

*Showdown coming  
in cigarette advertising —*

# The Cigarette Companies Would Rather Fight Than Switch

By ELIZABETH B. DREW

WASHINGTON. THE stage is now set for a major confrontation in Washington between the giant cigarette industry and a growing battalion of politicians, health organizations and Government agencies who are determined to crack down on cigarette advertising. Such showdowns are rare here—the last comparable one was over the safety of automobiles three years ago. Politicians are generally reluctant to take on an industry with extensive resources and political contacts; and important industries which do sense a political storm coming usually will quietly offer, most often behind the scenes, to adjust their ways and thereby defuse and finally dissipate the controversy.

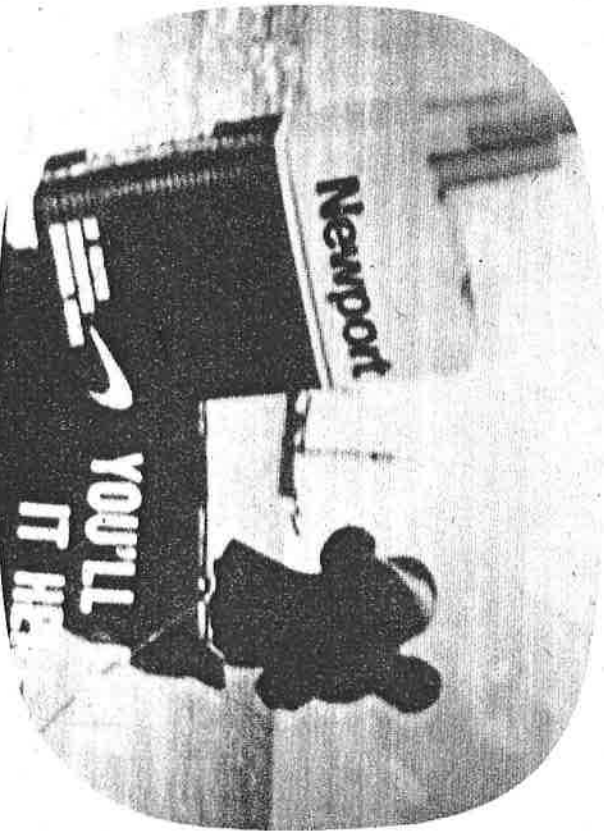
The current fight is about whether the cigarette industry will be able to head off a proposed ruling by the Federal Communications Commission to ban cigarette advertising from the airwaves, and also a proposal by the Federal Trade Commission to require a very tough warning about the dangers of smoking in all cigarette ads. The cigarette companies are taking their case against the agencies to Congress, asking it to pass a law to prevent the regulatory agencies from acting. Such explicit protection for one particular industry is indeed unusual, but, faced with a similar F.T.C. proposal four years ago, the industry did succeed in winning from Congress a law granting it a special four-year reprieve. Now that the reprieve is about to expire, and with the two agencies ready to move in, the industry is asking for another one.

The industry's strategy was fairly ingenious the last time around. It was the cigarette companies themselves that proposed (while appearing

to oppose) legislation which required the warning that now appears on all cigarette packages: "Caution: Cigarette Smoking May Be Hazardous to Your Health." To the cigarette manufacturers, this was a small enough price to pay for other sections of the bill. Those sections—which escaped the notice not only of much of the public, but also of the Congressional press galleries and even Congressmen, who were under the carefully cultivated impression that they were voting for a health measure—barred the F.T.C. from requiring a more alarming warning on cigarette packages and in all ads.

In addition, the bill prohibited state and local governments from taking actions of their own against cigarettes, as several were considering doing. The industry's inventive strategy was a great success and, as everyone figured, the package warning had almost no perceptible effect on the nation's smoking habits.

THOSE parts of the bill which forbid action by Federal agencies or state or local governments will expire on June 30. If the industry does not succeed in winning an extension from Congress, the F.C.C. will proceed to issue its rule barring all radio and television cigarette advertising, and the F.T.C. will proceed to require in all cigarette ads, "Warning: Cigarette Smoking Is Dangerous to Health and May Cause Death From Cancer and Other Diseases"—the words "is" and "death" and "cancer" are considered key. Also, a number of states are again considering action against cigarette advertising; interest is particularly high in New York, Massachusetts, Michigan and California. The agency rulings may take some time to be issued, and they will be challenged in the courts, but even so, if the indus-

