising campaign for Virginia Slims, a hundred-millimetre cigarette introduced by Philip Morris shortly after Silva Thins came on the market. The Virginia Slims commercials began with a scene showing, in archly slapstick fashion, the lowly role of women in an earlier era: "In 1915, Mrs. Cynthia Robinson was caught smoking in the cellar behind the preserves. Although she was thirty-four, her husband sent her straight to her room." They ended with a shot of a swinging, almost aggressively self-confident girl—the kind of girl likely to give a hard time to any character in wraparound glasses who might try to throw her out of his car—who was smoking a Virginia Slim and was obviously enjoying the experience.

The message of the Virginia Slims commercials, sung to a strong brassy-contemporary beat, was "You've come a long way, baby, to get where you've got to today. You've got your own cigarette now, baby. You've come a long, long way." Within a year of the opening of this campaign of liberation, the sale of Virginia Slims rose to four and a half billion cigarettes, or two hundred and twenty-five million packs. And by the time cigarette commercials go off the air for good, Virginia Slims will be selling at the annual rate of nearly five and a half billion cigarettes; that is, more than one hundred million packs. One of the considerations underlying the highly successful campaign for Virginia Slims, and the very large sales of other brands in the same period, was that over the years the number of women smokers had been increasing steadily and had come to constitute a large share—about forty per cent—of the total cigarette market. Women had also come a long, long way in other respects connected with smoking. Between 1930 and 1967, the proportion of women in the adult population who were smokers rose from ten per cent to an estimated thirty-five per cent. And in that same period the rate of lung cancer among women increased approximately fourfold. According to officials of the American Cancer Society, forty-five per cent of the women who died of lung cancer in the nineteen-fifties and sixties were regular cigarette smokers.

The television campaigns persuading people to smoke cigarettes went on relentlessly through the fifties and sixties, too. In the mid-sixties, while interviewing people in the tobacco business and the cigarette-advertising business on their attitudes toward smoking and health, I did not come across a single executive who gave any credence to the Surgeon General's report. Thus: Did the moving force behind the Benson & Hedges campaign that began in 1966—Mary Wells Lawrence herself—believe there was any causal relationship between smoking and lung cancer or other diseases? "My business is the advertising business," Mrs. Lawrence told me. "I am not a scientist. The information provided to me on this subject—and that includes the Surgeon General's report—leaves me in a state of total indecisiveness. When the government shows me beyond doubt that no matter who you are and what your makeup is cigarettes can cause you to contract these diseases, I'll search my soul about the moral problem." She added, "I sell liquors, automobiles, airline travel, and cosmetics—life has all sorts of opportunities. It is impossible for me to be running an advertising agency and to make up my mind to advertise one legally sold product and not another."

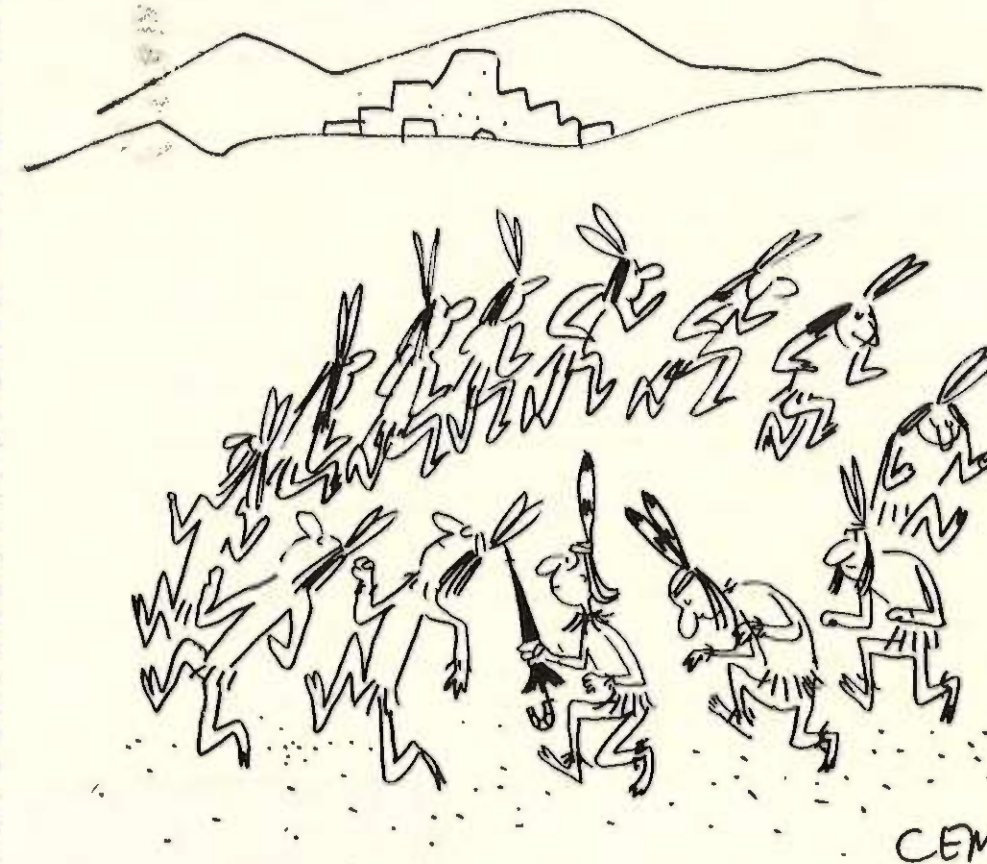
As the promotional gimmicks, the sprightly gags, the jingles, and the laughter in the cigarette commercials increased, so did the mass of evi-



"I'm sorry, but Doctor is very busy today, and I'm afraid we can't work you in for 'just sniffles.'"

boro Man in the cowboy hat, the filter brands quickly began taking over. One of the striking features of the mass marketing of a great number of consumer products in the past twenty years is the increasing blandness of the taste that has been built into these products. This change has applied to everything from beer to bread, and it is not surprising, given the disquieting news about the relationship between smoking and health, that this principle should be made to apply to cigarettes, too. Today, the difference in taste between one brand of filter cigarettes and another in a particular class—regular or menthol, for example—may be hardly detectable to a smoker wearing a blindfold. But the packaging, the appearance, and other aspects of the "brand imaging" are something else. As these merchandisers are fond of saying, no other object that people carry around is more often handled except money. And the close contact a smoker maintains with his cigarettes—a pack-a-day smoker reaches for the pack twenty times a day, picks up a cigarette when he's tense, habitually handles and puffs at it while he's making

the decisions that his working day calls for, and continues puffing away hour upon hour in his free time—makes the cigarette he uses enough a part of his living style so that distinctive packaging and appearance provide a marked identity to the particular brands a merchandiser is promoting aside from its actual taste. A brand manager at one of the big tobacco companies told me recently, not without pride, "What we're selling is illusion." In the age of commercial television, the number of major brands of cigarettes on the market has grown from half a dozen to almost thirty, in all shapes and sizes; by 1968, filter cigarettes, which at the beginning of commercial television had accounted for one and a half per cent of the cigarette market, accounted for perhaps seventy-five per cent. The wild proliferation of filter brands continually elevated the advertising revenues of the television networks, because the cost of introducing a new brand went into millions of dollars. And the tobacco companies kept increasing their promotional efforts on TV, because the capture of even a tiny part of the market meant high profits. The battle of the filters was





dence on the association between cigarette smoking and health. In 1967, a review by the Public Health Service of current scientific studies on the subject since the Surgeon General's report pointed further toward the causal nature of the relationship between smoking, certain diseases, and premature death. The report found, "Cigarette smokers have substantially higher rates of death and disability than their non-smoking counterparts in the population," and said, "Cigarette smokers tend to die at earlier ages and experience more days of disability than comparable nonsmokers." It noted, further, that a substantial portion of these early deaths and disabilities would not have occurred if those affected had not smoked, and that "if it were not for cigarette smoking, practically none of the earlier deaths from lung cancer would have occurred." The response of the cigarette industry to these findings was to put into that year's cigarette commercials and sponsored programs on television about two hundred and seventeen million dollars, or approximately twenty-three million dollars more than it had put into them the previous year.

**B**EFORE long, however, the tobacco industry and the broadcasting industry were in for a bit of a shock. In June, 1967, the Federal Communications Commission ruled that its "fairness doctrine"—which provided that when allegations concerning controversial subjects of public importance are made on the air broadcasters must provide air time, on request, for citizens who dispute these allegations and wish to make their own views known—applied to the advertising of cigarettes on the air. The ruling was the result of representations made to the F.C.C. by a young New York lawyer named John F. Banzhaf III, and it threw the tobacco and broadcasting industries into considerable turmoil and confusion, for it led to an obligatory granting of millions of dollars' worth of air time each year for the televising of anti-smoking commercials.

A while ago, Banzhaf described for me the genesis and some of the consequences of this unprecedented ruling by the F.C.C. "I went into this strictly as a personal project," he told me at his office at George Washington University, in Washington, D.C., where he is now an associate professor of law. "I don't want to paint a picture of myself as some kind of anti-smoking fanatic, although it so happens that I've never smoked. I began to think of the project out of a

## CROW'S FALL

When Crow was white he decided the sun was too white,  
He decided it glared much too whitely.  
He decided to attack it and defeat it.

He got his strength flush and in full glitter.  
He clawed and fluffed his rage up.  
He aimed his beak direct at the sun's center.

He laughed himself to the center of himself

And attacked.

At his battle cry, trees grew suddenly old;  
Shadows flattened.

But the sun brightened—  
It brightened, and Crow returned charred black.

He opened his mouth but what came out was charred black.

"Up there," he managed,  
"Where white is black and black is white, I won."

—TED HUGHES

concern not so much about the dangers of smoking as about the tactics being used in advertising cigarettes. I was concerned about the use of the public airwaves to seduce young people into taking up smoking without any attempt to tell the other side of the story on television and radio. I felt that I might be able to redress the balance, even with my own very limited resources, through taking advantage of the fairness doctrine of the F.C.C. It looked as though the fairness doctrine offered a legal loophole that might allow me a large output for a small amount of input." Banzhaf has done legal work on computer-technology cases, and he sometimes uses the vocabulary of computer technicians. "I couldn't take on the networks directly," Banzhaf went on. "The F.C.C. doesn't license networks—only individual stations—and the Commission requires that when you are requesting time on the air you have to take up the request with individual stations before approaching the F.C.C. So instead of tackling one of the networks, I wrote to the management of WCBS-TV, in New York, and asked that free time be made available to present the other side of the story from that being given in cigarette commercials. This request was denied, as I expected. My next step was to file a petition with the F.C.C. in which, having presented the facts of the request I'd made to WCBS-TV and the refusal I

had met with, I asked the F.C.C. to rule that, given the Surgeon General's report and other scientific reports on the relationship between smoking and health, cigarette smoking was a controversial issue of public importance, and that it was therefore proper for the Commission to order radio and TV stations to provide reply time for the presentation of views on the dangers of smoking."

Banzhaf presented his petition to the F.C.C. early in January, 1967, and after mulling it over for some time the Commission, on Friday, June 2, 1967, ruled that its fairness doctrine did indeed apply to cigarette advertising on radio and television, and that broadcasters carrying cigarette commercials were under an obligation to provide "a significant amount of time" to citizens who wished to point out that smoking "may be hazardous to the smoker's health." Banzhaf had requested that the rebuttal time provided for anti-smoking information on the air be "roughly proportionate" to the entire amount of time being devoted to cigarette advertising on the air. In its decision, the F.C.C. appears to have interpreted this request as one for equal time, and this it specifically ruled out. However, Henry Geller, then chief counsel for the Commission, gave his informal opinion, in a subsequent press interview, that a ratio of one anti-smoking message to three cigarette commercials seemed to him to correspond reasonably to the "significant" amount of time the Commission had in mind.

The Monday morning after Ban-

zhaf learned of the F.C.C. decision, he was called in, he says, to the office of the head of the law firm where he worked. "I found out that one of our firm's clients was one of the Big Six tobacco manufacturers," he says. "Obviously, it was an awkward situation from a professional point of view. I went off to think things over, and my tentative conclusion was that, having accomplished what I had in making cigarette commercials subject to the fairness doctrine, I might as well bow out and allow some of the major private health organizations to carry the ball from there on. I'd put a great deal of effort into preparing the petition to the F.C.C.; the job I had was the first I'd held with a law firm; my personal financial resources were very limited, to say the least; and I knew that the F.C.C. decision was just the beginning of a long fight, because it was certain to be attacked by the tobacco industry and the broadcasting industry in protracted legal proceedings, and undertaking the defense of the decision that was certainly going to be necessary seemed obviously beyond my capacity at the time."

Banzhaf further suspected—and his suspicion came to be fully realized—that a sizable obstacle that would have to be overcome if the application of the F.C.C.

fairness doctrine to cigarette advertising should eventually be upheld in the courts was the problem of insuring that television stations would make serious efforts to comply with the F.C.C. decision. One of the basic requirements for enforcement of the decision would be to have monitorings made of the time given over to cigarette commercials and anti-smoking messages by stations throughout the country. Most citizens might assume that an agency with such far-flung responsibilities as the F.C.C.—the issuing and renewing of public and private broadcasting licenses and the complex regulation of virtually every civilian use of the public airwaves, from the smallest citizens' walkie-talkie to the largest television station—would necessarily



"If you don't mind, Dr. Hervey,  
I do believe we could dispense with political opinion."

have a large and efficient monitoring service to insure that its regulations were being complied with. The fact is, however, that the F.C.C. possesses a total permanent investigative staff of four people to check up on possible violations of its rules concerning broadcast content as it is officially considered to affect the public interest—and then only on the basis of complaints. As far as Banzhaf was concerned, that meant relying on four government men to keep track of violations of the F.C.C. fairness doctrine as it affected the nearly one thousand television stations and nearly seven thousand radio stations. It meant, in fact, that such F.C.C. program-monitoring operations hardly existed. Of course, the F.C.C. could easily have used its authority under

the Communications Act of 1934 to require stations to make formal periodic reports on the number of cigarette commercials and anti-smoking commercials they were running. But the Commission did not request such reports.

Since the F.C.C. clearly didn't have the means of keeping track of the effect of its own decisions upon the industry it was supposed to be regulating, and since Banzhaf himself didn't, either, he thought that the most practical way to get some monitoring of the broadcasters' degree of compliance with the F.C.C. ruling would be to have it undertaken by private citizens who were active members of health organizations such as the American Cancer Society. Accordingly, he told me, he wrote letters to these organizations and





to the National Interagency Council on Smoking and Health—an organization that carries out some coordinating functions between the public-information arms of the American Cancer Society, the National Tuberculosis Association, the American Heart Association, and other health societies—and outlined the steps needed to sustain the F.C.C. decision.

