

# SENATOR S. J. ERVIN'S (D.-N.C.) ADDRESS BEFORE U.S. SENATE . . .

December 4, 1967

[Excerpts from an address delivered by Sen. Sam J. Ervin, Jr., (D.-N.C.) Dec. 4, 1967, on the floor of the United States Senate in defense of the tobacco industry on the smoking-health issue.]

[SEN. S. J. ERVIN (D.-N.C.)]

□ I WANT to discuss an allegation which is becoming more and more frequent—that smoking is all that stands between men and immortality. This proposition is being paraded before the American people with all of the pomp and certitude of Madame Curie's discovery of radium.

Most recently, all of the assertions in support of the argument that smoking causes cancer were collected in Sen. Robert F. Kennedy's address to the World Conference on Smoking and Health.

When asked for my reaction to that speech, I declined on the basis that any immediate statement by me without careful study could only be superficial and unfair. Since that time, I have studied carefully the charges made by the prohibitionists.

These charges should not stand unchallenged.

In all fairness to the American people, to the tobacco industry, to hundreds of thousands of farmers and tobacco workers and their families, and to the members of Congress who must consider proposed legislation on this subject, the record should be set straight.

This is what I propose to do today.

I have always believed in freedom of information, whether the news be good or bad.

I believe the American people have a "right to know," and in this case, they have a right to know that there is no proof that smoking causes lung cancer and heart disease. By the same token, the government has a duty to see that the people are supplied with all of the information about this vital subject.

Now, I have no pretense to expert knowledge of cancer and its causes. Indeed, I am as lacking in information as the medical profession whose knowledge of the subject is summarized in this quotation from the *Encyclopedia Britannica*:

"Cancer is an autonomous new growth of tissue of an unknown basic cause."

## Weighing the evidence

While I do not profess to have any more knowledge of this subject than is set forth in this statement, I do have considerable experience as a lawyer and a judge in weighing the probative value

of medical and scientific evidence.

And I agree with the eminent chest disease specialist, Dr. Alvis Green, who told the Senate Commerce Committee:

"My study of lung cancer over the past 50 years as an internist and diagnostician leads me to agree with Dr. Joseph Berkson of the Mayo Clinic that there is no proof of causal relationship between the smoking of cigarettes and lung cancer."

I would say, as he does—

"Without false modesty, and quite frankly, I do not know the cause of cancer. Moreover, I am going to say without the slightest fear of contradiction, that no one else does either."

I have discussed in the past and will discuss again in the future other relevant matters including the illegality of the so-called Fairness Doctrine regulations of the Federal Trade Commission; the absurdity of labeling cigarettes as harmful, but not, for example, alcohol; and the poverty which cigarette prohibition would bring to thousands of farmers and workers, while at the same time tax income sufficient to pay for the war on poverty would be cut off.

After studying the arguments of the prohibitionists, I am convinced that they contain little more than old platitudes, new hyperbole, and blatant *non sequiturs*—all based on statistics which are either erroneous, irrelevant or statistically meaningless. Nevertheless, these statistics are cited again and again to support the thesis that smoking causes cancer.

## Relying on statistics

The truth of the matter is that these people are relying on statistics, not research. And they do not understand their own figures.

Actually it would be far easier to show statistically that smoking cigarettes prolongs life:

(1) Americans are living 16 years longer today than they did in 1920.

(2) Americans smoke more cigarettes than they did in 1920.

(3) Ergo, cigarettes prolong life.

Or to cite an example: Great Britain has a higher death rate from cancer than we do. Yet, the British smoke less.

Now, this is not to say tobacco is a health food the equivalent of yogurt. What I am saying is that, from such logic as this, no valid conclusions can be drawn.

It is correct that official statistics show a dramatic increase in lung cancer in recent years. But proponents of prohibition do not mention there has been a corresponding decline in stomach cancer.

Are we to assume that tobacco has cleansed the stomach while fouling the lungs? Even more strange, incidence

of cancer of the larynx has remained relatively constant over the last thirty years. Yet the smoker's larynx comes in contact with the smoke sooner and more often than the lungs.