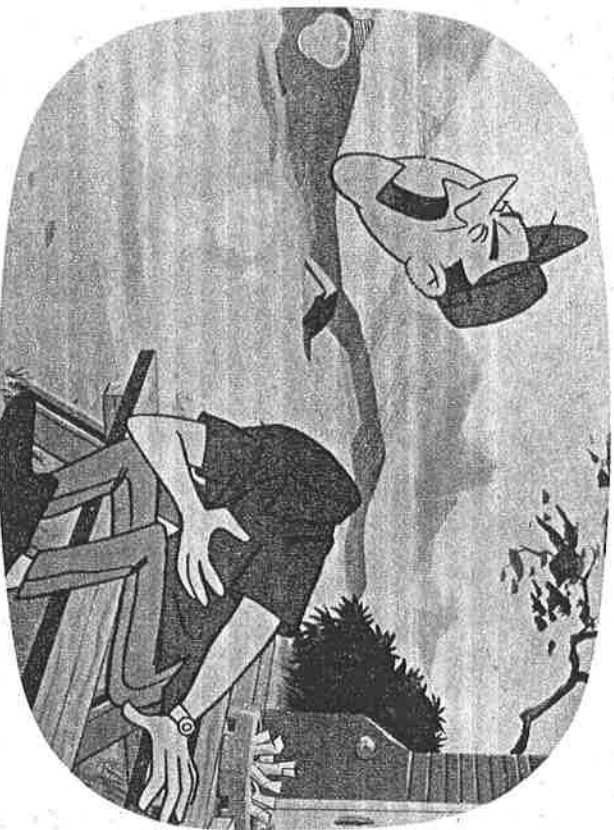


**TROUBLE IN MARLBORO COUNTRY**—While the set-to-over regulation goes on in Washington, another battle—the battle between the ads themselves—goes on, with the American public at ringside. Above, from top, television commercials by Marlboro, Silver Thins and Newport. . . .

ELIZABETH B. DREW is the Washington editor of The Atlantic Monthly.



**With some present curbs  
due to expire on June 30,  
debate is heating up  
in the smoke-filled  
rooms on Capitol Hill**



... Counterattacking, these ads by the American Cancer Society show, at top, a Western bad guy prevented by his cigarette cough from drawing his gun; center, a cough reaching its ultimate possibility; bottom, a happy scene in which smoking plays a big part—"Why are they laughing?" a voice asks.

MAY 4, 1969

try fails in Congress, it is widely expected that cigarette advertising will be off the air by the end of next year. And cigarette-industry officials have stated that they would not bother to broadcast or print ads which had to carry a dire health warning.

**O**NE problem faced by the industry this time around is that the requirement for the health warning on the package does not expire; it is permanent law. Therefore, the camouflage which was so effective four years ago is no longer available. Yet some tobacco-state Congressmen talk of the need to extend the life of the health warning, in the apparent hope that no one will be the wiser. What the bills sponsored by the industry actually do, of course, is continue the ban on regulation of cigarette advertising.

Yet the antismoking forces are more numerous, more alert and better organized than they were four years ago, and they have no intention of letting the industry have its way again. They feel, moreover, that times have changed, as has public opinion about the dangers of smoking. Their strategy is a simple one: Unless, as is highly unlikely, Congress seems ready to enact legislation which is as tough on advertising as the regulations the agencies are planning, they will try to block any new legislation, thus freeing the agencies and state and local governments to act.

One measure of what is being fought over is financial. The cigarette companies now spend a phenomenal \$245-million a year on television and radio advertising. They are the largest single product advertisers, on television, accounting for about 8 per cent of TV advertising time. (The next largest is the automobile industry, which accounts for about one-

third less time.) Americans now spend about \$9-billion a year on cigarettes. Tobacco farming alone is a \$1-billion-a-year industry, employing about 600,000 farm families in 10 states, but with particular impact on the economies of Kentucky, Tennessee, Maryland, North Carolina, South Carolina and Georgia. This gives the industry, among other things, a substantial and fairly senior bloc of Congressmen who are interested in their case. (Cigarette manufacturing, however, is heavily automated and has surprisingly few employees — only about 36,000.) No one, however, is urging the abolition of smoking, and opinions differ as to the economic effects of a substantial reduction of cigarette advertising. In any event, the antismoking advocates argue, there has been too much focus on the economics of the industry, and too little on the substantial economic losses from disease and death due to smoking.

**T**HE first round of the cigarette battle has now opened in the House Interstate and Foreign Commerce Committee, where hearings began April 15. Seeking an extension on the bar to Government action, the cigarette industry argues that it is being harassed on the basis of dubious statistical relationships between smoking and disease, and that the Government is embarking on unprecedented interference with all of industry's freedom to advertise. Southern Congressmen propounded the dangers of alcohol and cholesterol and asked why cigarettes are singled out. Some went so far as to suggest that the tobacco industry should be viewed as an antipoverty program; if cigarettes were regulated, one warned, Northern cities would fill up with "undesirable people." The antismoking forces

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## Showdown in cigarette advertising

(Continued from Page 37)

contend that the danger in smoking is a settled issue, that cigarettes present a health hazard unparalleled by any other product on the market, and that therefore cigarette advertising is a special case. Former Surgeon General Dr. Luther Terry, testifying for the Interagency Council on Smoking and Health (an amalgam of Government and virtually every major national health organization except, oddly, the American Medical Association), said that more than 45,000 Americans would die prematurely by July 1 "from causes which we believe are connected with cigarette smoking."