"After I'd sent off the letters, I was invited to a meeting of this Interagency Council, and when I turned up at it I pointed out to the representatives of these health organizations that the first petition opposing the F.C.C. decision had already been filed with the F.C.C.—I forget whom it was on behalf of—and that within sixty days someone had to answer that petition with sound legal arguments if the F.C.C. decision was to be upheld," Banzhaf said. "I felt very strongly that the decision could not be saved unless responsible health organizations banded together to support it with competent legal counsel. But the representatives of the health organizations I was trying to persuade turned me down, one after another. In words I'll never forget. One of them said to me, 'Let me tell you the economic facts of life. My organization depends on free broadcasting time for our fund-raising drives. We

are not going to jeopardize that time by getting involved in this move.' Another told me, 'We're a health organization, not a legal organization. We can't get involved in legal action.'

"Others suggested that they felt they could get more from the broadcasters by cooperating with them in a friendly way than by becoming their legal antagonists. Even before the F.C.C. decision, the American Cancer Society had been preparing some cautionary commercials about smoking. Its representatives felt they could have these spots used on the air here and there, and didn't want to injure their chances of doing that. Also, the health organizations were used to thinking of the problem just in terms of disease. Their attitude was that you don't sue a disease. They were all very sympathetic, but they felt themselves dependent on the good will of the broadcasters, so they simply weren't prepared to get into a fight. In sum, they wouldn't do anything and wanted to leave it to me to act. I felt rather bitter about this.

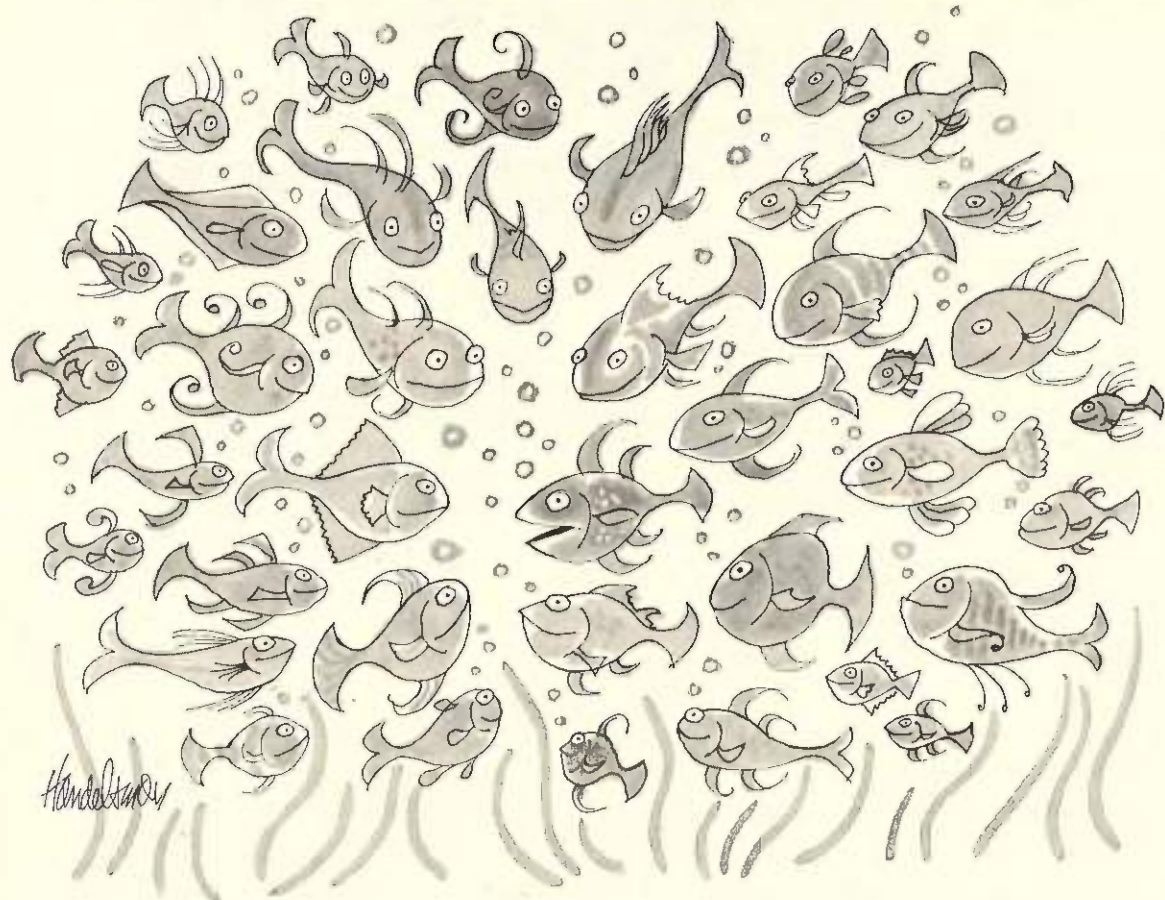
"All that summer of 1967, petitions to the F.C.C. to rescind its decision were being filed. All together, there were about a dozen of them. The petitions filed included those on behalf of the three major networks, of the National Association of Broadcasters, of

well over a hundred individual TV and radio stations, of the six major tobacco companies in this country, of the Tobacco Institute, and even of the Federal Communications Bar Association, a group of attorneys practicing in the communications industry. The petitions were filed by some of the top law firms in the country, including the Washington firms of Arnold & Porter—the firm Abe Fortas left to go on the Supreme Court—and Covington & Burling.

"With great difficulty, I decided to go ahead myself and to prepare arguments for presentation to the F.C.C. in support of my original petition and against the legal arguments opposing it and the F.C.C.'s decision. I was continuing with my job at the law firm, but felt uncertain about my position there, and the time I had available for this outside private project was very limited. But I got my reply brief supporting the original decision in, and I remember that on September 8th, a Friday, I left my office at eleven-thirty at night. I picked up an early edition of Saturday's New York Times and read that the F.C.C. had rejected the broadcasters' and tobacco industry's petitions and had unanimously reaffirmed its decision requiring a significant amount of free rebuttal time to be offered against cigarette commercials. When I read

that, I went right back to my office and got to work again. The reason for that was my knowledge that the reaffirmation of the F.C.C.'s decision could now be reviewed in any of the federal courts of appeal in the country, and that petitions for review would certainly be presented to those courts. I knew I'd have to be prepared for real trouble."

The trouble that Banzhaf had in mind was the possibility that the tobacco and broadcasting forces, in petitioning the federal courts of appeal to review the F.C.C. decision, might take advantage of Banzhaf's limited resources by deliberately filing a petition in a court difficult for Banzhaf to get to from New York—a court in Los Angeles, for example. Also, he reasoned, they might



"The motion is carried. We agree never, never to eat each other, and anyone who does will be expelled from the sea."

Calèche, a subtle fragrance.

Because you're more appealing when you whisper than when you shout.



Calèche by Hermès/Paris



file a petition for review in a court they thought would be friendly to their cause—a covert but widespread practice known in the legal profession as “forum shopping.” Banzhaf quickly decided that the best way to forestall such moves was to do his own forum shopping. From his point of view, the most convenient forum for consideration of the issue was in Washington—the federal Court of Appeals for the District of Columbia Circuit. Three months earlier, that court had upheld the Constitutionality of the fairness doctrine in vigorous terms. However, he couldn’t pick his court as easily as all that, because the choice of the particular court to review a petition is determined by where the petition for review is first filed. Furthermore, in the normal course of events a petitioner before a court has to have *lost* a cause—not won it, as Banzhaf had—in order to present a petition for review. Accordingly, Banzhaf worked very late that night preparing a court petition *against* the F.C.C.’s reaffirmation of its decision to require air time for anti-smoking messages. The ground he chose for his petition for review was that the Commission had denied what it had interpreted as his original demand for equal time for rebuttal of cigarette commercials and had granted only “a significant amount of time.” Having prepared this petition, he flew to Washington the next morning, rushed downtown, and filed the petition with a clerk of the U.S. Court of Appeals, who, fortunately for Banzhaf, happened to be there although it was Saturday. Thus Banzhaf established—or so he hoped—a forum that would prevent lawyers representing the tobacco and broadcasting interests from facing him in court territory they might consider most favorable to their side.

Two days after Banzhaf filed his petition for review, an assembly known as the World Conference on Smoking and Health, which was sponsored by the National Interagency Council on Smoking and Health and was managed by the American Cancer Society, began a series of meetings at the Waldorf-Astoria. The purpose of the conference was to receive and discuss new medical and scientific findings on the connection between cigarette smoking and ill health, and to discuss public and private programs for educating and warning people about the hazards of smoking. One of the introductory speakers at the conference was Senator Robert F. Kennedy, and Banzhaf says that as a result of a talk he had with one of the Senator’s assistants just before the health conference convened, Senator Kennedy incorporated into his

speech a recommendation that the health organizations help provide legal assistance for the defense of the F.C.C.’s decision. On the third day of the conference, Banzhaf himself spoke before one of its committees and urged such assistance. The committee made a similar recommendation, but, according to Banzhaf, the major health organizations reconsidered their position and again declined to use their funds to engage in litigation on cigarettes. The same day that Banzhaf made his appeal to the conference, the National Association of Broadcasters, in association with one of its member stations, filed its own petition for review of the F.C.C. decision.

“They filed with the Court of Appeals in Richmond, Virginia—which, of course, is deep in the heart of Tobacco Land,” Banzhaf told me. “The broadcasters, having filed their petition in Richmond, then came back to the Court of Appeals in Washington and filed a twenty-page motion citing twenty or thirty cases and claiming that my petition in Washington was defective and should be dismissed—the idea being to change the scene from Washington to Richmond. Under court rules, I had five days to reply to the broadcasters’ motion. It wasn’t much time for me, and normally it’s common custom for one party in proceedings of this sort to permit an extension to the opposite side to give it reasonable time to prepare its arguments. I telephoned my opponents and asked if, in view of the fact that I had a full-time job, they’d grant me a reasonable extension of time. But the other side said no. It was the old technique of overwhelming your opponent, blitzing him with pa-

pers. I just had to work a little harder. In five days, I prepared a forty-page answer to their twenty-page motion, and the eventual result of these filings was that the court upheld my position to the extent that the case stayed in the Court of Appeals in Washington.”

People in Washington who are familiar with the background of the F.C.C. decision and the appellate-court proceedings in which the decision was upheld find Banzhaf’s act in originally demanding air time for cautionary messages about cigarette smoking a most resourceful way of publicizing its hazards at minimum cost, and for that, they believe, he deserves great credit. However, their admiration for his resourcefulness is tempered by reservations concerning what they think is his occasional propensity for personal publicity, in contrast to the manner of other and more self-effacing people whose contributions over the years to the cause of informing the public of the relationship between smoking and health were at least as fundamental. And, indeed, to talk with Banzhaf at any length about public awareness of the relationship between cigarette smoking and health, one would hardly think that such prime movers in the field as Drs. Hammond and Horn, whose study in 1954 first brought the issue to wide public attention, and Dr. Luther Terry, the Surgeon General of the United States between 1961 and 1965, had ever existed. Although Banzhaf’s disappointment at being unable to get financial help from national health organizations is understandable, there are a few matters that his account of his relations with the health organizations ignores. These have been dwelt upon by Clifton R. Read, an official of the American Cancer Society, in an interview.

“At the Cancer Society, we had mixed feelings about entering the legal action in defense of the F.C.C. decision ordering free rebuttal time to cigarette commercials on the air,” Read told me. “We were very much pleased at what Banzhaf had originally accomplished, and when he urged us to provide financial assistance for the defense of the decision we asked our own counsel to explore the situation. A member of his firm talked in Washington with counsel for the F.C.C., and he reported to us that the Commission felt that the principal burden of defending the F.C.C. decision would fall upon the Commission, and that the Commission did not feel that it needed any help from us in defending its decision. Our lawyer agreed. He told us that in his opinion the F.C.C. had a very strong case and had the help of excellent attorneys, and



## There is a 20 m.p.h. world 700 miles at sea.

After you get off of a 600 m.p.h. jet, it's kind of nice to wander around our relaxed little island. Everything and everybody runs a little slower here than almost any place else on earth.

Golfers don't rush from hole to hole.

Sun lovers don't have to wade through a sea of people on our pink beaches. We have so many! Sightseers don't have to wade through waves of people on our tidy little squares.

On our island, you'll find just about every sport that you'll find any place else, plus one thing that you'll never find any other place on earth:

And that is our slow, enjoyable way of life. A life where nobody is ever too busy to smile. A place where everybody talks to everybody.

That's why so many people who come to Bermuda keep coming back.

Some who come never leave.

They've discovered there is only one Bermuda.

Tell a travel agent you want to join them. Or write Bermuda:

610 Fifth Avenue, New York, N.Y. 10020 or 6 North Michigan Avenue, Chicago, Illinois 60602.

# Bermuda



# Did your Dad ever say he expected great things from you?

This Polaroid Land camera is one of the most automatic cameras in history.

(It will let you focus and shoot, but there's not much else it will let you do.)

Our Countdown Model 350.

It not only gives you a color picture in a minute, its electronic development timer even tells you when your picture's ready. ("Beeep.")

It also sets all exposures electronically. Automatically.

The electric eye and electronic shutter can take a picture at 1/1000th of a second in bright sunlight. (Fast enough to "freeze" a fast tennis serve.)

Or color time exposures up to 10 seconds long. Automatically exposed flash shots for color and black-and-white.

And you can even take black-and-white pictures indoors without flash. (In any light good enough to read by.)

There's a dual image Zeiss Ikon rangefinder-viewfinder. (You frame the picture as you focus, in the same window.)

And with optional accessories you can take portraits, close-ups, even self-portraits.

Beautiful all metal body. Brushed chrome finish.

Under \$160.

It's what your Dad's best friend might give him.



Polaroid®

that he thought it would win in the courts without any help from us."

Unlike the American Cancer Society, the National Tuberculosis Association decided to submit an *amicus-curiae* brief in support of the F.C.C. decision. But although Banzhaf went before the Court of Appeals and argued in the proceedings he had started, the principal burden of defending the F.C.C. decision in court, as the Cancer Society people had expected, fell upon counsel for the F.C.C. itself, and the F.C.C.'s success was clear-cut. The court held that, "as a public-health measure addressed to a unique danger authenticated by official and congressional action," the F.C.C. ruling on significant time for rebuttal of cigarette commercials constituted proper protection of the public interest under the provisions of the Communications Act.

Whatever the necessity of Banzhaf's intervention in the court proceedings, there is little doubt that the next actions he took on the anti-smoking front were the cause of a lot of coughing and choking in the broadcasting and tobacco industries. Convinced that he was going to get only limited cooperation in his fight from the big, established health organizations, he decided to leave the law firm he had been working for and set up an organization of his own, in which he could devote full time to the problem of broadcast cigarette advertising. The idea of forming his own organization grew out of an article he had read in the *Times* about the Environmental Defense Fund, a coalition of lawyers and scientists that had been formed for the purpose of pursuing litigation that conservation groups like the National Audubon Society were reluctant to engage in directly. The Environmental Defense Fund is financed by foundations and contributions from the public. With this as a cue, Banzhaf formed an organization called Action on Smoking and Health (ASH) to pursue legal action on behalf of education about smoking, and established headquarters in a tiny temporary office near the United Nations. ASH was, and still is, a very small outfit, financed by public appeals.