The full weight of the prohibitionists' logic seems to rest on this one paragraph from Senator Kennedy's speech:

"Death from lung cancer [is] increasing almost geometrically—from 2,500 in 1930, shortly after smoking started becoming a national habit, to 50,000 now."

This information is, of course, not a figment of someone's imagination. It is derived from federal vital statistics. But they fail to take into account changes in reporting methods, improvement in diagnosis and the aging of the population. All these have influenced the increase in numbers of deaths reported from lung cancer.

More important, there is stronger evidence from equally reputable research scientists and statisticians who reject the hypothesis that any relation between cigarette smoking and any disease has been proven.

## For the record

I will place in the *Congressional Record* expert documentation of this at the conclusion of my statement. For the moment, let me highlight the following facts:

As a "national habit," cigarette smoking among the male population dates not from 1930, but from 1883, when Washington Duke and Sons began mass producing cigarettes near Durham, N.C.

It is true, however, that it did not become popular for women to smoke until the 1920s; and the number of adult women who smoke has been increasing since that time.

But whether we use 1930 or some earlier date as a base year, it is still clear that a sizable but undeterminable number of cases of lung cancer used to be diagnosed as tuberculosis; and the increase in deaths from lung cancer parallels the decrease in deaths from respiratory tuberculosis and pneumonia. Since 1930 diagnostic techniques and the science of pathology have developed to the point where lung cancer can be easily identified.

Dr. Joseph Berkson of the Mayo Clinic explains the apparent rise in the lung cancer rate and fall in the tuberculosis rate in two ways. He cites the 1961 English study by Dr. Willis to the effect that "... so many cases of unrecognized lung cancer [were found] in early records as to warrant the conclusion that there was just as much

lung cancer in the past, but it wasn't recognized."

Also, according to Dr. Berkson, "persons who in former times would have died at an early age, say from tuberculosis, now live to ages at which they are exposed to death from lung cancer." Incidentally, Dr. Berkson, who the *Cancer Bulletin* calls the dean of American medical statisticians, has said, "Personally, all relevant available facts considered, I think it very doubtful that smoking causes lung cancer."

### Self-contradictory

But even if we were to accept the validity of the claim of low lung cancer incidence in 1930, the argument of the anti-smoking forces seem self-contradictory on several points.

In the first place, increase in the life expectancy of Americans has gone hand in hand with the increase in cigarette consumption. In 1930 the life expectancy of Americans was 59.7 years; by 1965, it was 70.2 years.

Secondly, some people propose economic sanctions on the industry to force a larger share of the market to lower "tar" and nicotine cigarettes. These cigarettes already constitute a large proportion of those being sold today; however, back in that golden age of 1930 to which cigarette prohibitionists turn with such nostalgia, higher nicotine and "tar" content cigarettes composed almost 100 per cent of the market, and filters were nothing more than a gleam in the eye of two of the smaller manufacturers.

In this connection, the Federal Trade Commission last week released even more statistics to confuse the public. For they have proceeded by sometimes rather dubious methods to grade cigarettes by their "tar" and nicotine content. Yet, there is no proof that these even affect health.

Even in 1950, filter cigarettes composed only .06 per cent of total production; 10 years later over half the cigarettes manufactured had filters. Further, mention is seldom made of the fact that although cigars and pipe tobacco are held blameless by the prohibitionists, both contain considerably more "tar" and nicotine than the average cigarette.

Other facts which go unmentioned are far more relevant than the propaganda which is disseminated.

For instance, although the lung cancer rate among women during the past 40 years has increased slightly, it by no means has kept pace with the increase in the number of women who smoke. For reasons which no one can explain, lung cancer remains largely a disease of the male. And, according to Drs. Rosenblatt and Lisa, "If cigarette smoking is a potent carcinogenic agent it

should have affected lung cancer mortality by this time, resulting in an equalization of the sex ratio which in 1964 was 6.4:1."