The controversy has been developing ever since the "Report of the Surgeon General on Smoking and Health," issued in January, 1964, warned that "cigarette smoking is a health hazard of sufficient importance in the United States to warrant appropriate remedial action." The report was the work of a panel that had been set up in 1962 at the behest of various health organizations, such as the American Cancer Society, which sought an official Government view on the increasing evidence of a connection between smoking and disease. The panel consisted of 10 physicians, who were approved by both the health groups and the tobacco industry, in the delusive hope on the part of the Government that the report would be accepted all around. The report, issued under top security regulations on a day that the stock market was closed, unanimously concluded that cigarette smoking was a cause of lung cancer and was also related to chronic bronchitis, emphysema, cardiovascular diseases and cancer of the larynx.

THE F.T.C. had been having that uncomfortable feeling that it should be doing something about cigarette advertising, and was awaiting the Surgeon General's report. Acting with unaccustomed speed and courage, within a week of the report's issuance, the F.T.C. proposed its stiff warning on all cigarette packages and in all advertisements. The proposal was issued over objections from the Johnson White House, which interceded with the "independent" regulatory agency in an attempt to delay it. Despite the strong support of the Surgeon General for the warning label,

President Johnson never saw fit to mention it in his health messages, or to support his health officials when the industry took the issue to Capitol Hill.

A question of such importance to the tobacco-growing states is of course likely to arouse a number of important Congressional Democrats. Moreover, carrying the case to Congress for the industry was, in the forefront, Earle C. Clements, formerly a Democratic Senator from Kentucky, and Senate majority whip when Lyndon Johnson was majority leader; Clements' daughter, Mrs. Bess Abell, was Mrs. Johnson's White House social secretary, a fact of which Clements was not reluctant to remind people. Clements was the representative of the Tobacco Institute, an association of the major tobacco companies. In the background, helping Clements formulate the strategy, line up Congressional witnesses and write their testimony, and also preparing the industry's appeal to the courts in case the Congressional gambit failed, was a group of industry attorneys and Washington lawyers, including Johnson confidant Abe Fortas, then of the law firm of Arnold, Fortas and Porter and now a Supreme Court Justice. Fortas, whose firm was (and is) counsel to the Philip Morris Company, participated in the designing of the industry's strategy and, according to Congressional sources, made phone calls to Capitol Hill during crucial periods.

The industry's tactics succeeded in Congress because they were very well devised, because the antismoking forces were outmanned and outmaneuvered, because so many people did not know what was going on, and because the tacticians were able to knit together a coalition of tobacco-state Congressmen, other Southerners who normally stand by their regional colleagues in case of trouble, and conservatives, including many Republicans, who normally object when the regulatory agencies regulate. Despite the warning on the package, cigarette smoking, which had dropped only once, just after the issuance of the Surgeon General's report, continued to rise. The estimate was that about one million people gave up smoking each year, but this was more than offset by the number of people who took it up. Then, at the end of 1968, there was an absolute decrease in

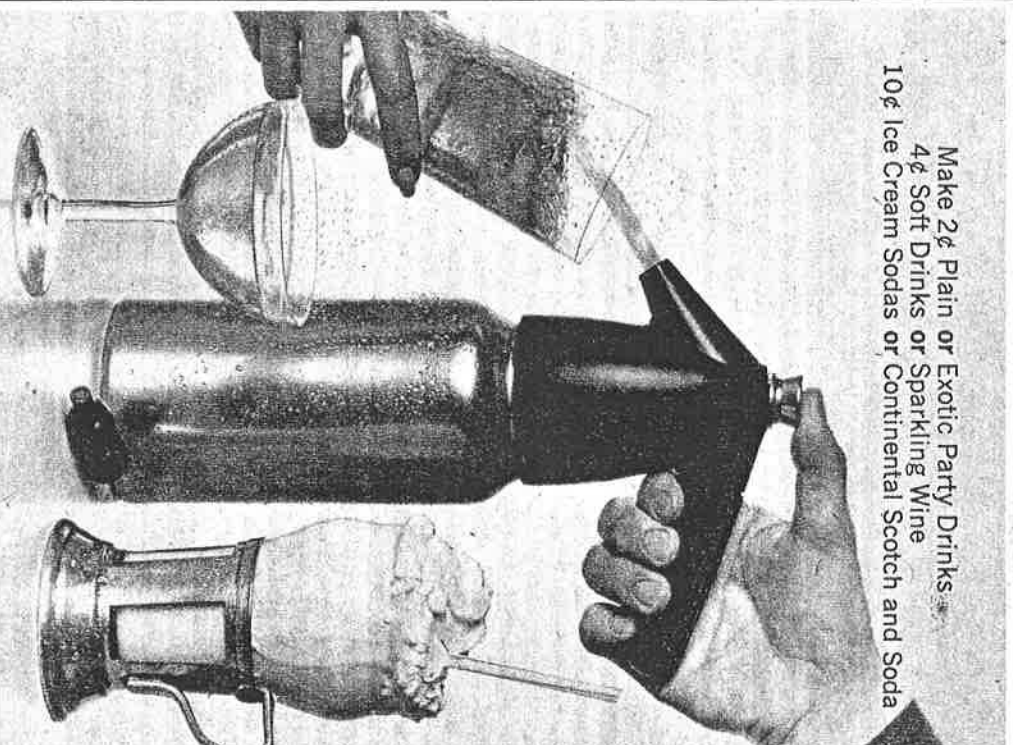
smoking. About 59.7-million American smokers (58 per cent of the adult male population and 37 per cent of the adult female population) had consumed 27.3-billion packs of cigarettes that year. To the satisfaction of the health groups, who have learned to take comfort from small things, this represented a decline in the number of smokers from the year before of six-tenths of 1 per cent.