"I knew that the broadcasters were not going to comply properly with the F.C.C. decision unless they had to," Banzhaf told me some time ago. "They were beginning to run anti-smoking commercials that were being prepared and distributed to stations by various health groups like the Cancer Society, but they weren't showing nearly enough of them. I felt that what I had to do was create a fear among the broadcasters that I could do something to them if they didn't comply fully. I

had to monitor the stations to determine their degree of compliance, but, of course, the monitoring I could do was limited. I decided that the best thing was to monitor the output of a large station to determine how much free time it was giving for the rebuttal of cigarette commercials, and if it wasn't giving adequate time I needed to file a detailed complaint on its violations of the F.C.C. rule with the Commission, so that no station in the country could be sure I wouldn't file against it. So I chose to monitor WNBC-TV. I monitored its programming in prime time for approximately two weeks, with the help of friends, and then in March, 1968, I filed a petition with the F.C.C. asking the Commission to revoke WNBC-TV's license in the middle of its current term. Our petition said our monitoring showed that the ratio of smoking commercials to anti-smoking commercials in prime time on WNBC-TV was ten to one instead of the three to one the Commission found reasonable. We asked for revocation of the station's license on the ground that the station was violating F.C.C. regulations—specifically, refusing to implement the fairness doctrine—and thus violating the terms of its franchise to operate in the public interest. At that time, I might remark, the F.C.C. hadn't done anything remotely like revoking a major television station's license. The Commission was happily rubber-stamping license renewals as they came due.

"I knew, of course, that we had only a thousand-to-one chance of getting WNBC-TV's license revoked. But I also knew that the value of the station was something like a hundred million dollars. That doesn't even include studios and transmitters—that's the probable market worth of the frequency that the government allows the owners to operate on, free of charge. We thought we would give the station something to be afraid of when we presented our petition. Who wants to take even a one-in-a-thousand chance of losing a hundred million dollars?"

"WNBC-TV challenged our peti-



tion. Their people claimed that the ratio we had given of ten cigarette commercials to one anti-smoking message was inaccurate. It was close to three or four to one, they said. But we challenged their challenge, and asked them to document their claim. We found that when the station had run two commercials, one right after the other, for two different brands of cigarettes that just happened to be manufactured by the same company it was counting them as *one* commercial, and also that it was claiming that its so-called billboard announcements for cigarettes—"This program is brought to you by Marlboro"—weren't commercials at all. We demanded and got the schedule for the anti-smoking messages it was carrying, and when we checked it we found out that while all the cigarette commercials it was running were being carried in prime time, a substantial number of the anti-smoking messages weren't—they were being broadcast at times like 2:30 A.M. or 6:38 A.M. WNBC-TV's explanation for running anti-smoking spots at 6:38 A.M. was that it wanted to reach children with them before they left for school."

As a result of Banzhaf's petition, the F.C.C., though it denied the demand for a revocation of the station's license, ruled that the station would have to run a greater ratio of anti-smoking messages to cigarette commercials than the current one, and run more of the messages in prime air time. This ruling concerning anti-smoking messages had the effect that Banzhaf had anticipated: the management of other television stations around the country began to be less laggard in complying with the F.C.C.'s fairness doctrine as it applied to anti-smoking messages. Through ASH, Banzhaf has tried to keep them alert by legal sniping tactics here and there. Thus, he has recalled, when a chain of stations in Indiana broadcast an editorial opposing a recommendation by the Federal Trade Commission that cigarette commercials be banned from the air, ASH asked the stations for free time to reply. The management of the stations refused the request, whereupon Banzhaf filed a complaint with the F.C.C. asking for revocation of the stations' licenses on the ground that the station owners had refused to comply with the F.C.C.'s fairness doctrine. "All that we were asking for was three or four minutes of air time, yet, upon our complaint, the owners filed a response that weighed in at over two pounds," Banzhaf said. As a result of Banzhaf's complaint, the F.C.C. ruled that the stations involved must provide free air time for a reply to



the editorial on the smoking-and-anti-smoking war.

The American Cancer Society people appear to have done no substantial amount of direct monitoring of the time given to anti-smoking messages on television. In fact, the society's people, who are not smoking cessation during this period. Really, of the Cancer Society, feels that, except for the first six months following the F.C.C.'s ruling on the fairness doctrine as it applied to cigarette commercials, the network have complied with the F.C.C. ruling to a "reasonable" extent. However, he contends that the society's aggressive tactics of bombarding stations and the F.C.C. with complaints and petitions may well have helped remind station owners of their obligation to comply.

THE effect of all this upon the advertisers of the industry was highly noticeable. In addition to seeing the earlier cigarette commercials showing smiling young couples running and so on, rolling up cigarettes and running along over a beach to indicate the benign qualities of the cigarettes they were puffing away at, censors now also be-

gan to see, sandwiched between segments of programs, a clip up shot of a serious-faced man who would hold up a cigarette and soberly ask, "Have you ever thought what happens when you smoke a cigarette?" After a pause, he would add, gravely, "We know," whereupon the words "American Cancer Society" would flash on the screen and the message would be over. It took only ten seconds, or less, of air on the television screen who appeared to have a cigarette in his mouth as he watched it seemed to be quite warning.

Besides being caught in mid-puff by the particular message, the four anti-dips have been exposed to a number of longer anti-smoking messages, which seemed to have the capacity of acting upon the existing crowd of cigarette commercials like antileeches grasping with some breasted swim. Against the commercials that displayed young people enjoying the filter or the cigarette with approval, viewers saw an anti-smoking message that opened with a shot of a cigarette lying flat, pointed toward the viewer. Suddenly the cigarette would come to life, coil up like a snake, ominously with its filter tip red

and smoke with its lighter end, right toward the viewer, while an ominous-sounding voice asked, "What does a cigarette have to do to you before you get out of range?" and "American Cancer Society" flashed on the screen again. Another message showed, in mid sentence, a series of warning signs and traffic lights, a "Thermostat" sign, a "Person" label, and finally a warning label on a cigarette package. "We receive many warnings to our life," a narrator intoned. "And sometimes they can save our life." The voice continued, against the sound of a cough, "This message is brought to you by the American Cancer Society."

Some of the more effective of these anti-smoking commercials were turned out by the New York advertising agency of Loeb, Geller, Federico & Partners, which produced them at cost and with producers and directors donating their time for the American Cancer Society. One of them, which seems to have been designed to deal with the Marlboro Man theme, showed a confrontation at a casino bar between some mobster character wearing a tuxedo and a man. The script ran as follows:

Various shots of bad guy's associates smoking as they watch good guy standing at bar.

MLE (medium long shot) of bad guy as he walks through door of saloon with cigarette dangling from mouth.

Good guy, standing at bar, turns, watching bad guy walking through the door.

Bad Guy: We figured (cough) you'd (cough) be here.

Bad guy and associates begin coughing uncontrollably, unable to shut a good guy. Good guy, disgusted by the coughing, knocks bad guy aside and leaves the saloon.

Upon which, the word "Cancer" zoomed up at the screen and a voice-over announcer said, "Cigarettes they're killers."

Richard L. Lord, who is president of Loeb, Geller, Federico, had considerable landing with the sale of cigarette commercials, having been at one time a cigarette-commercial copywriter at the V. J. & R. agency and at another time a "creative supervisor" on cigarette accounts at the Hinton & Bowles agency. At Young & Rubicam, in the late fifties, Lord was a leading member of a group assigned to promote Kent cigarettes and then Mennen Filter, under the slogan "Kent Is the Answer." On another tour at Y. & R., he promoted Newport cigarettes, devised for them the slogan "A Hint of Mint," and wrote a lot of commercials showing young couples frolicking and smoking in his-

# Bubble, bubble, toil and trouble.



For you, we trust, our champagne is a festive, light-hearted thing.

A delicious way to slough off the cares of the workaday world and so forth.

For us, it's the toughest job of all.

Making champagne is always difficult, even if you use the latest, streamlined methods.

The way we do it's a whole lot harder. And longer.

We use only the finest of premium grapes, plucked from temperamental,

low yielding vines.

We refuse to give up the painstaking process of fermenting our champagne in the bottle.

And we insist on giving it all the bottle-age it deserves before offering it to the public.

Ever since Paul Masson won his first gold medal in Paris in 1900, we've been in no hurry to impress you.

We may make fewer friends that way. But we make them to last.

Nothing good happens fast.  
Paul Masson



PAUL MASSON CHAMPAGNE, 100% VINO DE FRANCE, 100% CHAMPAGNE



"I don't like you, Mr. Jennings, and I don't like your last-minute suggestion!"



colic surroundings—precisely the note that another of his Cancer Society anti-smoking messages took aim at. Then, at Benton & Bowles, in the early sixties, he wrote part of a series of commercials for Parliament cigarettes, featuring the Parliament "recessed filter, a clean quarter-inch away"—a device that was claimed to give the smoker "extra margin."

A while ago, Lord told me that when his agency was making the anti-smoking messages it encountered some difficulty in finding actors to play the parts. "It was hard to get actors for this sort of thing, because they were afraid they might have to give up the lucrative fees and residuals that the tobacco companies pay for parts in cigarette commercials," he said. "The Cancer Society pays a flat buy-out to actors,



without residuals for replays, and it comes to only three hundred and twenty dollars, whereas, say, a nationally run Winston or Salem commercial can be a little annuity for an actor for a couple of years. The average income from residuals is probably something like five thousand dollars for a year or more, but if the actor hits with a commercial that is *really* widely replayed, he could make between ten thousand and fifteen thousand dollars a year out of it. That's a lot for a hungry actor. And some actors are afraid that even if they don't happen to be the type for cigarette commercials they might be blackballed by agencies that *do* cigarette commercials. Well, for this particular anti-smoking message [one parodying the happiness shown in cigarette commercials] we had to hunt around quite a bit to collect a cast. We must have seen forty or fifty people. We'd have actors signed up and then find them backing away. We had one guy signed up for a shooting call at 8 A.M., and at five-thirty the evening before we got a call from his agent, who said he wouldn't let the actor play the part. We pointed out that the guy couldn't lose parts in cigarette commercials by appearing in an anti-smoking spot, because he didn't even smoke. The agent said, 'I'm going to *teach* him to smoke, if that will get him in a cigarette commercial.' Eventually, we came up with a few people who believed in what we were doing. Most of them were nonprofessionals. One of them was a waitress at a restaurant on Eighty-sixth Street who looked just like the sort of girl who might appear in a cigarette commercial. They were all great, and really worked hard.

To get the rights to play 'Smoke Gets in Your Eyes,' we went to Chappell & Co., the music publishers who own the Kern copyright. Representatives of a cigarette company had been there before us. They'd tried to buy the song for one of their brands. But Chappell & Co. had turned them down. We explained what we wanted. The man we talked to at Chappell happened to have just given up smoking. We got the rights to play 'Smoke Gets in Your Eyes' in a Cancer Society anti-smoking message for just a hundred and sixty-eight dollars and fifty cents, which represented the bare cost of the legal paperwork involved. The messages have been a pretty big success, I think. I've heard that some stations wouldn't run it, because they believed it was too strong. Also, I understand that one tobacco company brought pressure that resulted in our parody of the Western shootout being taken off a West Coast station, and that was probably because the owners became persuaded that the line 'Cigarettes—they're killers' was too strong."

WHILE the anti-cigarette forces were gradually mobilizing themselves, the tobacco industry was not idle. During the first quarter of 1969, the tobacco industry spent a good deal more money on television commercials than it had in the corresponding period of the previous year. On network television, the industry spent forty-five million three hundred thousand dollars for the quarter, as opposed to forty-three and a half million dollars for the first quarter of 1968, and its expenditures for spot announcements on individual stations rose by more than a million dollars, to a total of eleven million two hundred thousand dollars. Furthermore, most of this money was spent on advertising in prime time, in which the largest possible audiences could be reached.

With a very few exceptions—notably the Doyle Dane Bernbach and the Ogilvy & Mather agencies, which do not accept cigarette accounts—Madison Avenue appeared to remain pretty loyal to the tobacco industry. An article on the subject in February, 1969, in *Advertising Age* reported:

A telephone check of 23 New York agencies [that do not have cigarette accounts], each large enough to absorb a sizable cigarette account without being absorbed by it, shows there are few that would decline one. Aside from long-time non-smokers like Doyle Dane Bernbach and Ogilvy & Mather, only four agen-

cies in that [major-billing] category said that they would unequivocally be uninterested in a cigarette account—and two of those equivocated their unequivocal positions, suggesting that the offer, say, of \$23,000,000 worth of Pall Mall business might bring about a quick change of policy. Top executives for each of the other 19 agencies replied, generally with no hesitation, that they would take on a cigarette account "gladly," "with pleasure," and "certainly."

The industry had also been doing its best—through the Tobacco Institute, which is its central trade organization and lobbying arm, in Washington—to persuade congressmen that there was nothing provably injurious about smoking cigarettes. With the help of the public-relations firm of Hill & Knowlton, the Tobacco Institute also issued sheaves of press releases and background advisories, the gist of most of which was that the Surgeon General's report and the rest of the medical documents dealing with the relationship between smoking and lung cancer and other diseases were riddled with fallacies, and, in fact, were altogether unreliable. Then, in late 1967, the Tobacco Institute called up reinforcements, contracting for the services of the Tiderock Corporation, a sort of super-public-relations and management-consultant firm in New York.

The Tiderock Corporation was headed by Rosser Reeves, the ebullient former advertising man who for a number of years had been chairman of the board of the advertising agency Ted Bates & Co. and the undisputed prince of the hard sell in television advertising. At Ted Bates in the early fifties, Reeves had had a strong hand in promoting filter cigarettes, such as Viceroy and Kool, that were put out by Brown & Williamson. He had helped make the sales of these brands leap wildly with commercials containing such claims as "The nicotine and tars trapped by the exclusive Viceroy filter cannot reach your nose, throat, or lungs." (He later observed in connection with the medical studies on smoking and health that put the subject on the front pages in 1954, "We had already preempted the health kick.") Now Reeves, after having retired from the agency business and done some dealing in real estate down in Jamaica, had returned to Madison Avenue, set himself up in a suite of fifteen offices on the thirty-fifth floor of the Newsweek Building, and was consulting with half a dozen large corporate clients—"all big jungle cats, too," he said—on whatever public-relations or managerial problems afflicted them. I had an opportunity to interview Reeves on the subject of tobacco shortly after Tiderock took on the Tobacco Institute account, and although I gathered that

## You don't give it. You bestow it.

Seagram's Crown Royal.  
The legendary Canadian.  
In the purple sack.  
Understandably expensive.



Seagram's Crown Royal. Blended Canadian Whisky. 50 Proof. Seagram Distillers Company, New York, N.Y.