It is interesting that the *Encyclopaedia Britannica* (1966 edition) in its discussion of percentages of cancer deaths in the United States, reports that 11 per cent of the male deaths were from lung cancer, while only 3.1 per cent of the female cancer deaths were from lung cancer.

Also, Senator Kennedy emphasizes that people are beginning to smoke at an earlier age and are smoking more cigarettes per capita. Yet, the average age at which lung cancer occurs has remained the same. If cigarette smoking produced lung cancer, then a lowering of the age of occurrence would be expected.

It is also passing strange that, as Dr. Rheinhard has said, "The average age at which lung cancer occurs is the same for heavy smokers, light smokers and non-smokers." And Drs. Rosenblatt and Lisa note that lung cancer occurs at approximately the same age "regardless of whether smoking had been started at six years or at 41 years of age."

"Equally significant was the finding that the number of cigarettes smoked daily did not affect the age at onset; in both the light smokers and the heavy smokers the disease had developed during the same decades of life."

These same doctors, whose paper will be placed in the *Record*, carefully illustrate that lung cancer is primarily a disease of older men, and that cigarettes are, therefore, not the cause:

This distinctive age distribution was noted in the nineteenth century in the absence of cigarette smoking and also in recent decades in the era of widespread cigarette consumption. The relation between longevity of the population and the incidence of lung cancer is therefore very significant. . . . It is very evident that, regardless of any hypothetical etiologic considerations, the total number of potential subjects for lung cancer has increased by many millions during the past half century. The inherent biologic characteristic of the disease to develop in older age groups will therefore result in the occurrence of more cases in future years as proportionately more of the population reaches the later decades of life.

In other words, to reverse the increase in lung cancer, we must either reduce life expectancy or we must find the cause and cure. Cigarette prohibition is no answer.

I would add here that aging is also a primary factor in emphysema, heart disease and most of the other diseases which the prohibitionists cite as by-products of smoking. In a most important study of male, identical twins, Dr. Lundman and his colleagues concluded that ". . . cigarette smoking is probably not associated with coronary heart disease."

A substantial number of deaths from lung cancer, especially among women, are the result of cancer spreading to

the lung but originating elsewhere in the body. These deaths could not be blamed on cigarettes by the most ardent prohibitionist; yet they are counted in the statistics cited by them.

Most conspicuous of all by its absence from public speeches on this subject is any mention of air pollution or other possible factors being studied. Certainly increased pollution, both from industry and from vehicular traffic, has at least kept pace with, if not outstripped, increased cigarette consumption since 1930. In fact, it was shown that on Staten Island, in New York, lung cancer is far more likely to occur in residents where air pollution is highest. And, according to a five-year study published in the *German Journal for Cancer Research*, "The frequency of lung cancer is not influenced by cigarette smoking but there is a significant correlation between the air pollution problem and the bronchial carcinoma rate."

These facts, I believe, are sufficient in themselves to effectively rebut the hypothesis that a causal relation between cigarette smoking and cancer has been proven. I do not feel I can conclude, however, without challenging certain other allegations about tobacco and the tobacco industry.

The first is from a recent speech on the Senate floor in which it was maintained: "Between 4000 and 5000 children start to smoke each day." For two months, I have searched for statistics to validate this assertion, and I have failed utterly.

My only conclusion is that this number is an exaggeration of an equally dubious statement by the Surgeon General to the effect that 4000 children began smoking each day. The Surgeon General's statement in turn rests on a limited survey conducted in 1961 in Newton, Mass.

With a control group so small, it is a statistically absurd assertion which never even attempts to define the ages of the children to which it refers.

### Statements reshaped

The Surgeon General and others maintain that their conclusions are based on over 5000 studies. They do not mention that many of the studies are but reshapes of the others in popular magazines and even letters to the editor.

Nor do they mention that many of the studies reached opposite conclusions from those of the Public Health Service.

And Senator Kennedy then says, "No responsible health organization which has examined the problem has disagreed with these important facts." For an editorial which clearly refutes this conclusion, I suggest "Etiology by Edict" from the March, 1966, edition of the

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I take strong exception to charges that "Cigarettes would have been banned years ago were it not for the tremendous economic power of their producers. . . . Nearly \$300 million a year is spent in the United States alone on . . . efforts to start young people smoking and continue others in the habit."