WHILE there is some debate as to whether this represents a trend, both the cigarette companies and the health groups feel that the tide is with the antismokers. For one thing, a minor provision of the 1965 law requiring the Department of Health, Education and Welfare to produce regular reports on the relationship between smoking and health turned out to be a sleeper.

The result was a steady output of progressively grimmer official reports on the consequences of smoking. In 1967 the Public Health Service reported that a review of the more than three years of evidence since the Surgeon General's report indicated that the report may have understated the case. "Cigarette smokers have substantially higher rates of death and disability than their nonsmoking counterparts in the population," said the 1967 report. "This means that cigarette smokers tend to die at earlier ages and experience more days of disability than comparable nonsmokers. A substantial portion of earlier deaths and excess disability would not have occurred if those affected had never smoked." The following year, the P.H.S. reported that "life expectancy among young men is reduced by an average of eight years in 'heavy' cigarette smokers, those who smoke over two packs a day, and an average of four years in 'light' cigarette smokers, those who smoke less than one-half pack per day."

Then, drumfire against smoking came suddenly from another and highly surprising source; the F.C.C., in an unprecedented move, ruled in June, 1967, that under the "fairness doctrine" which requires broadcasters to provide both sides of controversial issues, stations must offset cigarette ads by providing free time for messages on the harmful effects of smoking. The idea that "advertising" must be countered with "the facts" was a novel and, need-

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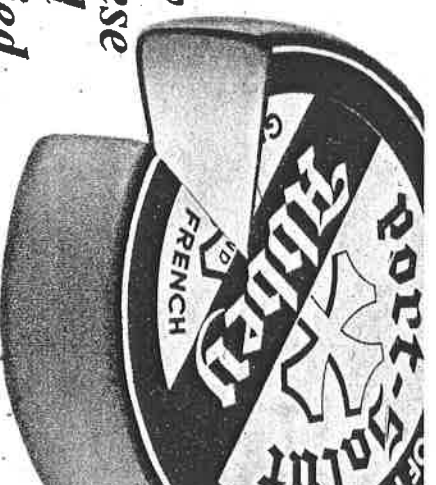
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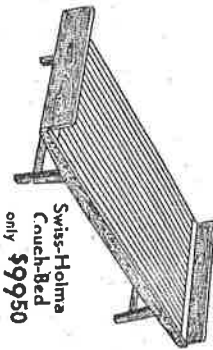
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less to say, controversial concept. The F.C.C. reasoned that since "the repeated and continuous broadcasts of the advertisement may be a contributing factor to the adoption of a habit which may lead to untimely death," broadcasters were obliged "to devote a significant amount of time to informing [their] listeners of the other side of the matter—that however enjoyable smoking may be, it represents a habit which may cause or contribute to the earlier death of the user."

"The simple fact," said the F.C.C., is "that the public interest means nothing if it does not include such a responsibility."

The cigarette industry and the broadcasters took the ruling to the courts, and having been overruled below, now have it before the Supreme Court, where they are expected ultimately to lose. In the meantime, the antismoking TV spots have been appearing. Some of the liveliest minds in advertising have worked on them, and both sides believe they have packed a significant punch against smoking.

This February the F.C.C. announced that unless Congress specifically barred it from acting, it would, upon expiration of the 1965 law next month, order all cigarette advertising off the airwaves. There are precedents in other countries: Cigarette advertising is banned from television in Great Britain, and either from radio or television or both in Czechoslovakia, Denmark, France, Italy, Norway, Sweden and Switzerland. Liquor is not advertised over the airwaves in the United States through a voluntary agreement on the part of broadcasters. Because of the unique dangers of cigarettes, the F.C.C. said, this was a special action it did not intend to extend to other product commercials.

As for the argument that this was an infringement of the First Amendment's guarantee of free speech, the F.C.C.

noted a string of court rulings that, if product advertising came within the First Amendment, it was at least less rigorously protected by it than other forms of speech. "The issue," it said, "is thus whether the First Amendment protects the advertising of a product as to which there is a most substantial showing that it is the main cause of lung cancer, the most important cause of emphysema and chronic bronchitis, and so on. We do not believe so."