## The Martell eggnog...an exquisite possibility.

In the gift wrap, in the snifter, in the eggnog... Martell Cognac loses nothing in translation. The taste is exquisite. The aroma, superb. And these qualities come through any way you serve it. Let Martell say Noël with eloquence.

MARTELL...THE LARGEST SELLING COGNACS OF THE WORLD.

the corporation was getting nearly half a million dollars for its services to tobacco, I never did get him to tell me exactly what it was doing for the Institute. However, I found him perfectly ready to say at some length that the tobacco industry had come in for much hard and unfair treatment at the hands of the federal government and of the medical people associated with the Surgeon General's report.

"After years of silence on the subject, the tobacco industry has decided that it is refreshing and necessary in any controversy to present both sides," Reeves told me. "I can say that I have been consulted on presenting the side of the controversy that has not been heard properly. The tobacco manufacturers do not claim that cigarettes do not cause cancer. They say very simply that it has not been proved that cigarettes do cause cancer. The question is still an open one. I believe that. You should see some of the crank letters I've got: I'm a merchant of death, I should be lashed to the stake. But I happen to be a very rich man—too rich to have to sell out for money."

Warming to the subject, Reeves continued, "I went to Washington. I looked into the propaganda machine of the federal bureaucracy and what it has been doing with the facts about smoking. For example, a study made for the Department of Health, Education, and Welfare, and published last May. Let me describe it. Volunteers are lined up. They call Mrs. A. They say, 'How old is your husband?' Or they get her daughter—the father isn't there, he's at work. 'How much does your father smoke?' 'Like a chimney.' 'How long has he been smoking?' 'Forty years.' 'Does he cough?' 'All the time.' 'Worried about his heart?' 'Yes, as a matter of fact, his heart's thumping.' 'Breathing?' 'He pants like an old locomotive.' Wives and daughters turned into diagnosticians! And you just try to get the raw data on that study, so that competent statisticians can study it on computers. I'll bet you five dollars to fifty thousand dollars you don't get it!"

Further: "The doctor is a layman in this matter. I gave a cocktail party for fifteen top doctors. These are busy men. We poured some gin into them. I told them, 'You know about the smoking controversy.' 'Oh, yes, we've made a very profound study.' And I found out that *not one* had read the Surgeon General's report. They'd all got it from the *Times* or the *News*."

It was interesting to see a man who

had made his fortune out of commercials that habitually conjured up the authority of medical science—doctors who were alleged to recommend Anacin most when headaches strike; eminent skin specialists who were supposed to attest to the glowing results for women who carried out the Fourteen-Day Palmolive Beauty Plan; eminent dental specialists whose studies were made to demonstrate the clear superiority of Colgate Dental Cream—suddenly fall upon the men in white and assail them as deficient in scientific rigor. And it was interesting to see a man who, in his advertising career, had



shown such solicitude for the public health that he mounted a vast campaign of television commercials alerting the country to "doctors' tests" proving that "Minute Maid Orange Juice is better for your health than orange juice squeezed at home" now so intent on playing down the dangers of smoking, and acting as the chosen agent of the Tobacco Institute to attack the Surgeon General of the United States for improper use of statistical method.

It was also interesting to see, some time after the Tobacco Institute obtained the services of Reeves' consulting organization, one result of this collaboration. In January, 1968, *True* carried an article entitled "To Smoke or Not to Smoke—That Is Still the Question," under the byline of Stanley Frank. The article took up the cause of the tobacco industry against the findings of the Surgeon General's report and other studies associating cigarette smoking with ill health, and it concluded, "At the moment, all we can say for sure is that the cause of cancer isn't known and that there is absolutely no proof that smoking causes human cancer."

Before its publication, the article was heavily promoted in advertisements appearing in the daily press, and a couple of months after publication it got even more publicity, slightly less favorable, when a story in the *Wall Street Journal* disclosed that Stanley Frank had become an employee of Hill & Knowlton, the public-relations people employed by the Tobacco Institute. It also disclosed that approximately six hundred and eight thousand reprints of the article had been sent out, most of them with a covering note signed "The Editors," to a list of "opinion-makers" throughout the country. But the reprints weren't sent out by the editors of *True*, even though they were printed on the presses of Fawcett Publications, which publishes *True*. They were sent out—and paid

## Announcing America's newest body shop.



Your entire being yearns for the quiet renaissance of The Spa at Palm-Aire.

It's a languid world of swirling baths, calm pools, sauna, massage... the most soul-soothing techniques man has developed, combined with medically-supervised diet and exercise to gently free you from tension.

Palm-Aire Country Club surrounds you with 3 private golf courses and 6 championship tennis courts. A private beach, race tracks, jai alai and night life are within easy reach. There's never been anything like The Spa at Palm-Aire. Use the coupon to find out more.

A creative living project of  
FPA Corporation.

Mail to: The Spa at Palm-Aire  
2551 Palm-Aire Drive, Suite SNYR71  
Pompano Beach, Florida 33060  
Or call (800) 327-4960 toll-free.

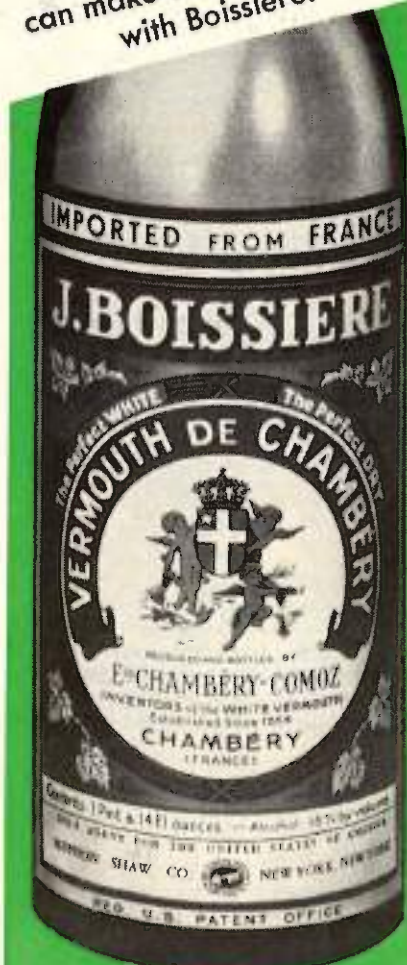
Please send me more information about the quiet pleasures of The Spa at Palm-Aire.

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_  
State \_\_\_\_\_  
Zip # \_\_\_\_\_





**You make the odds...**  
15 to 1...7 to 1...even 3 to 1...  
you can bet that nobody  
can make a bad martini  
with Boissiere.



SOLE DISTRIBUTOR U.S.A.: MUNSON SHAW CO., NEW YORK

for—by none other than the Tiderock Corporation, which, it turned out, had also paid for the newspaper ads about the article. It was later disclosed that the “opinion-makers” who received the reprints included 184,647 doctors and other people in the field of medicine; 7,295 people in the communications field; 41,055 biological scientists; 18,819 educators; 10,142 government officials, including the 50 governors, 100 senators, and 432 representatives; 10,173 security analysts; and 123,779 other people, including lawyers, members of Junior Chambers of Commerce, and the like. In addition, three member companies of the Tobacco Institute—the American Tobacco Company, Philip Morris, and R. J. Reynolds—ordered directly from Fawcett two hundred thousand copies, sixty-five thousand one hundred copies, and a hundred and thirty-five thousand copies, respectively, and, on top of this, Reynolds, Lorillard, Brown & Williamson, and Philip Morris obtained from the Tiderock Corporation a hundred thousand reprints of the article to send to their stockholders, company employees, and sales representatives. The Tobacco Institute and its members must have spent at least a hundred and seventy-five thousand dollars on the *True* project. Various complaints of unfair trade practices on the part of Tiderock, the Tobacco Institute, and the advertisements of the article were subsequently made to the Federal Trade Commission, and these resulted in an F.T.C. report to Congress. According to the report, which was submitted the following June, the *True* project had its genesis in discussions between Douglas Kennedy, then the editor of *True*, and a certain Joseph Field, whom the report identified as a public-relations man on retainer to Brown & Williamson. Field told the F.T.C. investigators that before and after the *True* article appeared he had sought to get national magazines to run articles presenting the tobacco industry's views on the subject of smoking and health, and he indicated that after his discussions with Douglas Kennedy, although he was given no commitment that such an article would be printed in *True*, he approached Stanley Frank, a free-lance writer for popular magazines who had done a number of articles for *True*, and paid him five hundred dollars to develop such an article. Approval of the idea, and reimbursement of the five hundred dollars, came from Brown & Williamson, Field said. Further inquiry revealed that Field then introduced Frank to an attorney for another

tobacco company, and that this attorney supplied Frank with most of the material he used in writing the *True* article. The article was circulated among four *True* editors, two of whom thought it should be printed. A memorandum from a third editor responded less favorably: “Andy and Jack think this is great. I find it completely biased and, if actually not hogwash, pretty damn misleading.” A fourth editor found Frank's scientific critique of the Surgeon General's report and other medical documents somewhat surprising. He commented:

If our old friend [name deleted in the F.T.C. report] had written this long, sob-sister plea for the tobacco industry I could at least understand his motives, but coming from Stanley Frank, a man who has spent many more years in baseball dugouts than in laboratories, I am at a loss... Let's really face it: what's wrong here is that our writer didn't go out like a good reporter and do his legwork and his homework. The result is the purest trash—dated, biased, and without present justification.

For the article, Frank was paid an author's fee of five hundred dollars and later additional payments totalling fifteen hundred dollars. (Frank went to work for Hill & Knowlton shortly before the appearance of the article in *True*, and he is still working there, but there is no evidence tying Hill & Knowlton to the *True* article. As a matter of fact, after the revelations about Tiderock's activities in publicizing the *True* article the Hill & Knowlton people were very unhappy.) Soon after the ramifications of the *True* article became public, Hill & Knowlton resigned the Tobacco Institute account. (Tiderock and the Tobacco Institute continued relations until the end of 1968.) Not unexpectedly, a number of liberal senators expressed shock at the tactics used by the Tiderock Corporation. However, Reeves' side of this little contretemps should be considered.

He was doing his best to combat what he seemed to see as some vast new, Western-style doctors' plot against the tobacco manufacturers; the business of running an off-screen, print-oriented public-relations campaign was somewhat new to him, and probably, in his innocence, the former prince of the hard sell was merely trying to apply—as far as Tiderock's part in the *True* affair went—standards of addressing the public that are perfectly normal and acceptable in the world of television advertising.

UNFORTUNATE as the revelations concerning the *True* article were for the tobacco industry, they were

# At 6:15 A.M., you're in no shape to tell the big hand from the little hand.

Just open your eyes and see the big numbers poking through the fog.

They're very comforting things to wake up to, our digital clock radios. Instead of hands to decipher at a time when you need all the help you can get, they give you nice clear numbers. That you don't have to see by the dawn's early light. Because they already have their own soft electric ones.

And they let you fall asleep to up to 60 minutes of music. And then wake up to more music. And if that isn't enough to get you up on time to see the time, there's an insistent buzzer that can take care of you.

Maybe you thought clock



radios were just something to wake you up. These are also something to listen to. With big dynamic speakers to go with the big numbers. And Solid-State devices so they keep going a long time.

The “Planada.” Model RC-7589. (Pictured above.) Flip for the modern metallic design. And it'll swivel for you. And give you a “Sure-Awake” alarm that lullabies you to sleep through a pillow

speaker. And blasts you awake through the main speaker.

The “Cameron.” Model RC-7469. Does everything the “Planada” does. But in a beautiful walnut cabinet. With big numbers, a little earphone and a “Sure-Awake” alarm.

The “Newdawn.” Model RC-6530. Has the “Sure-Awake” alarm. And a 2-stage nitelight so it glows in the dark as brightly as you want.

The “Morningtone.” Model RC-1280. For people who only listen to AM. But also want an earphone and a 2-stage nitelight.

See the new kind of clock radios today. At any Panasonic dealer. And tomorrow you won't have to worry which hand is bigger.



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200 Park Avenue, New York 10017. For your nearest Panasonic dealer, call 800 243-6030. In Conn., 800 942-0655. We pay for the call. Ask about Digital Clock Radios.



# FROM RUSSIA WITH TASTE.

Introducing Russkaya:  
real Russian vodka.  
In very good taste.



followed by even less welcome developments. In February, 1969, the Federal Communications Commission issued public notice that it intended to propose a ruling to ban cigarette advertising from all radio and television broadcasts. Because of "the hazard to public health" involved in cigarette smoking, it noted, the ruling was called for by the standard of public interest that broadcasters were legally obligated to adhere to. In taking this stand four months before the expiration date, on June 30, 1969, of those provisions in the Cigarette Labelling and Advertising Act of 1965 which prohibited the F.C.C. and other regulatory agencies from taking action against tobacco advertising on the ground of health, the F.C.C. was plainly notifying Congress that it was prepared to move against cigarettes after June 30th if Congress didn't.

The tobacco-industry people were highly indignant at the F.C.C. statement of intention. The Tobacco Institute issued a statement declaring, "In the present state of scientific knowledge about smoking and health, the ruling contemplated by the F.C.C. would be arbitrary in the extreme." The broadcasters were indignant, too. Vincent T. Wasilewski, the president of the National Association of Broadcasters, issued a statement declaring, "The F.C.C. has arrogated to itself the formulation of a national policy... outside its field of expertise," and calling the policy one that should be left to Congress itself to determine. And Senator Sam J. Ervin, Jr., Democrat of North Carolina, the tobacco interests' senior defender in Congress, called the F.C.C. proposal "a supreme example of bureaucratic tyranny."

Thus, in the struggle over cigarette advertising the lines were drawn not only between the tobacco interests and the forces convinced of the dangers cigarette smoking presented to public health, and between the broadcasting interests and the F.C.C., but also between Congress and a regulatory agency.

Taking into account that, in addition to the F.C.C. proposal, the Federal Trade Commission had already made known, the previous year, not only its own opposition to the advertising of cigarettes on radio and television but also that it wished to require a stronger health warning on cigarette packs, the pro-tobacco forces realized that it was most important for them to concentrate on preventing the lapse of the preemption clauses in the Cigarette

Labelling and Advertising Act. Further, they knew that a number of bills proposing the restriction of tobacco sales and advertising were being processed in a number of states, and that if the preemption clauses of the Cigarette Labelling and Advertising Act did lapse, such bills might mushroom in every state and form a patchwork of regulations that would make nationally organized advertising and sales campaigns for cigarettes extremely difficult.