The cigarette industry is less powerful than the liquor interests were in 1918; and prohibition of tobacco would fail as miserably as it did with alcohol. The only effect would be a bonanza for bootleggers dealing in low-quality leaf. As for the statement, explicit and implicit, that the industry spends hundreds of millions enticing children to smoke, the charge is patently false.

In the first place, the industry spends no money whatsoever on institutional advertising designed to enlarge its market, as does, for instance, the brewery industry. Yet, beer commercials are as prevalent as cigarette commercials on sports programs; and it is incontrovertible that beer in the hands of an automobile driver can be a killer of young people.

Certainly, the cigarette industry has made important strides in self-regulation by voluntarily limiting its advertising during programs aimed at youngsters. In addition, they have voluntarily ended all advertising on college campuses and drafted a code to police its advertising.

The truth is that all cigarette advertising is brand advertising and has as its purpose gaining a larger share of the market for the manufacturer; and increasingly this advertising leads to larger markets for the lower tar and nicotine cigarettes.

It is clear that human nature being what it is, an absolute ban on advertising is not the answer. In England, television advertising of cigarettes was banned, with the idea that English youth would not be encouraged to smoke. A year after the ban went into effect, however, the percentage of boys 16 to 19 years old who smoke had in-

creased from 51 per cent to 57 per cent. For girls the same age, the proportion of smokers increased from 39 per cent to 47 per cent.

In Italy, all cigarette advertising is banned. And since the ban, cigarette use has risen steadily.

### Case of responsibility

As to a charge heard at the World Conference that "The cigarette companies have demonstrated a total inattention to public responsibility," the industry has contributed \$22 million to independent scientific research on health and smoking, \$10 million of which has gone to an American Medical Association research project. It has spent even more in its own research.

This is not to say that the manufacturers have completely altruistic motives. Indeed, it is in their own interest to discover the relationship, if any, between smoking and lung cancer so that they can eliminate that ingredient, if any, which is responsible for the disease.

In conclusion, I emphasize two points:

First, I make no claim that cigarettes are a wonder drug. I claim only that which K. A. Brownlee has said in his article in the *American Statistical Review*. That is, at this time the statistics do not show that cigarettes cause human disease. Or, in the language of the North Carolina South Mountains, "Figgers may not lie, but liars sure do figger." And honest men also figger when the crusading spirit burns in their hearts.

Second, it is not my position that Congress should stand idly by in the face of what appears to be mounting deaths from lung cancer. But I do object strenuously to the solutions offered by the prohibitionists.

Senator Kennedy, for instance, advocates impossibly strict self-regulation of the industry. In effect, what he asks of the manufacturers is slow suicide until such time as Congress agrees to give the Federal government the tools to administer the final execution.

This course can only lead through a blind alley, of economic tragedy; and I'm not talking about the several hundred executives of a few large manufacturers. I'm talking about the several hundred thousand small farmers and tobacco factory workers and their families.

Where shall we send them? To the ghettos of New York where it has been estimated even by prohibitionist scientists that residents are breathing heavily-polluted air?

It baffles me that some scientists have taken up the crusade for cigarette prohibition with all the religious fervor of a Carrie Nation. How much further we might be today if all of that combined intelligence, dedication, and energy had gone into research rather than propaganda.

### 3-point proposal

Which brings me to my three-point proposal for resolving this controversy.

First, I believe the Federal government should initiate, as soon as possible, a cooperative effort among industry, government, and private, non-profit organizations to find the cause and cure for lung cancer.

Dr. Salk has shown us that there is nothing which is medically impossible. If we can divert all of the financial and human resources now engaged in anti-cigarette propaganda into a coordinated effort, I am confident we could shorten greatly the time until we reach our goal.

Between now and the time Congress reconvenes in January, Representative Galifianakis and I will be discussing plans for a definite program with Senator Jordan and other members of our delegation.