**T**HE smoking issue is an odd one, as controversies in Washington go. It does not devolve into liberal-conservative or partisan or even industry-consumer line-ups. It often appears to be something of a sport, moving normally docile agencies and politicians to unaccustomed activity. It goes on, and is continually stoked, by a surprisingly few but strategically placed people about town who have examined the evidence and been come at least alarmed and sometimes outraged. This explains, for example, the uncharacteristic vigor on the part of the regulatory agencies. In the case of the F.T.C., one commissioner, Philip Elman, has felt quite strongly about the hazards of smoking, and the power of cigarette advertising, and persuaded a sufficient number of his colleagues to share his view.

At the F.C.C., the impetus came from the general counsel, Henry Geller, and the commission chairman, Rosel Hyde. There was inevitable speculation that the generally conservative and lenient Hyde was motivated by the fact that he is a Mormon, a religion which prohibits smoking. "There is no substance to that whatsoever," says an aide to Hyde. "If he had abstained, the result would have been the same." All seven F.C.C. commissioners unanimously supported the fairness ruling, and there was only one dissent on the proposed advertising ban. Under questioning by Congressmen, Hyde ap-

peared to waffle, saying that it would be acceptable to him if, instead of the F.C.C. ban, there were a Congressional requirement for a very strong warning in ads—an approach also favored by the Surgeon General William H. Stewart—since he felt this, too, would result in elimination of the ads. Nonetheless, the F.C.C. remains ready to act if the warning is not strong enough and its hands are not tied by Congress, and the strategy of key antismokers in Congress remains one of permitting the agencies to move.

Also important in the Government's antismoking efforts has been its National Clearinghouse for Smoking and Health, which on an annual budget of about \$2-million— or less than 1/100 of what cigarette companies spend on advertising and kept at that level through the efforts of tobacco-state Congressmen on appropriations committees—has been sponsoring research on smoking, particularly on methods of enabling people to give it up or cut it back.

A key architect of the Congressional antismoking strategy is Michael Pertschuk, a bright, 36-year-old attorney who is general counsel of the Senate Commerce Committee. A former assistant to the now-retired Senator Maurice Neuberger, one of the earliest and strongest official opponents of smoking, Pertschuk is an excellent example of the importance of the Congressional staff man. He keeps in touch with all of the antismoking forces, and it is through his efforts and contacts as much as anything that the powerful Senate Commerce Committee has enacted a string of consumer legislation in the past few years, and that the committee's chairman, Senator Warren Magnuson of Washington, stirred from a long and rather torpid Senate career to become a consumer champion. ("Keep the big

boys honest," was Magnuson's 1968 election slogan, and it worked.) Chairman of the committee's important Consumer Subcommittee is Senator Frank Moss of Utah, a Mormon and a strong opponent of smoking.

**A**NOTHER Senator who became exercised over the pervasive cigarette advertising was the late Robert F. Kennedy. He was one of the few Senators to stand by Mrs. Neuberger against the industry bill in 1965, and thereafter he and Magnuson spent some time, while brandishing the threat of punitive legislation, trying to negotiate an agreement with the cigarette industry. In a series of meetings with and letters to cigarette company and network executives, they attempted to persuade them to limit cigarette advertising to certain hours, those when children were least likely to be watching television, and to bar it from sponsorship of certain types of programs, in particular professional football. In the course of the discussions Kennedy and Magnuson learned that while Lorrillard had cooperated by dropping its sponsorship of profootball games, Reynolds had signed up in its place. This was, to the Senators, a show of bad faith, and the negotiations broke down.

The cigarette industry had had a go at a "self-regulation code," announced in 1964. The companies, with the once-and-would-be New Jersey Governor, Robert Meyner, as their overseer, pledged to stop saying or implying that smoking was good for your health, stop advertising in college newspapers or comic books or on "primarily" children's programs. The code became something of a joke, but the industry still points to it as an example of its "affirmative steps to meet criticism of cigarette advertising."



Yogi Berra gives some advice to his young friend Boo Boo on an antismoking...





...special aimed at young children, while here Tareyton talks about a "safer" cigarette.

A relative newcomer to the antismoking forces is John Banzhaf 3d, a 28-year-old attorney who issues press releases calling himself "the Nader of the cigarette industry." Nader he is not, for among other things Ralph Nader would never issue such a release, nor does Nader, as does Banzhaf, somehow antagonize his potential allies. Nonetheless, Banzhaf, working virtually alone, has had an important effect. It was he, then a recent graduate of Columbia Law School, who filed the complaint with the F.C.C. that led to the fairness-doctrine ruling and in turn the antismoking ads, and who has fought for the ruling, against the industry, through the courts. Now a part-time teacher at George Washington University Law School, Banzhaf—balding, serious and soft-spoken—has started two organizations to carry on his anticigarette fight. One, Action on Smoking and Health—ASH, of course—with a number of noted physicians as sponsors, raised about \$100,000 to defend and enforce the F.C.C. decision. The second, Legislative Action on Smoking and Health (LASH), has raised funds to fight the Congressional battle this year. Operating out of his law school office—with an entire wall covered with articles about and photographs of himself—Banzhaf receives about \$20,000 a year from ASH. Recently he and some student assistants went about Capitol Hill distributing LASHtrays, an ashtray topped with a plastic model of lungs; cigarette smoke is routed up one of the lungs, which thereupon turns black. The press was alerted and the move was well-publicized, but this is the sort of stunt Congressmen, even those friendly to his cause, tend not to appreciate. The tobacco industry feels as one company executive put it, that it has been "terribly