Consequently, great lobbying pressure was exerted by the pro-tobacco forces on members of the House Committee on Interstate and Foreign Commerce, which in April held hearings on various bills to amend the 1965 Cigarette Act, and on May 28th the committee, by a vote of twenty-two to five, reported out a bill, known as the Public Health Cigarette Smoking Bill, that would have extended the preemption of any state- or federal-

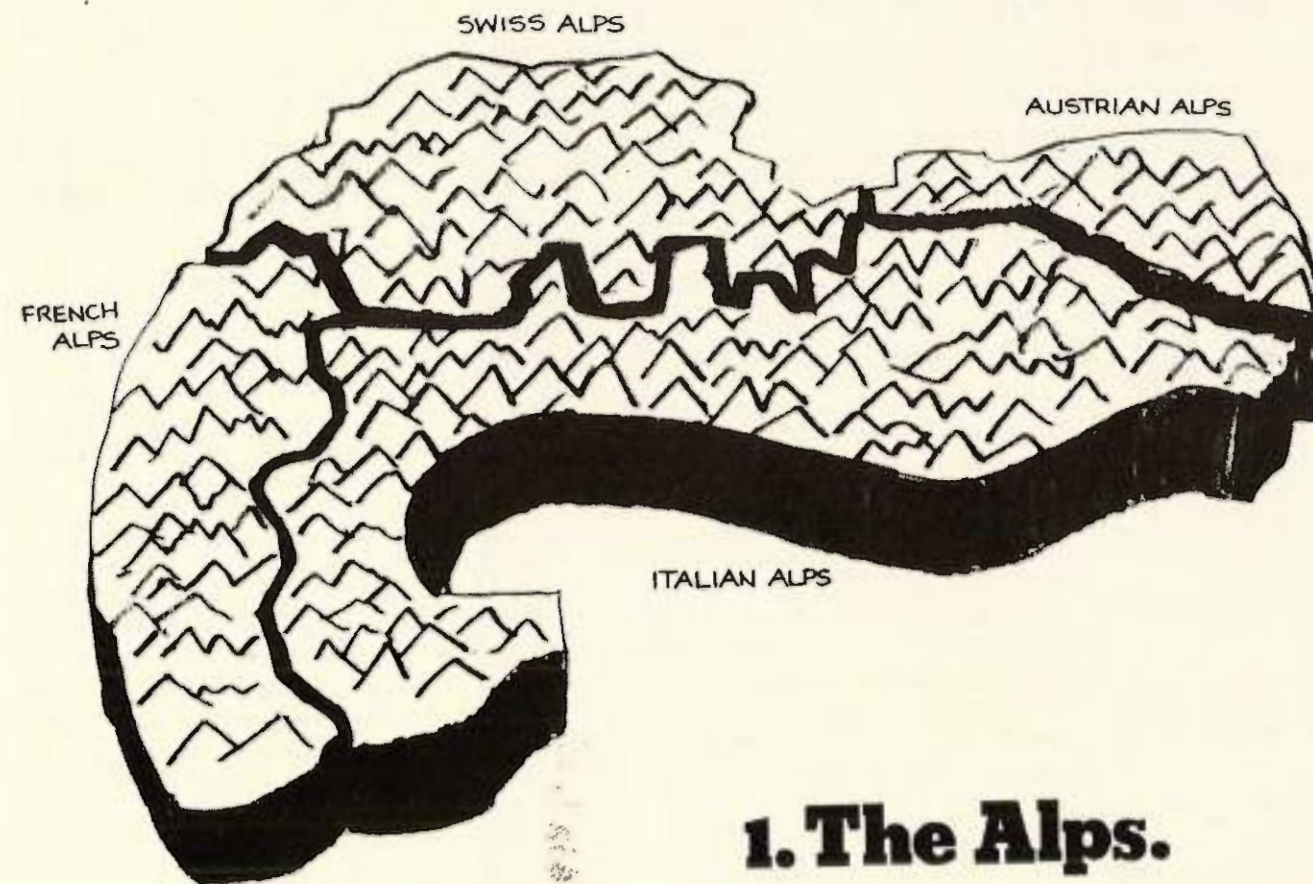
agency intervention against cigarette advertising for six years—a period longer by one-third than the moratorium built into the 1965 act. It looked like a clear victory for the tobacco forces, except for one tactical concession—a recommendation by the committee that a stronger health warning be required on cigarette packages. Instead of reading, "Caution: Cigarette Smoking May Be Hazardous to Your Health," the warning was now to read, "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health and May Cause Lung Cancer and Other Diseases." In arriving at this wording, the committee rejected a proposal from the Surgeon General himself that the last part of the warning read "...and May Cause Death from Cancer and Other Diseases." The word "death" made the tobacco people and their allies too unhappy. Even then, certain members of the committee felt that the modified warning was too much for them.

Since the label was not required to be placed on the front of the packages, this meant that it would continue to be put on one side, where it wouldn't be visible in cigarette commercials. And since the warning might conceivably help in some measure to relieve the tobacco companies of liability for damages arising out of lawsuits brought by the estates of deceased smokers who died of lung cancer, the tobacco men were unworried about this concession anyway.

The tobacco lobby was under the generalship of Earle C. Clements, a former Democratic senator from Ken-



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This is the kind of skiing you never dreamed existed in Italy.

Here we can only give the barest details. Ask the

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To: Ski Director—Alitalia Airlines  
666 Fifth Avenue  
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Please send me lesson No. 2

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Address .....

City ..... State ..... Zip .....

My travel agent is .....



ITALIAN GOVERNMENT TRAVEL OFFICE

**Alitalia**  
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It's not just another Caribbean resort for Americans; it's a whole different country with a flavor all its own.

It doesn't only take you away. It's so gracious, it takes you back to a bygone era.

It's summer sun and sugar beaches, to be sure. But it's Scottish moors, too. And tropic paradise. And probably the world's friendliest people.

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We've added accommodations of every kind: luxurious houses, modest bungalows, hotels or plantation-type luxury resorts as well as many new spacious apartments.

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tucky, who was then president of the Tobacco Institute. His most active aides on Capitol Hill were Horace R. Kornegay, the Institute's current president and a former Democratic congressman from North Carolina, who until the previous year had had a seat on the House Interstate and Foreign Commerce Committee, and Jack Mills, former executive director of the Republican Congressional Campaign Committee. On Capitol Hill, Kornegay concentrated on the Democrats, Mills on the Republicans. The principal theme pursued by these lobbyists seemed to be that if the F.C.C. or the F.T.C. was allowed to ban or control the content of cigarette advertising, the agency would in effect be replacing congressional authority with administrative fiat, and would thereby be setting a dangerous precedent for restricting or banning all sorts of other legally sold products.

The tobacco lobbyists encouraged friends from other industries to see representatives and senators, too. "I've heard rumors that the tobacco people have been sending a member of the Liquor Institute around to see people on the Hill on their behalf," a lawyer close to the action told me not long before the House was preparing to vote on the cigarette bill. He added, "Madison Avenue is well represented here, too. The American Association of Advertising Agencies has a man sizing up the situation. He's getting something like a hundred grand a year. He has a broad mandate to find out what's going on, and he's around and about on the Hill. The individual tobacco companies have some high-priced legal talent watching the scene. The big Washington law firms are right in there—for example, Arnold & Porter, which is representing Philip Morris. These people know their way around Washington. The tobacco companies have other representatives here, too. One of the big tobacco companies has a fellow who, as I understand it, was once a private eye and was hired to catch up with Jimmy Hoffa's doings a few years ago. He's around, gathering intelligence. Then, there are all kinds of little fellows—free-lance lobbyists who sign on for a few bucks at one time or another. They'll drop in and make some inquiries for Earle Clements—that sort of thing. And then there are various people being hired whom we may not see directly—for example, fellows taken on to write position papers for the tobacco outfits. The tobacco people have been interested in recruiting some journal-

DECEMBER 19, 1970

istic talent. A science reporter for one Washington paper told me a while ago of getting an offer of forty thousand dollars a year to go to work full time for the Tobacco Institute. The offer was turned down. Of course, Luke Quinn, who's the registered lobbyist for the American Cancer Society, is active on the Hill, too, and so is Banzhaf."

The broadcasting industry, with almost a quarter of a billion dollars a year in cigarette-advertising accounts at stake, was well represented in Washington during the legislative deliberations. "Vincent Wasilewski and other people from the National Association of Broadcasters are very active," I was told. "They're working closely with the tobacco people. The broadcasters are able to bring a lot of pressure to bear on the Hill. Congressmen don't like to quarrel with broadcasters, and the broadcasters know that. And on this issue the congressmen are hearing from their local TV-station owners as well as from the N.A.B."

Apart from the argument that regulatory action on cigarette advertising on the air would strengthen the agencies' hand and thereby sap the power of Congress, the broadcasters maintained in their lobbying exercises that the broadcasting industry itself was perfectly capable of regulating its advertising of legal products such as cigarettes, and, in fact, was already monitoring and regulating the cigarette advertising that was offered it, through cigarette-advertising guidelines devised by the Television Code Authority, the administrative arm of the N.A.B.'s Television Code Review Board. And it appeared that in deciding to stay the hand of federal agencies bent on regulating cigarette advertising the House committee had given considerable weight to the testimony that Wasilewski offered concern-

ing the self-regulatory machinery established by the broadcasting industry. "The industry recognizes its obligation," Mr. Wasilewski had assured the committee during its April hearings. "Through [the Code Authority], it maintains a continuing review of cigarette advertising on radio and television as it relates to the public interest, and it has been responsive to that interest. We believe that self-regulatory efforts have played and are playing a significant role in dealing with the issue [of cigarette advertising], and that the furtherance of such efforts should be encouraged."

In mid-June, however, there was a development that showed these assurances in a different light, somewhat



THE NEW YORKER

embarrassing to the broadcasting industry. Representative Brock Adams, of Washington, one of the five committee members who had voted against the tobacco interests, turned up evidence from Warren Braren, a former manager of the New York office of the Code Authority, on the extent of the N.A.B.'s self-regulation of cigarette advertising. On June 10th, Braren, who had become disillusioned by his working experience at the Code Authority, testified at a special committee hearing that whereas Congress had been informed that active and effective self-regulation existed in the N.A.B., the fact was that no such continuing review of cigarette commercials by the N.A.B. Code Authority people as Wasilewski had described currently existed, nor had existed since April, 1968, when a meeting between Wasilewski and other N.A.B. officials was held to discuss enforcement of the N.A.B. Code as it applied to cigarette advertising. As long ago as 1966, a confidential study made by the Code Authority staff had found that a good deal of cigarette advertising shown on the air could be construed as making smoking attractive and socially acceptable to young people, in violation of the Code Authority's publicly professed determination to see to it that in cigarette commercials "cigarette smoking not be depicted in a manner to impress the youth of our country as a desirable habit worthy of imitation." The study, he said, was in effect ignored by the N.A.B. Braren further testified that, subsequent to this study, resistance by television networks and tobacco companies to guidelines for the regulation of the content of tobacco advertising on the air—for example, a proposal to eliminate elements of cigarette commercials in which cigarette smoking was associated with virility and boy-girl romance or worldly success—had "disabled" the Code Authority, and it could no longer function effectively in policing cigarette advertising on the air. He said that when individual Code Authority members had suggested that the depiction of the act of smoking be abandoned in commercials, "President Wasilewski intervened with the argument that such a proscription was 'premature,' that it would drastically reduce the appeal of cigarette advertising, and consequently not be of benefit to broadcasters." The proposal for this restriction got nowhere. Braren said that in 1967 Code Authority members were cautioned by the Code Review Board not to be "too rigid" in interpreting the Code Authority's guidelines as they applied to specific commercials, and were advised by Clair McCol-

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afford the finest.



Imported from France.  
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Chantilly  
in this bottle  
to shake her  
world.  
(And yours.)



Perfume, 1 oz., \$25.  
Gift sets from \$5 to \$25.

**HOUBIGANT**  
PERFUMERS SINCE 1775.

lough, the board's chairman, that in arriving at a decision concerning the acceptability of cigarette commercials they should adhere to the standard of "When in doubt, O.K. it." Braren said that the coup de grâce was given the Code Authority's operations governing cigarette commercials when, at the April, 1968, meeting of N.A.B. officials, Stockton Helffrich, the Code Authority director, told staff members, "Network [affiliates]... see in the area of cigarette copy nothing to be achieved by Code Authority involvement and in fact [see] potential injury to cigarette-advertising revenue if the Code Authority pursues such a course."

To these charges both Wasilewski and Helffrich replied before the House Interstate and Foreign Commerce Committee with general denials of negligence in formulating and enforcing workable guidelines to govern cigarette advertising on the air. And Braren's statements, though they might not have been much of a testimonial to the effectiveness of self-regulation by industry, had little effect on the pro-tobacco momentum that had been built up in the House of Representatives through vigorous lobbying. On June 18th, the cigarette bill came to a vote on the floor of the House. "Tobacco interests were in firm control throughout the House voting as anti-smoking forces were beaten in every attempt to reshape the measure," the *Times* reported the following day. The House passed the bill by a voice vote.

THE bill was now sent to the Senate, but its reception in the appropriate committee there was far less friendly than it had been in the House Interstate and Foreign Commerce Committee. Senator Warren G. Magnuson, Democrat of Washington, the politically powerful chairman of the full Senate Committee on Commerce, was on record as being in favor of restrictions on cigarette advertising. Two years previously, he and Senator Robert F. Kennedy had jointly proposed to the major tobacco companies that they allow their cigarette commercials to be broadcast only after ten o'clock at night. Furthermore, the chairman of the Commerce Committee's Consumer Subcommittee, which would be holding hearings on the cigarette bill, was Frank E. Moss, Democrat of Utah, who represented a large number of Mormons, who are nonsmokers. For his own part, Senator Moss was so firmly opposed to cigarette advertising on radio and television that he had al-

ready promised to filibuster, if necessary, against any Senate bill that would prohibit federal agencies from regulating or banning it. On top of all this, the annual report to Congress of the Federal Trade Commission was due. In 1968, the F.T.C.'s annual report had recommended that a strong warning to the effect that cigarette smoking may "cause death" be placed on all cigarette packages and included in all cigarette advertising and that cigarette advertising be banned from radio and television entirely. And this year the F.T.C. was expected to press these recommendations very hard. In fact, when the report was sent to Congress, early in July, it not only repeated these recommendations but also recommended that broadcasters be required, as part of their public-service responsibilities, to devote a significant amount of broadcasting time to programs and announcements on the health hazards of cigarette smoking. Once again, too, there was the threat that the F.C.C. would intervene directly—unless the Senate as well as the House acted to prevent it—to ban cigarette advertising from the air.

Having taken all these circumstances into account, the broadcasters came up with a plan that they thought might forestall the threat from the federal regulators. Around the time of the F.T.C. report, a deputation of broadcasters made a visit to Senator Magnuson's office and advanced a proposal that had been conceived by network policymakers at N.B.C.'s Washington office. Under the N.B.C. scheme, the networks would gradually phase out advertising for the cigarette brands that had the highest tar and nicotine content, thus eventually limiting cigarette advertising they carried to the low-tar-and-nicotine brands. They proposed this on the theory that the promotion of low-tar-and-nicotine cigarettes was less objectionable to opponents of cigarette advertising than the promotion of the high-tar-and-nicotine variety. The plan was also in accord with a suggestion that Magnuson himself had once made in regard to limiting cigarette advertising. It was also in accord with the economic interests of the network people, who were calculating that whatever changes might take place in the budgets assigned by the tobacco companies to high- and low-tar-and-nicotine brands, the total revenues from cigarette advertising had a chance of remaining more or less intact.