It has occurred to me that this may be an excellent opportunity to test Vice President Humphrey's plan to apply computer technology to medical research in order to avoid duplication of research by scientists scattered across the country. A data bank could be set up in the Research Triangle Park in

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## BIG YEAR FOR FILTERS? . . .

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these successful filters, it said, Philip Morris is testing a Parliament with a flute-like filter similar to True's, and "American Tobacco has just attached a longer filter to Pall Mall, which it says removes more tar and nicotine."

• Signs of 'new push' - There are signs, too, *Business Week* says, that manufacturers "may put a new push" behind charcoal filters which were in the spotlight a couple of years ago when Lark received a favorable rating in a medical report.

"Another idea is Fifty-Fifty, a cigarette that is, believe it or not, half filter-half tobacco."

In this vein, the magazine recalls the news impact created a few months ago with the announcement of the Strickman filter whose inventor, Robert L. Strickman, claims it traps undesirable ingredients without destroying the flavor.

• A manufacturer is quoted as saying that 1968 "could well be the year of the big shakeout in the tobacco industry" and some observers are said to have expressed the belief that the 100s may have reached "their mature share" of the market inasmuch as overall sales of the 100s this year are shown to have increased only 1.4 per cent.

"The betting is that 1968 will see the 'tar' derby at full Gallop, with the industry's principal attention once again focused on health," the article ventures.

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North Carolina which would act as a nation-wide storehouse for all lung cancer research.

As support facilities, we already have the Environmental Health Center, an IBM research facility, and the U.S. Data Processing Laboratory of the National Center for Health Statistics located in the park. There are nationally-recognized medical schools at Duke University and the University of North Carolina at Chapel Hill.

And the computer experiments being conducted at these two schools and at North Carolina State University—the three institutions which form the angles of the Triangle—could make a great contribution to the program, as could the research affiliates of the tobacco companies located nearby. Work of this nature in its embryonic stages is already being done in the area, and expansion of it could take place more easily there than at any other place in the nation.

I am certain the State of North Carolina would cooperate in every way possible. Our legislature has already appropriated money for a bio-dynamics laboratory at North Carolina State Uni-

versity for agricultural research on tobacco. Much of this research is being devoted to producing better quality leaf with lower "tar" and nicotine content.

## Air pollution topic

Action along this line is the type which Nick Galifianakis and I feel Congress and the Surgeon General should contemplate.

Second, I urge a renewed and larger assault on air pollution. The Administration is to be congratulated for its work in this area. The landmark Air Pollution Act recently signed into law offers great hope, both in terms of research and in terms of regulation.

Still, as President Johnson and Secretary Gardner have recognized, there is more Congress can do. It is true that, as with cigarette smoking, there is no proof that air pollution causes lung cancer. Yet, to the extent it may constitute a health hazard, air pollution is a more insidious threat than smoking.

The latter is a voluntary risk, while the former is imposed on everyone against the wishes of everyone. Further, there are esthetic reasons as well as health reasons for an intensified war on air pollution.

Until that day when all Americans can once again be assured they can look up in the morning and see the sky and look up at night and see the stars, we need to fight to lift the sick cloud of pollution which hangs so heavy across the face of America. Here again, Rep. Galifianakis and I hope to offer some new ideas.

Lastly, if it is ever proven that there is a causal relation between cigarette smoking and lung cancer, then government, industry, and medicine should be prepared to begin immediately a co-operative search for a safe cigarette—not, however, through the coercive economic sanctions which have been proposed to the Senate, but rather through a program of tax incentives and joint government and industry research.

Today's scientists are capable of finding better solutions to problems than by shouting them out of existence. □

## Pennsylvania cigarette taxes are disappointing

HARRISBURG, PA.—State cigarette tax collections for the first five months of this year totaled \$52.1 million, or some \$1.1 million below what fiscal planners anticipated.

Budget officials also reported that total collections under the cigarette tax last month—now including the recent increase in the levy from eight to 13 cents per pack—totaled \$14 million or \$311,000 under expectations.—TOLES.