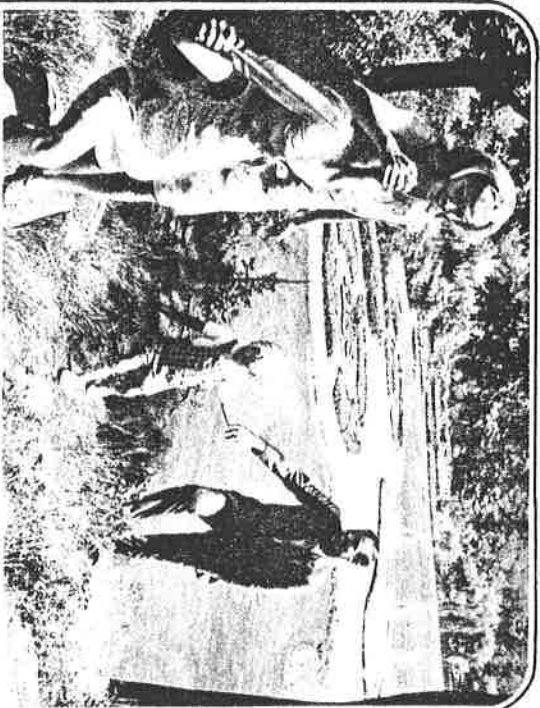
harassed by the anti-groups." Such pressures, he said, "are unwarranted . . . the evidence is not substantiated." It has been a first principle of the tobacco companies to argue against the medical evidence and to speak of the cigarette "controversy," conceding nothing. This strategy has caused some divisions within the industry, and last year Hill and Knowlton, a substantial public-relations firm with offices in New York and Washington, declined to continue to work for its long-time client, the Tobacco Institute, because of the industry's insistence on fighting the evidence. The institute is, despite its stately name, a lobby organization set up in Washington in 1958 to represent the cigarette manufacturers. With a staff of 25 and offices on K Street and a budget which it declines to reveal contributed by member companies, the institute, with Clements at its head, was at the center of the 1965 battle. The industry has also set up the Council for Tobacco Research—U.S.A., which, according to a recent institute release, has devoted "millions" to research to find a "scientific understanding of the actual facts, whatever these facts turn out to be." (Italics theirs.)

**A**MONG the major recipients of the industry's research funds has been the American Medical Association, to which the industry has pledged \$18-million for a 10-year research project, perhaps explaining the A.M.A.'s refusal to join the other health groups in the antismoking campaign. Since 1954, the companies have, according to the Tobacco Institute, "committed in excess of \$31-million" to the council. Nonetheless, the industry's entire research effort is considered to be piddling compared to what the companies spend on advertising. Moreover, the

industry has a bit of an image problem in talking about its research: If it says that it is researching to find a "safer" cigarette, it is suggesting that which it is not willing to suggest. The burden of a recent Tobacco Research Council press release—widely advertised in newspapers by the Tobacco Institute under the caption, "How much is known about smoking and health?"—was that there are other causes of cancer; statistical associations between smoking and lung cancer do not prove a causal relationship, and that effective tests of the real relationship have yet to be devised.

In 1967 the institute signed a \$500,000 contract with Rosser Reeves, an advertising legend for his "hard-sell" approach. The plan of Tide-rock, Inc., Reeves's company, was described in The Gal-lagher Report, an advertising newsletter: "Campaign to reach from grass roots to top men in Government. . . . Presidents [of cigarette companies] place hope in Rosser. Salesmen like Reeves able to sell cigarettes to infants." According to the December, 1967, issue of The Tobacco Reporter, a trade journal, the industry planned "a major saturation public-relations and advertising campaign to re-establish the smoking and health controversy." One of the ideas, the magazine said, was to "put the industry strongly on record that it feels smoking is an adult habit and opposes smoking by young people. . . . Some suggest that a campaign along these lines might help show the industry's sincerity in wanting to treat the problem responsibly. Others, however, feel such an effort might backfire." Still another idea within the industry was that "some feel the tobacco industry should go all the way, including attacking personally antitobacco spokesmen who make comments that the industry believes to be erroneous."

The Reeves campaign came a cropper after it was revealed that the industry had planted an article debunking the evidence of the dangers of smoking in True Magazine, and then had distributed more than one million copies of the article and taken newspaper ads promoting the article and printing excerpts, without revealing the sponsor of the ad. The bill for the advertising was found to have been paid by Tide-rock, which was in turn compensated by the tobacco companies. The F.T.C. investigated and reported that these "are not the acts of an



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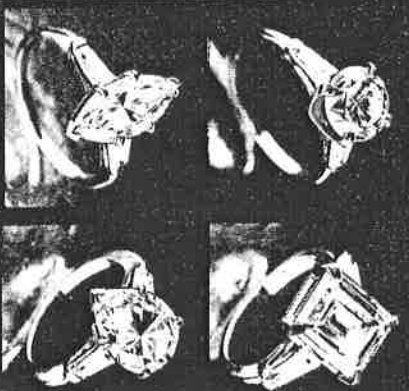
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industry either confident of its facts or solicitous of its reputation."