This plan was a tempting one to Senator Magnuson, not only because it



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was in line with his own prior proposal but also because, if he were to accept it, a great deal of wrangling between the Senate and the House on the subject of tobacco advertising could be prevented. For help in evaluating the plan, Magnuson sent the chief counsel of the Senate Commerce Committee, Michael Pertschuk, a lawyer in his mid-thirties, who has a reputation on Capitol Hill of being an extremely knowledgeable man on consumer-affairs legislation, to Dr. Daniel Horn, co-author with Dr. E. Cuyler Hammond of the widely publicized report in 1954 that associated cigarette smoking with the incidence of lung cancer and other diseases. Dr. Horn had been appointed director of the National Clearinghouse on Smoking and Health, an organ of the United States Public Health Service, when it was set up in 1965. Throughout the battle over smoking and health, Magnuson had admired Dr. Horn's ability to assess not only the scientific but also the social problems involved in the continuation of this mass habit. Dr. Horn himself believed that if an outright ban on cigarette advertising could not be achieved, confining the advertising that *was* done to low-tar-and-nicotine brands had some value, since his own research on smoking habits had shown that for some habitual smokers a switch from high- to low-tar-and-nicotine cigarettes was a way station toward ridding themselves of the habit altogether. Nevertheless, Dr. Horn told Pertschuk, whatever value the N.B.C. plan might have in keeping high-tar cigarettes from being advertised on the air, it would in his opinion be entirely offset by the depiction of the act of smoking in those commercials that *were* put on the air. Horn's studies showed that viewing this act had an unhinging effect on the resolution of people who were trying to cut out smoking. Next, Horn reviewed the supposed advantages of the low-tar scheme against the background of what he said was a growing public conviction that cigarette smoking really was harmful to health, and pointed out that many smokers were adjusting their smoking habits accordingly. He said that while he thought confining cigarette advertising to the promotion of low-tar-and-nicotine brands might seem a reasonable interim solution to the regulatory problem, the problem was really not a regulatory or scientific one but one of morality: Should the United States government accept the promotion of a hab-



it that had been proved so devastating to the nation's health? After thinking things over, Magnuson decided that the low-tar-and-nicotine advertising scheme wasn't an adequate way of coping with the problem.

At that point, both Senator Magnuson and Senator Moss exerted strong pressure on the broadcasters to come up with more far-reaching concessions on cigarette advertising. They seem to have also taken deft advantage of cracks that were beginning to appear in the lobbying alliance between the broad-

casters and the tobacco manufacturers. The tobacco people were taken aback by the behavior of the broadcasters in proposing a phaseout of high-tar-and-nicotine advertising. "The conver-

sations of the broadcasters on this matter were in secret. I can't understand their not explaining their intentions to the cigarette industry," a staff member of the Tobacco Institute told me in discussing this development. The tobacco men had another complaint, too. In spite of all the advertising talk about "mildness," many tobacco merchandisers considered the most successful brands of cigarettes on the market to be those with higher, rather than lower, tar and nicotine content. And since the most successful brands were those into which the most promotional and marketing money had already been poured, brand managers in the cigarette business now predicted unhappily that scores of millions of promotional dollars that had been spent on television campaigns for particular high-tar brands would be spent in vain if the broadcasters' plan went through.

The broadcasters denied that they had been negotiating in secret to the detriment of their friends in the tobacco business. "The tobacco people knew all along what we were doing, but *we've* never known what *they* were doing," a man who was involved in the negotiations for the broadcasters' protestations that they were keeping the tobacco manufacturers informed of their political negotiations, the tobacco manufacturers were in for a further shock. Under pressure from the Senate, and out of fear that if federal regulatory agencies stepped in to do something about cigarette advertising on the air a great deal of advertising for other products might suffer the same fate, the broadcasters gave in. On July 8th, the National Association of Broadcasters, through its Television Code Review Board, announced a plan to phase out

## The 'Ice Age' Rum.

When the rocks melt, Myers's won't.

Today everybody drinks drinks with ice. When the ice melts, you've got a glass of nothing. Myers's Rum was made for this icy age. It's dark, full-bodied, rummy. Even with ice and whatever else you can put into it.



Myers's rum is also available in a shaker top bottle for cooking. For free recipe booklet, write General Wine & Spirits Co., 375 Park Ave., N.Y. 10022. Myers's—True Jamaican rum—84 proof.



## MONSIEUR DE GIVENCHY



On the continent, a man's fragrance must be elegant, discreet and gentlemanly to be sought after. Monsieur de Givenchy is just that. Eau de Toilette, After Shave Sapon - from the Givenchy-Paris collection for men. At fine stores.

not only high-tar-and-nicotine cigarette advertising but all kinds of cigarette advertising from the air over a three-and-a-half-year period beginning January 1, 1970. It was a very heavy blow to the tobacco men, who now saw that their cause, as far as radio and television were concerned, was lost. Even the three and a half years over which the phaseout was to be extended gave them no satisfaction; as far as the respective competitive positions of individual tobacco companies were concerned, it was clear that over this phaseout period the plan would favor the sales of those brands that were then in a dominant position in the market and place at a disadvantage the less powerful companies that were trying to dislodge them by putting large advertising sums into their own brands.

The tobacco companies thus fell to quarrelling among themselves. They now seemed united only in their resentment of what they viewed as a sellout by their old friends the broadcasters, to whom they had given such vast sums over the years for cigarette advertising.

Already, the tobacco men had been discussing among themselves what contingency measures they might have to adopt to head off a situation in which they might be forced by federal regulators to put a health warning on every kind of cigarette advertising, including print ads. The disarray of the tobacco people was compounded as a result of a declaration made by their own representative at a hearing of the Federal Trade Commission on July 2nd concerning the propriety of requiring a health warning to be included in all cigarette advertising. At the hearing, Thomas Austern, of the powerful Washington law firm of Covington & Burling, who was representing the Tobacco Institute, advanced the argument that any such warning in cigarette advertising was unnecessary, because all the publicity given in the mass media—including the anti-smoking commercials—to the issue of smoking and health “demonstrates that the current public awareness of the hazard in cigarette smoking is now patent.”

“You say everybody knows that cigarette smoking is dangerous to health?” Commissioner Philip Elman asked the Tobacco Institute counsel.

“Yes. I will take it on that issue, sir,” Austern replied, indicating that he intended to use this premise in his argument, and he did.

After all the years and all the millions of dollars that the industry had

devoted to denying the validity of the individual reports of these hazards, this was a horrifying argument for the tobacco men to see reported in the news. It was so horrifying, in fact, that one official of the Tobacco Institute with whom I hoped to discuss the subject a month later reacted to my mention of it as though the Institute's counsel had never advanced such an argument at all. He was the Institute's public-relations director, and he may have just blocked it out of his mind.

Whatever the tobacco people felt about Mr. Austern's characterization of the effects of cigarettes on smokers, there was no doubt that they were increasingly worried about the effects of anti-smoking commercials on smokers and on potential smokers. “The anti-smoking spots are dread-

fully effective,” a staff member of the Tobacco Institute remarked to me one day that summer, and a few days later a former executive of a major tobacco company who had just been removed from his organization as a result of a corporate merger, and was consequently feeling a bit disillusioned about the tobacco business, told me, “The industry considers that the anti-smoking commercials, on top of the tremendous anti-smoking campaigns that have been mounted in the public schools by the Public Health Service and the various health organizations, and this on top of all the other unfavorable publicity about smoking, are really hurting. In fact, the opinion of many top-level tobacco people is that as things stand they'd just as soon have cigarette commercials banned altogether if by that they could in effect get the anti-smoking commercials banned, too.” Whatever their considerations were, the tobacco forces rallied themselves for a heavy counterstroke against the broadcasters. On July 22nd, at a hearing of the Senate Commerce Committee's Consumer Subcommittee, Joseph F. Cullman III, head of Philip Morris, promised, on behalf of the nine leading cigarette manufacturers in the country, to end all cigarette advertising on radio and television not by the 1973 deadline proposed by the broadcasters but by September, 1970. He attached only one condition to this pledge—that Congress grant the tobacco manufacturers immunity in this case from the anti-trust laws, under which they might be charged with restraining trade by thus acting in concert.

Cullman went even further. He informed the subcommittee that if the broadcasters would release the tobacco



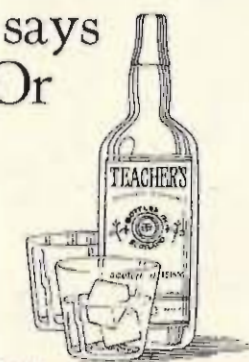
# Only three more Christmases till Tuesday.

We keep taking the long view. This year, Christmas falls on a Friday, the year after on a Saturday, the year after that on a Monday.



But in 1973, it's a whole new ball game.

Meanwhile, Tuesday (every Tuesday) remains the official day to savour Teacher's Scotch, the cream of Highland whiskies. Fortunately, there's nothing in the rule book that says Teacher's can't be given on a Friday. Or any other day of the week, for that matter. Keep the faith.



## Teacher's

The Scotch that made Tuesday famous



If you've ever tasted a chocolate covered cherry you've almost tasted Cheri-Suisse.



But our Swiss version isn't so sweet and innocent. Enjoy it after dinner. Over ice. Or to perk up a parfait.

IMPORTED BY AND BOTTLED IN THE UNITED STATES FOR PARK AVENUE IMPORTS, 375 PARK AVENUE, N.Y., 60 PROOF

manufacturers from their existing advertising contracts, the tobacco manufacturers would be prepared to withdraw their cigarette commercials from the air by January 1, 1970. "This was a very smart move on the part of the tobacco forces," a man on the subcommittee told me. "Suddenly the tobacco companies were putting themselves in a heroic role. According to them, it was now only the greed of the networks that was keeping cigarette commercials on TV. Actually, the companies were angling for a lot more than a P.R. gesture. What they were really after now was legislation that would ostensibly be aimed at getting cigarette commercials off the air but would actually protect the tobacco industry by forbidding the F.T.C. to require it to put a health warning in all tobacco ads. And, in fact, the tobacco people's chances of forestalling that mandatory health warning did begin to look better."

The broadcasters were aggrieved. They had not expected this drastic move by the tobacco people, and they were particularly put out by the manner in which the tobacco men had somehow managed to throw a mantle of statesmanship over themselves. Worse still, an advance of the deadline from September of 1973 to September of 1970 for removing cigarette commercials from the air was going to cost the broadcasters perhaps a third of a billion dollars in advertising revenue, the amount depending on the terms of a proposed phaseout. "We helped the tobacco people throughout this fight, and they pulled the rug out from under us," a man who had taken a leading part in formulating the broadcasting industry's strategy in Washington told me. "The thing that irks us is that the tobacco people couldn't have got the bill through the House without our help. We really lobbied for that. It would never have passed the House without us, because we have more muscle than the tobacco people have. There are a hell of a lot more broadcasters than cigarette manufacturers in this country. In every congressman's district, there is at least one broadcaster. These congressmen all get exposure on the local TV and radio stations, by making periodic reports to their constituents over the stations on all sorts of matters—what they've been doing about farm legislation, pollution, taxes, and so on. I know how hard we worked through our local broadcasters on this bill, pointing out to congressmen how unfair it was to ban advertising



for a product sold legally, how unfair it was to discriminate against one medium of advertising in favor of another, and so on. We put in a lot of work. And the tobacco people left us in the lurch."

What the broadcasters found particularly galling was the notion that the quarter of a billion dollars a year they had been getting for cigarette advertising was going to wind up in someone else's hands, and that at least some of it might wind up in the hands of their competitors in the newspapers and magazines, from whom the broadcasters had wrested the greater part of cigarette-advertising revenue years ago. The idea that the tobacco people would abandon them so abruptly in exchange for a chance at arranging a *modus vivendi* with these competing media was too much. "If the tobacco people think they're going to

use the broadcasting industry as a pawn to get protection in other media from labelling legislation, that's something we won't sit still for," an official of the National Association of Broadcasters told me shortly after the tobacco interests had delivered their counterblow.

Moving into the breach between the former allies, Senator Moss sent off letters to the heads of the three television networks suggesting that they voluntarily release the tobacco companies from their existing advertising contracts, so that, in the public interest, all cigarette commercials could be withdrawn from the air by January 1, 1970. This suggestion was not received with enthusiasm at the networks. Dr. Frank Stanton, the president of C.B.S., replied to Senator Moss, "If Congress determines that the permissive legislation sought by the Tobacco Institute is in the public interest, C.B.S. will release the cigarette advertisers from their commitments"—which was perhaps a public-spirited way of saying that any advertiser who wanted to withdraw his cigarette commercials from C.B.S. by January 1, 1970, would have to do it by act of Congress, because C.B.S. wasn't volunteering to do the job on its own. Dr. Stanton went on to ask, most unkindly as far as the tobacco advertisers were concerned:

If the public interest should require legislation in this area, should not the legislation deal with the problem as a whole and not direct its restraints only against the television and radio media? To put it another way, if the product is considered sufficiently dangerous to ban from one form of advertising, should it not be outlawed entirely?

As for N.B.C., its president, Julian Goodman, expressed himself as being

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The Foster Parents of this child know that without their contribution of \$16 a month Kang Choong, his brothers and sisters might never have gone to school.



Elana Castilla and her family would probably never see a doctor. Never receive the medical care, health counseling and vitamins they need to survive.

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No preference ☐ (This allows us to choose a child on our emergency list). Payment of \$16 per month for one year will be made: monthly ☐ quarterly ☐ semi-annually ☐ annually ☐ I enclose herewith my first payment \$ \_\_\_\_\_

**I would like to receive more information** ☐

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Be a Foster Parent. There's a child and his family somewhere who might not make it without you.

**When someone somewhere cares, someone somewhere survives.**



## ROYAL IRISH SILVER MARTINI SET



Beautifully boxed for gift giving this sterling silver set is a unique addition to any home. \$298.00 includes insurance, packing and postage. Send cheque or money order to us on Front Street in Hamilton Bermuda.



Jules Podell presents

## THE FRIENDS OF DISTINCTION AARON WILLIAMS AND FREDDIE COPACABANA

FULL COURSE DINNERS  
SERVED 6:30 P.M.-9:30 P.M.  
2 SHOWS NIGHTLY AT 8 P.M. AND 12  
3 SHOWS SATURDAY  
8 P.M., 11 P.M. AND 2 A.M.  
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If the line's too long  
at The Silent Woman, try  
Antoine's  
in New Orleans!