**T**HE cigarette companies are now presenting their case both through their own public-relations men and through the institute. The institute's public relations are handled by William Kloefer, a former newspaperman who has held a number of public-relations jobs, most recently with the drug industry. A tall, deep-voiced chain-smoker, Kloefer explained: "We are going to do a little more in the way of public communication than there has been in the past. The content is not going to be cigarette promotion. That's not our bag. I think it can be characterized as an effort to promote objectivity in this controversy."

The institute's major activities thus far have been the widespread advertising of a Council for Tobacco Research pamphlet, which it describes as a "white paper," entitled, "The Cigarette Controversy: Eight Questions and Answers." Says Kloefer: "The issuance of it has nothing to do with the Congressional hearings that are coming up, believe me. It is a document that we have worked on for a very long time. It has been very thoroughly examined by people in the industry and scientists who are involved in smoking

and health research." He declined to give the names of the scientists. "Just people here and there," he said. The gist of the "white paper" is that the causal relationship has not been proved, particularly how it works: "Too many factors are involved. And until their roles and their relationships are understood, no one can be sure about the role of smoking."

The House Interstate and Foreign Commerce Committee, to which the industry chose to take its case first in this year's battle, has already been sympathetic toward the tobacco business. (When it decided to hold hearings on the industry's bills, the committee did not inform a member who is its leading opponent of the industry, Representative John Moss of California—a distant relative of Senator Moss, and not a Mormon. This is reminiscent of industry tactics in 1965, when company spokesmen persuaded House leaders to call the cigarette-labeling bill up on the House floor while the plane returning Moss from Europe was circling Dulles Airport.)

Both the industry and the antismokers consider the House committee and perhaps also the House floor as the most favorable terrain for the cigarette companies. A former senior member of the

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ANILL EQUIT SAMOA ELEMENT  
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RNS SPURT BARSENG AREAL  
ASHESMOLT FANS COSTING  
LET LOOKIT OVERHEATS  
OPALIS FLUENE RIFTEED  
CALYPSO BEE DEERE SOLI  
UPINYOUREUNKANDWAGNALLIS  
LAT ORION EWA MEANIES  
CLAMSHHELL ATTESTS GAR  
LEVERET EARL CRIME ADDA  
AMENSTU FRESH EELS IAN  
PASSU ENCRE NEARS OPART  
PORTA CARL STOKES  
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## SOLUTIONS TO LAST WEEK'S PUZZLES

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MEAGRE EASELS  
DISTANT VIOLATE  
INTERASI PIKES  
OTIS VITAL DIRIT  
DEVRELATES NNE  
EDEMMASTEENAGER  
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STATION INCOMES  
STRONG MOORED  
EASES ENTER

House committee, Horace Kornegay of North Carolina, now works for the Tobacco Institute as Clements' second-in-command. (Among other things, this means that through House and Senate rules extending special privileges to former members, Clements and Kornegay have access to the floors of each chamber during maneuvers over the smoking bills.)

Both sides also agree that the Senate will be more hostile. The antismoking Senate strategists are planning on delaying tactics to kill off the industry bill and if all else fails, Senator Moss has threatened to lead a filibuster on the Senate floor. "I think there's a growing sentiment in the Senate," he says, "that, at least, tobacco is indeed injurious." Moss claims some 40 to 45 Senate allies on the issue. In order to shut off a Moss filibuster, Southerners would have to vote for the "gag" rule they despise and there would be the widely publicized spectacle of an industry organizing the Senators against one of its members defending, as he would undoubtedly put it, the women and children of this country.

There are other reasons why the industry will have more trouble this time. A great deal has happened since 1965: Ralph Nader, for one, has happened, and a number of politicians have learned that defending the consumer is good politics. A number of Senators are annoyed and embarrassed that they were had the last time around. Clements is ailing, and some of his most important Congressional allies four years ago have died or retired, and his Administration contacts are not nearly so impressive.

Some White House aides hint that President Nixon will take a firm stand on the side of the health forces, pointing out that the President is not a smoker. (Neither was Johnson.) Asked at a Feb. 6 press conference what he thought about the just-announced F.C.C. proposal to ban TV and radio advertising, the President commented that "as a nonsmoker, it wouldn't pose any problems to me." Characteristically, he said he would have an announcement on it later, but as of this writing his position, if any, has not been made known.

**A**L that the industry will concede is that, as Kloefer put it, "the greatest difference since 1965 is the multiplicity of hearsay." There may be a different climate popularly, but there won't be when it comes to a careful adjudication of the facts." Or, as one cigarette company executive

suggests, "perhaps this is no more than a political platform where people can grab headlines and make points at home. What are the motivations of the Mosses and the Hydes? Is it because they are Mormons? I think it's a fraud."

By this time four years ago, the industry had designed its position in detail and made elaborate arrangements to sell it to Congress, and to some observers it is now dangerously, from its own point of view, underprepared and overconfident. It has done far less than it had before to contact Congressmen and smooth the way. There is a feeling among the industry's Washington strategists that they've done it before and they can do it again. Their attitude is similar to that of the automobile companies in 1966; they could not believe until it was almost too late that Congress would move against a great American industry.

Robert Wald, a longtime Washington attorney for one of the cigarette companies, believes that the industry's strategy to date has been shortsighted. "It is inevitable that TV advertising is going to end, one way or another," he says. "The industry should have been working out an orderly withdrawal with the Congressional staffs and the agencies. Warren Magnuson and Bob Kennedy offered them the chance. Instead, the sentiment is to fight this down to the wire and it could end up in a mess, with the industry the likely loser."

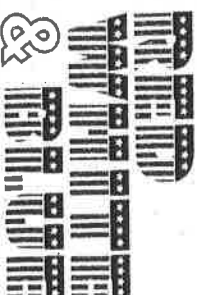
"Right now, they're getting hammered by the antismoking ads, which are better than their own, and by the antismoking people who are increasingly effective. Most of the industry's own advertising is pretty silly."

"What this industry needs is a period of stability, which it probably won't have until the advertising brouhaha is settled." This is the sort of astute advice, offered more in sorrow than anger, which the industry does not yet show signs of accepting.

As in most battles worthy of the name, both sides are bluffing a bit: The cigarette companies are not in quite as much political trouble as the antismoking advocates are putting about, and at least some of the industry already senses that it can't win it all. But although the industry will try to present a united stance before Congress, there are mixed views within it about both the style and substance of its defense. American and Lorillard have withdrawn from the Tobacco Institute.

The issue does not summon

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Above, an antismoking dialogue about kicking the habit; below, a message . . .



. . . from Camel. So far, no Andrew Volsteads have arisen in the tobacco debate.

the masses on either side. There is a good possibility that if the industry offered to compromise—for example, to forgo advertising until after 10 P.M.—the antismoking Congressmen might accept, in exchange continuing the preemption on action by the Federal agencies and state and local governments. "One summer day," says one informed observer, "someone from the industry is going to wander into Magnuson's and other Senators' offices and offer a deal. My bet would be that if it's at all reasonable, they'll accept." The question is whether the industry will have waited too long, and in making the fight will have stiffened the spines of its opponents. What no one here except the official industry spokesmen professes to foresee is that Congress will once again permit itself to be portrayed as doing the bidding of the cigarette companies.

**M**OREOVER, despite the industry's apparent intransigence in Washington, there is a good deal of evidence that the higher executives are quietly making for the exits. Diversification in the cigarette industry has been proceeding at an increased rate. Lorillard has merged with Loew's, a hotel and movie theater

for with other advertisers. C.B.S., as a matter of public posture, did not join with the other two networks and the National Association of Broadcasters in fighting to the Supreme Court alongside the cigarette industry to overturn the F.C.C.'s fairness-doctrine ruling. The Straus broadcasting group in New York has already imposed limits on cigarette advertising, and recently The Washington Post Company announced that after June 1 it would no longer accept contracts for cigarette advertising on its two television and its AM and FM radio stations. Another indication that a trend might be under way came a little more than a week ago when Westinghouse Broadcasting stopped cigarette ads.

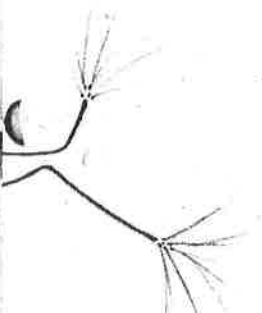
Despite the cigarette industry's warning that what is at stake is the freedom to advertise in general, the advertising industry is keeping its distance. "As a matter of public prudence," warned a recent editorial in Advertising Age, "the advertising business must recognize that there are an increasing number of people who do not approve of the way tobacco advertisers and media have responded to the Surgeon General's findings. . . . We would like to see the tobacco companies and the media enter the forthcoming Congressional debate with a real program of self-regulation, appropriate to the complex issues which arise from cigarette advertising. Considering the bad precedents which have already arisen from this issue, the rest of the advertising business cannot be expected to support unyielding resistance indefinitely."

**T**HE antismokers would not only like to have cigarette advertising dropped from television, and a tough warning in all ads, but also a continuation of the antismoking ads as a public service. This is undoubtedly more than they can win.

There are, too, mixed opinions as to what effect a ban on TV advertising would have on cigarette use; in Great Britain such a ban has not been reflected in a decrease in smoking. This may be why, despite the strong front in Washington and the complaints of harassment in the executive suites, the cigarette industry is not altogether in tears. Asked what he felt would be the effect of a ban on broadcast advertising, one company executive replied, "I would save a lot of money." ■



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