**The  
Silent  
Woman**  
RESTAURANT  
WATERTOWN, MAINE

sincerely sorry that he could not comply with Senator Moss's suggestion. He wrote that if broadcasters dropped cigarette commercials by the following January 1st, "a severe drop in revenue" and consequent "changes in the program service available to the public" would result. "Therefore, we do not intend to release cigarette advertisers from their existing commitments," he wrote. He added that N.B.C. would, however, be "glad to cooperate" with the tobacco companies by accepting, after January, 1970, in lieu of cigarette commercials, commercials for any goods besides cigarettes that the tobacco companies might be producing.

The president of A.B.C., Leonard H. Goldenson, said no, too. He wrote that taking cigarette commercials off the air by January 1st in the manner suggested would be unfair and expensive, explaining:

If we did take such action as of January, 1970, it could well mean a substantial cutback in our news and public-affairs operations almost immediately and would also call for a complete reexamination of all other program commitments to see whether or not a full schedule of the present magnitude could be maintained. We do not believe that the Congress would look with favor on any such forced curtailment of network service to the American public.

In short, A.B.C. owed it to the public to keep the cigarette commercials on the tube. As things were, A.B.C.'s going rate for cigarette commercials run in prime time was forty thousand dollars a minute, and, looking ahead to the prospect of tobacco-company sponsorship for the 1970 professional-football season, the network was setting an asking price of sixty-five thousand dollars a minute for cigarette commercials run during the games.

If the broadcasters were displaying withdrawal symptoms in the matter of phaseout, many of their colleagues in the newspaper and magazine business were apparently feeling no pain. According to an article in *Advertising Age* on July 28th, Stephen Kelly, the president of the Magazine Publishers Association, said in an interview that while he couldn't speak for all magazines, there was "some substance" to the suggestion that there would be a rush among magazine advertising departments to pick up at least some of the cigarette-advertising revenue that the broadcasters were going to lose. The article in *Advertising Age* also described Jack Kauffman, the president of the Bureau of Advertising of the American Newspaper Publishers Association, as "openly optimistic" about the cigarette-ad prospects of newspaper publishers. It quoted

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canvas, using  
photographs  
as guides.  
Life size from  
\$1600 to \$3200.



**Bachrach**  
Fabian  
48 East 50th Street, New York Plaza 5-6233

## KNIFE & FORK INN...

ATLANTIC CITY'S  
FINEST SEAFOOD  
24 E. 1912



Kauffman as saying enthusiastically that "newspapers will be the chief beneficiary" of a pullout of cigarette advertising from radio and television, and that there had "definitely been movement" in this respect.

In the magazine business, certainly, there was no discernible movement away from cigarette advertising. A spokesman for *Newsweek* who was asked by a reporter for the *Wall Street Journal* whether his publication had any plans for changing its cigarette-advertising policies said, "We feel that we've covered fully the story of the alleged hazards of cigarette smoking, and we assume people have heard and read all they possibly could on the subject and have made up their own minds. We've always taken cigarette ads and will continue to do so." Some time after this statement was issued, John T. Landry, a Philip Morris man whose title is Group Vice-President and Director of Marketing for Tobacco Products, was quoted as having told a group of ad men that representatives from the advertising departments of various publications were showing up at the headquarters of tobacco companies as if it were a scene "like the reading of the will."

In an effort to determine the attitude of magazine publishers toward accepting an increased volume of cigarette advertising—or accepting any cigarette advertising at all—Senator Moss wrote letters to a number of them asking for their views. The publishers' replies were not much more encouraging than the broadcasters' had been. A letter from Andrew Heiskell, the chairman of Time Inc., set the general tone. "It would not be in the public interest or our own for us arbitrarily to refuse to carry the responsible advertising of a lawful product," Mr. Heiskell informed Senator Moss. He added, however, that his company did not intend to surfeit its readers with an "overwhelming" amount of cigarette advertising. In the magazine business generally, the publications that already had a policy of not accepting cigarette advertising were few in number. They included the *Reader's Digest* (which had an exemplary record of printing articles having to do with the dangers of smoking), the *Saturday Review*, and *The New Yorker*.

As for the newspaper publishers, no matter what their editorials might have been saying about smoking and health, or how dispassionately they had viewed the plight of the broadcasters faced with the issue of smoking and health, they showed, on the whole, that they had no intention of eliminating ciga-

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Independent little mice  
of solid crystal

## STEUBEN GLASS

FIFTH AVENUE AT 56th STREET • NEW YORK • N.Y. 10022 • (212) PL 2-1441





One of the world's best-kept secrets is said to be the recipe for pancakes served at Copenhagen's Town Hall. But what makes our furs the most tempting in the world is no secret. Our recipe...100% pure quality. Discover them at I. Magnin.

**BIRGER CHRISTENSEN**  
38 Ostergade-Copenhagen-Denmark



By Appointment to the  
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Davis makes lasting impressions in solid wood.

This is the Server-Cellarette from the Nikko collection by Davis. Craftsmen of fine solid wood furniture.

**DAVIS**

CABINET COMPANY



For "The Story of Solid Wood Furniture" send \$1.00 to Dept. NV 12, Davis Cabinet Co., Nashville, Tenn. 37206

rette advertising, or even of turning away further revenues that might follow the proposed cutoff of cigarette commercials from the airwaves. There were very few exceptions. They included the *Christian Science Monitor*, which had never carried cigarette advertising and had no intention of carrying it, and the *Boston Globe*, whose management announced in May, 1969, that it would no longer accept such advertising, "because accumulated medical evidence has indicated that cigarette smoking is hazardous to health." In the months after the tobacco people caved in on cigarette commercials, the most important newspaper to alter its policy on cigarette ads was the *New York Times*. On August 29th, the *Times* ran an editorial saying, "In advance of the steps we hope Congress will take to establish tighter health safeguards by law, The Times is taking voluntary action to insure that a health warning accompanies any cigarette advertisements it carries." As of January 1, 1970, it explained, the paper would accept cigarette ads only if they contained, "in plain legible form," a warning concerning the health hazards of smoking.

The tobacco industry's reaction to this move was made clear by a full-page ad that the American Tobacco Company took in the *Times*, on September 4th. The headline on the ad read, in huge letters, "WHY WE'RE DROPPING THE NEW YORK TIMES." The text of the ad declared that the American Tobacco Company had "offered" to take its commercials off television and radio because of "the claim that those media unavoidably reach large numbers of children," and "not because we agree with anti-cigarette crusaders (including the *New York Times*) who would like to blame cigarettes for the thousand and one ills that flesh is heir to." Hard on this belligerent declaration, spokesmen for Liggett & Myers, R. J. Reynolds, the Lorillard Corporation, Philip Morris, and Brown & Williamson made it known that they did not intend to advertise their cigarettes in the *Times*, either, under the conditions prescribed.

The broadcasters, for their part, kept hammering away at the tobacco industry and the press alike, going so far as to make common cause with the federal regulators who had been partly responsible for depriving them of huge potential cigarette-commercial revenues. In October, Wasilewski complained in a letter to Senator Moss in connection with the "discriminatory legislation" proposed by the tobacco industry that "there are indications that

large sums of money would be diverted by the cigarette companies from broadcast advertising to promote their products by other means," and that it appeared that "vast expenditures would be made for promotional programs employing such devices as coupons, premiums, contests, point-of-sale promotion, and samples" as well as advertising in print. Helpfully, Wasilewski enclosed a news clipping from the *Washington Sunday Star* that, he wrote, "states that no change is contemplated in the current level of tobacco subsidies of fifty million dollars per year and that \$230,000 will be spent annually [on subsidies] for advertising of tobacco products in friendly foreign countries." And he concluded that, rather than see Congress act on the tobacco companies' proposal, the broadcasters would prefer to have the regulation of cigarette advertising handled by the regulatory agencies.

Amid all this dissension between the formerly inseparable partners in the mass merchandising of cigarettes, the full Commerce Committee, headed by Senator Magnuson, met in October to consider amendments to the House bill governing cigarette advertising on the air. The committee voted an amendment to make mandatory the withdrawal of cigarette commercials from television and radio. Senator Philip A. Hart, Democrat of Michigan, a member of the committee and a strong supporter of anti-trust legislation, had persuaded the committee that it would be unwise to accept the terms of the tobacco industry's offer to withdraw its advertising from the air by September, 1970—unwise because the exemption from the anti-trust laws which the industry asked as a condition might prove to be a legal booby trap that could damage future enforcement of the anti-trust laws. The best the broadcasters could get from the committee on this point, though, was a concession in the form of an amendment that would make the ban on cigarette commercials effective not by September of 1970, as the tobacco people had proposed, but by January 1, 1971—the idea being to let the broadcasters have the benefit of a final shower of cash from the cigarette revenues generated by the fall football season.

The lobbyists for the tobacco industry had a little better luck with members of the committee than the broadcasters had. "The tobacco people were very busy," a committee staff member told me. "They moved in on the committee and managed to carry two amendments that favored them. First,

# Pipers

It's made proudly. Give it that way.

Two things  
for which a man  
is grateful...

His woman  
and his scotch.



100 Pipers • Blended Scotch Whisky  
86 Proof • Seagrams Distillers Company, New York



"Let's hear it for Wolf Schmidt Vodka.  
It's won 33 medals!"

"Rah. Rah. Let's have the  
winner in for a drink!"



**Wolf Schmidt.**  
The genuine vodka with all the medals.

Frankfort Distillers Co. New York N.Y. 10022. Made from grain, 80 and 100 proof. Product of U.S.A.

they won a statutory provision that would prohibit the Federal Trade Commission from acting on the health warning in cigarette ads for eighteen months after the termination of cigarette advertising on the air—which meant that they forced an extension by a whole year of a deadline that the F.T.C. had in the meantime set for requiring a health warning in all cigarette ads. Then the tobacco lobby swung enough votes in the committee to bring about a change in the text of the existing warning label required on cigarette packages. At first, the committee (bypassing the text required in the House bill) decided to alter the text of the existing warning on cigarette packages from "Caution: Cigarette Smoking May Be Hazardous to Your Health" to "Warning: Cigarette Smoking Is Dangerous to Your Health." When the tobacco lobbyists learned about that, they put enough pressure on so that the committee changed its mind and, by a narrow vote, further amended the notice to read, "Warning: Excessive Cigarette Smoking Is Dangerous to Your Health." That was a considerable gain for the tobacco lobby, because the use of the word "excessive" made the warning imply that *normal* smoking *wasn't* dangerous to health—which was not what the Surgeon General's report had said. What the Surgeon General's report had said was that cigarette smoking in normal amounts was indeed dangerous to health.

The amended bill came to a vote in the Senate on December 12th. Before it did, Senators Magnuson and Moss had launched a battle against the denatured health warning on the cigarette packages, and won. Through further amendments, they obtained the elimination of the word "excessive," and they also managed to have reduced by one year the period during which the F.T.C. was forbidden to require a health warning in all cigarette advertising. The F.T.C. could require this warning, after giving Congress six months' notice of its intention to do so, after July 1, 1971. In addition, the Commission would be permitted to impose certain other requirements on cigarette advertising, such as that the tar and nicotine content of the brands concerned be included. The bill was passed by a vote of seventy to seven. It was then sent to House and Senate conferees for a resolution of differences between the two versions. The broadcasters went to work on the conferees in a final attempt to delay the cutoff date for cigarette commercials to Sep-

tember, 1971. What they finally got was a delay of one day—from midnight of December 31, 1970, to midnight of January 1, 1971—which enabled them to cash in on cigarette commercials during the football bowl games on New Year's Day. The victory was a far cry from the millions of dollars that a nine-month extension would have given the broadcasters, but it was something.

And the broadcasters had not yet finished with the tobacco people. Now that there wasn't going to be so much money to be made out of cigarette commercials, the broadcasters began to think that there might, after all, be an ethical issue involved in promoting cigarettes. After Braren's revelations, the N.A.B. Code Authority people hastily went through the motions of tightening up their cigarette-advertising guidelines, and in December the American Tobacco Company tried to get a court injunction to prevent the N.A.B. from adopting certain of these guidelines, whereupon an N.A.B. lawyer collecting depositions from witnesses at a pre-trial hearing put a long series of questions concerning the morality of advertising cigarettes to Philip Cohen, director of advertising for American Tobacco. Attorneys for American Tobacco would allow Cohen to answer only one of them, which was put to him by a lawyer representing C.B.S. and ran as follows: "In preparing advertising, do you assume that there is a relationship between smoking and health, or do you assume there is no relationship?" Cohen replied, "We don't make any assumptions. We prepare advertising that is calculated to sell the market."

On April 1, 1970, the Public Health Cigarette Smoking Act was at last signed into law by President Nixon. In form, it had been changed very little in the House-Senate conference, but the wording of the cautionary label on cigarette packages had again been altered. It now read, "Warning: The Surgeon General Has Determined That Cigarette Smoking Is Dangerous to Your Health."

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**T**WENTY years ago, when television was just getting under way in this country and the tobacco companies were beginning to pour big money into commercials, advertising men in the Madison Avenue agencies that had cigarette accounts were working full tilt to convert themselves from the static visual forms of printed advertising to the visual and aural mobility of the new medium. Young copywriters

## A turkey stole the show.

You wouldn't expect Turkey Lurkey or Henny Penny to impress a sophisticated Broadway audience. But at "Paul Sills' Story Theatre" that's exactly what happens.

"It's no small feat to take a theater full of crusty, grouchy first nighters and turn their faces to smiles. The evening rates as thoroughly delightful, enchanting and captivating."—Mike Stein, *WNEW Radio*  
"Paul Sills' Story Theatre" is 8 actors dancing, singing and miming 9 Aesop's and Grimm's fairy tales. It's the play for adults that adults thought was for kids.

"The show that brings back magic and innocence to Broadway. . . . The show for people who have given up Broadway shows."—Clive Barnes, *The New York Times*

"Talent, invention and subtle, sophisticated humor . . . an appeal that spans small children and the most erudite adults."—Norman Nadel, *Scripps-Howard*

"Tremendous talent. Marvelous things happened. Story Theatre is an impressive and delightful evening. I think I'll go back with my children."—Leonard Harris, *WCBS-TV*

"An astonishing enchantment. The first-night audience succumbed to the charming novelty with glee hard to believe. Unless you see it, such beguilement doesn't seem possible."—William Glover, *Associated Press*

Now all the animals, parsons, peasants and kings can be heard singing songs by Dylan, The Beatles and Country Joe on the original cast album of "Paul Sills' Story Theatre!"

**On Columbia Records® and Tapes**

Enjoy listening to a turkey for a change.



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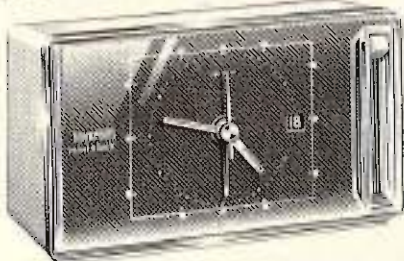
THE PROTÉGÉE  
COLLECTION OF MATERNITY  
FASHIONS

RESORT AND HOLIDAY 1970/1971

VERY Saks Fifth Avenue

Just off the press. Our book of new maternity fashions is ready now, filled with all the great things in clothes and addenda you'll want for your busy times ahead, our exclusive S.F.A. Protégée Collection for Resort and Holiday. Do come in for your copy. Or write. Or phone.

## Should you pay \$25 for "Just" a Clock?



Yes, but only if you get the outstanding features that you find in the 12-Month Clock. Briefly, these are the most important ones: There is a calendar—when you wake up you'll know what day it is. An ordinary flashlight battery powers the transistorized mechanism for a year or more. Accurate? You can regulate it to within 2 seconds in 24 hours. The alarm is gentle, but very effective. Needless to say, the 12-Month Clock is absolutely noiseless—no tick, no tock, not even a purr. Luminous dial, of course. Measures a compact 5 x 3 x 2 1/2". Just right for the night table and compact enough to make a fine travel clock. If you can afford to indulge your appreciation of fine things or if you wish to make a wonderful gift (perhaps to a son or daughter with early classes), the 12-Month clock is for you.

- ☐ Send me the 12-Month Clock. I enclose \$25.95 (\$24.95 plus \$1 for post. and insur.). Calif. residents add 5% sales tax.  
☐ White Model: White case, midnight blue dial.  
☐ Grey Model: Grey case, white dial.

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

ZIP \_\_\_\_\_

**haverhill's**

584 Washington Street,  
San Francisco, CA 94111

DECEMBER 19, 1970

who had been yanked away from the preparation of cigarette ads for the magazines rushed around talking about "iris wipes," "barn-door wipes," and other techniques for "videoizing" the usual advertising forms. But since the passage of the Public Health Cigarette Smoking Act, things have been swinging the other way in the agencies with cigarette accounts. Ad men on cigarette accounts who have been almost entirely television-oriented throughout their professional careers are beginning to be heard discussing "bleed pages" and "double trucks." They are beginning to be aware of color shots that don't show motion but only still slices of motion, of copy that isn't audible, of printed words that aren't meant to zoom in at viewers but are designed merely to sit still on a page. An increase in the number of cigarette ads in certain mass magazines is already apparent. For example, the October 16, 1970, issue of *Life* contained five full-page cigarette ads, four of them (including the back cover) in color, in contrast to the October 17, 1969, issue, which contained only three full-page cigarette ads.

However eager some publishers appear to be to solicit cigarette advertising from the tobacco companies, it is not likely that they will have reason to exult for long at having taken away advertising from the television people. The television networks, which stand to lose approximately eight per cent of their total annual advertising revenue through the Public Health Cigarette Smoking Act, are now attempting to avenge the loss of their tobacco advertising by unleashing their time salesmen upon ad agencies to grab all manner of other consumer-product advertising revenue from the print media, whose own resulting losses may turn out to be greater than whatever gain they may enjoy from cigarette advertising. How much more advertising money than formerly the tobacco companies are putting into the print media as a whole is as yet unclear. But there are practical considerations that make it unlikely that this increase will be a startling one. The tobacco people have to be aware of the fact that escalation of print advertising is a very dangerous game for them, since a marked rise in cigarette ads in publications would almost certainly provoke action by the Federal Trade Commission to require the inclusion of a health warning in those ads published after the new deadline, and such a requirement is what the tobacco industry dreads most. Rather than risk putting too much cigarette-

advertising money into publications, the industry will probably spread its ad money around in other areas. For example, it will probably increase the amount of money it spends on point-of-purchase advertising and promotion—more elaborate displays in supermarkets, and so forth. In less visible moves, the tobacco people can spend more money on their sales forces that deal with cigarette retailers, and offer bigger sales incentives to both wholesalers and retailers. They can go in for special cigarette-brand promotions, in areas like sports. Thus, Philip Morris is underwriting a series of tournaments



for women tennis players, to be known as the Virginia Slims Invitational Tournament Series. (Presumably, the progress of the tournaments will be reported on television, and viewers will thus continue to hear the words "Virginia Slims" over the tube.) Outside the magazines and newspapers, the most visible use of the television-commercial money will be on outdoor billboards. It has been estimated in the trade that in 1971 the tobacco companies will spend as much as forty million dollars on billboard advertising—an increase of a thousand per cent over the amount they spent on billboard advertising in 1970.

Whatever the tobacco companies spend on printed advertising and on other forms of promotion, it will not come to anything like the quarter of a billion dollars a year that they have been spending on radio and television. It appears that the elimination of cigarette advertising from broadcast media represents, among other things, an enforced levelling of the costs of competing companies, and an opportunity for the industry to forgo the huge and unrelenting escalation of expenses that occurred during the tobacco-merchandising wars on network television. Without broadcast advertising, the introduction of new brands into the market—a process that is already extremely expensive for individual cigarette manufacturers (it may take as much as twelve million dollars to launch a new brand of cigarettes nationally)—is likely to be even more difficult, and is therefore likely to slow up. An end to the wild proliferation of new brands will certainly cut the expenses of competing companies. Also, the tobacco companies may be spared some of the dagger blows now being dealt them by the anti-smoking commercials. When cigarette commercials go off the air, the broadcasters, no matter how strongly they feel about their former friends in the cigarette industry, will no longer

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consider themselves bound under the F.C.C. fairness doctrine to grant the anti-smoking forces, free of charge, that seventy-five million dollars' worth of air time a year, and it is certain that there will be a considerable falling off in the amount of time given over to the anti-smoking messages. With such developments, the elimination of cigarette commercials from radio and television may before long result in an increase rather than a decrease in the profits of the cigarette industry on each of the billions of cartons being sold per year.

But if the tobacco companies may collect bonuses of this sort from the elimination of broadcast cigarette advertising, the gains will not necessarily prove lasting. It seems to me that the long-term prospects for the cigarette industry are not favorable. One can begin with what has been happening to cigarette sales. Since 1963, the year before the Surgeon General's report, the total number of cigarettes sold in this country has increased from seventy-one million eight hundred thousand packs a day in that calendar year (in 1963, cigarette sales had been higher than at any previous point in smoking history) to seventy-two million six hundred thousand packs a day in the year ending July 1, 1970. This rise in total sales is, relatively speaking, a small one, because in those six and a half years the adult population of the United States has increased by thirteen million people. Thus, while the number of adults in the country has gone up by about ten per cent, cigarette sales have gone up by only about one per cent. This means that the per-capita consumption of cigarettes in the adult population has actually gone down by nearly nine per cent. But even this per-capita drop does not tell the whole story, because in this same six-and-a-half-year period the total production of tobacco itself, as distinct from the total number of cigarettes sold, has dropped from two billion three hundred and forty-four million pounds to one billion eight hundred million pounds—a decrease of about twenty per cent. Some, but not very much, of this decrease may be accounted for by new processing methods, such as the "homogenizing" of formerly discarded tobacco-leaf stems and their incorporation into the finished cigarette. Essentially, the decrease appears to result from the fact that the tobacco companies have been packing considerably less tobacco into their cigarettes than they formerly did, even though their cigarettes have tended to get longer. What seems to have filled up most of this cigarette gap is more filter material, which, as it happens, is

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in the elegant just-right length,  
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white mink... unfolding petal  
collar.*

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considerably cheaper per centimetre of cigarette than tobacco is, and which, given the right advertising agency, can be merchandised—in hundred-millimetre cigarettes, for example—at higher prices. In summary, then, what has happened since 1963 is that the total amount of cigarette tobacco per capita consumed by the adult population has fallen off by close to twenty per cent, and that in return for this the tobacco companies have been selling slightly more cigarettes, containing considerably less tobacco, more filter, and more air, at higher prices than ever.

But the less actual tobacco people smoke, the less stubborn their habituation to cigarettes tends to be. It seems inescapable that in spite of the huge momentum that the tobacco industry has achieved in promoting cigarettes over the past half century, using every medium of mass persuasion, including



television (into which it has poured a total of perhaps three billion dollars of advertising money in twenty years), the whole pattern of cigarette smoking within the adult population is now changing significantly. Dr. Horn has calculated that between 1966 and 1970 the total number of smokers in the adult population has dropped from forty-nine million to forty-four and a half million. At the same time, his calculations indicate, the number of former smokers in the adult population has risen from nineteen million to twenty-nine million. Dr. Horn estimates that since 1966 one smoker in five has quit the habit. And although at an earlier period—for example, in the period immediately after the Surgeon General's 1964 report on smoking and health—most people who cut out the habit tended to be above average in education and earning power, Dr. Horn believes that giving up the cigarette habit is now occurring at increasing rates in the adult population generally, and that it is occurring at significant levels among women as well as among men (although women smokers appear to have a harder time quitting than men), and also among younger adults, although there seems to have been a slight increase in the smoking rate among teenagers during the last two years.

When one takes into account all the commercial force that the tobacco companies have brought to bear in our society over the years to promote brands of cigarettes, and all the lobbying they have done, and all the influence they have exerted on one Administration and one Congress after another, and when one reflects that although the

total excess deaths among regular smokers since the time of the Surgeon General's report in 1964 must be numbered in the hundreds of thousands, the tobacco and broadcasting people were nonetheless able for so long to persuade the House of Representatives to vote a ban on effective regulation of cigarette advertising on the air, this change is a remarkable one. The tobacco manufacturers cannot but be aware of it. However obdurate their leaders have been in public in denying the harmfulness of cigarette smoking, and however determined they are to continue promoting cigarettes by every means at their disposal, the tobacco companies have been steadily diversifying their activities over the past two or three years. The American Tobacco Company has become a subsidiary of American Brands, Inc., and besides manufacturing Pall Mall,

Tareyton, Lucky Strike, and Silva Thins cigarettes it manufactures a number of food products, including Sunshine Crackers and Cookies, Mott's Fruits and Fruit Juices, and Sunsweet Fruits and Fruit Juices, and has announced its intention of taking over the Jergens Company, which puts out Jergens Lotion and Woodbury Soap. Two of the largest tobacco companies have dropped the word "tobacco" from their corporate names. Thus, the Liggett & Myers Tobacco Co. has become just Liggett & Myers, Inc., and in addition to making L & M, Lark, and Chesterfield cigarettes it now puts out Alpo Dog Foods and Cream of Oats. And the R. J. Reynolds Tobacco Company recently changed its name to R. J. Reynolds Industries, Inc. The renamed company, as it continues to proclaim that Winston tastes good like a cigarette should, is also pushing the taste of such products as Chun King Oriental foods, Hawaiian Punch, Brer Rabbit Molasses, and My-T-Fine desserts, which it now also manufactures. The Brown & Williamson Tobacco Corporation retains its name, but it is now in the pickled-fish business as well as in the tobacco business.

On the whole, the manufacture and promotion of cigarettes are likely to be highly profitable for some time. But tobacco companies that will have diversified to the point where their tobacco products are no longer their major source of income will not be likely, if they are faced with financial problems, to make many sacrifices for the sake of a product whose sales aren't expanding, particularly when that product breathes an air of trouble that might somehow

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SHELL, STRIPED STRAWS, FRUIT JUICES,  
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Then taste each one.

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If you never drink your drinks on the rocks, even our rum may not make a rum-on-the-rocks drinker out of you.

But it certainly will get rid of any false impressions you have about the taste of Puerto Rican Rum.

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settle on other consumer products they are putting out. Four years ago, Robert B. Walker, then president and chairman of the board of American Tobacco and presently board chairman and chief executive officer of American Brands, delivered, before a meeting of merchandisers called the Fourteenth Annual Marketing Conference, an oration entitled "What the Chief Executive Expects from His Top Marketing Man," in which he told his audience:

The law of the marketplace, like Darwin's Law of Evolution, is change or perish. With the persistence of the scientist, we must probe for new concepts, new insights into consumer behavior, new marketing techniques. And with the courage of the explorer, we must be willing to turn from the old that is tarnishing to the new that sparkles with promise—whether it be marketing procedures, new products, or product improvements. There's a great difference between playing not to lose and playing to win—at American Tobacco we play to win. . . . Gentlemen, my assignment was "What the Chief Executive Expects from His Top Marketing Man." My answer is *results*.

And now American Tobacco is part of American Brands, and the company, with Walker still at the dual controls, is deep in the fruit-juice business as well as the tobacco business, and is planning to enter the soap and hand-lotion business. As time goes by, it may be that such big and increasingly diversified tobacco companies will choose to concentrate the greater part of their promotional energies on non-tobacco but equally profitable consumer markets whose annual rate of expansion can be made at least to match the annual growth rate of the population. It is true that in Britain, where cigarette commercials on television were banned in 1965, sales of cigarettes, after an initial drop, have increased by about two per cent over a five-year period in spite of the ban, and that this increase has approximately matched the growth of the adult population of Britain. But the British and American cigarette-marketing experiences are not readily comparable, and television advertising and promotion never did play as big a role in Britain as it has played here. Considering that even with commercial television, into which the American tobacco industry has poured at least a billion and a quarter advertising dollars just since the time of the Surgeon General's report, the industry has failed to keep its sales increasing at the same rate as the adult population, the question arises how well the industry can maintain its economic position over the long run without this constant aural and visual bombardment of consumers by way of the home screen. Once the market-

ing of cigarettes falls below a certain threshold of profitability, a great deal of the promotional force that has been behind the selling of this product is likely to be dissipated. And without continuing high-pressure campaigns to make cigarette smoking appear socially acceptable and desirable, the place of the habit in American life may steadily decline.

In the meantime, people who in the past have not been associated with the exercise of much direct power in American life (statisticians, cancer scientists, public-interest lawyers, teachers, public-service advertising men) and a small number of senators, their staff people, and some conscientious public servants in regulatory or other agencies, persevering through years of discouragement, have slowly but tellingly gathered momentum. And this force has become sufficient to help reverse—against all the money and the machinery of mass persuasion and the commercial and political influence of a most formidable American industry, against the vast inertia of government, even against the habituation, reluctant or otherwise, of millions of regular smokers—the growth of a vast and, it once seemed, almost universally accepted and apparently ineradicable personal custom. Nothing quite like this large-scale change in personal behavior has ever been accomplished before in the history of the American consumer state. It may well be that the power inherent in these individual efforts on behalf of public health and against the merchandising of illusions bearing dangerous consequences is, collectively, a precursor of a far greater power now accumulating. To an increasing degree, citizens of the consumer state seem to be perceiving their ability to turn upon their manipulators, to place widespread abuses of commercial privilege under the prohibition of laws that genuinely do protect the public, and, in effect, to give back to the people a sense of controlling their own lives.

—THOMAS WHITESIDE

The objective of this work has been to establish optimum approach and departure paths for VTOL terminal operations. The VTOL vehicle was modeled as a point mass moving in a vertical plane acted upon by thrust, gravity, lift, and drag. . . . Two previous studies using the same analytical model have shown that the unconstrained optimum calls for the aircraft to dive underground during both the initial acceleration after takeoff and the final deceleration prior to landing. In this work the aircraft has been constrained not to descend below the ground.

—Journal of Aircraft.

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