

SPECIAL FEATURE

Interpretation of Bureau of Public Roads Policy

Part I:

Flexibility and Consistency—By Frank C. Turner

There is a human element to consider once policies have been handed down, and there are bound to be variations as policies are interpreted by different Bureau personnel.

Part II:

A Consistent Policy Is Needed—By Walter Johnson

While the policies of the Bureau need not necessarily be rigidly uniform, they should be consistent.

Part III:

Questions and Answers On:

- Street lighting policy
- Dealing directly with local authorities
- Outfall sewer measurement formulae
- Common drainage facilities
- Ducts for future electronic controls
- Beautification costs

PART I:

In the promulgation, interpretation and application of its policies and procedures, the Bureau of Public Roads faces a paradox of trying to satisfy two goals: one being that of consistency or uniformity to ensure that all states and parties are treated fairly; and the other being that of flexibility in order that they can be adjusted so an unusual or unique local circumstance would not make the strict application of otherwise reasonable policies unreasonable. In trying to reconcile these apparently conflicting objectives, the Bureau applies one rule—the rule of reasonableness.

The Bureau's approach to this problem is well illustrated by the following remarks made before the ARBA Annual Meeting in Denver by Frank C. Turner, chief engineer of the Bureau.

Rex M. Whitton
Federal Highway Administrator

Flexibility and Consistency

By Frank C. Turner
Chief Engineer
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THE SUBJECT of interpreting United States Bureau of Public Roads policy is so great in scope that a wide variety of approaches to the problem could be taken. Moreover, regardless of which approach is chosen, one quickly finds both advocates and opponents to anything which might be said.

There are differences in BPR interpretations and applications of its policy. Further, I believe that you will find there should be differences. There should be some inconsistency, if that is the word you want to use, in the application of certain policies as they may apply to an individual case.

The Bureau tries to be consistent where there exists the same situation and the same set of circumstances, and then it should come up with the same answer. In the majority of cases

this probably is done. In many of the inconsistencies in the interpretation and application of the policy with which the highway official, engineer or contractor is probably familiar, it will be found that the circumstances are different. I say this because we at the Bureau have examined in considerable detail many comments that come to us, such as: "You don't do it the same here as you have done somewhere else."

To that extent, I will plead guilty to the charge that we are inconsistent at times in the application of our policy and interpretations.

It is difficult to view the 1,000 circumstances in the individual projects which confront the Bureau of Public Roads and come out with any consistently easy set of solutions. In most cases, the situations are different and, in

such cases, you will find our answer to be slightly different from what it was somewhere else. This is simply good engineering and good administration, because we ought to make the final answer fit the problem as closely as we possibly can.

People are going to interpret the same set of circumstances a little differently, depending upon their background. I guarantee you that when we send out a memorandum on which we have worked for hours, and tested on our own people in the Washington office, we can get back almost 52 different shades of opinions as to what the memorandum says. They will generally be down the line and consistent with the broad objectives we are after, however, based upon interpretation of the individual division engineer. This is human nature and you will find

Golden Gate Freeway (I-5) between Dunsmuir and Redding, California. Mount Shasta is in the distance.

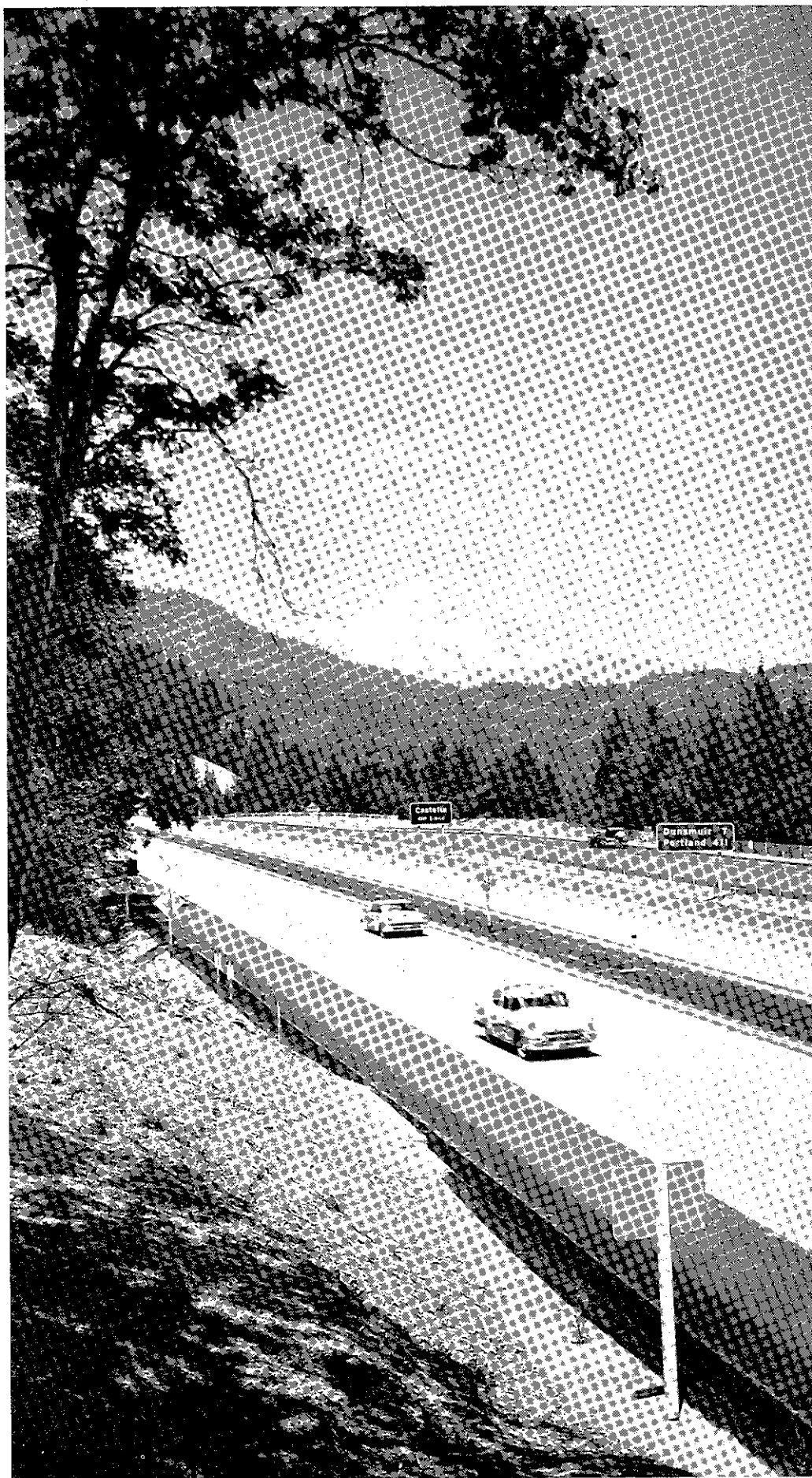
it to be true in many organizations.

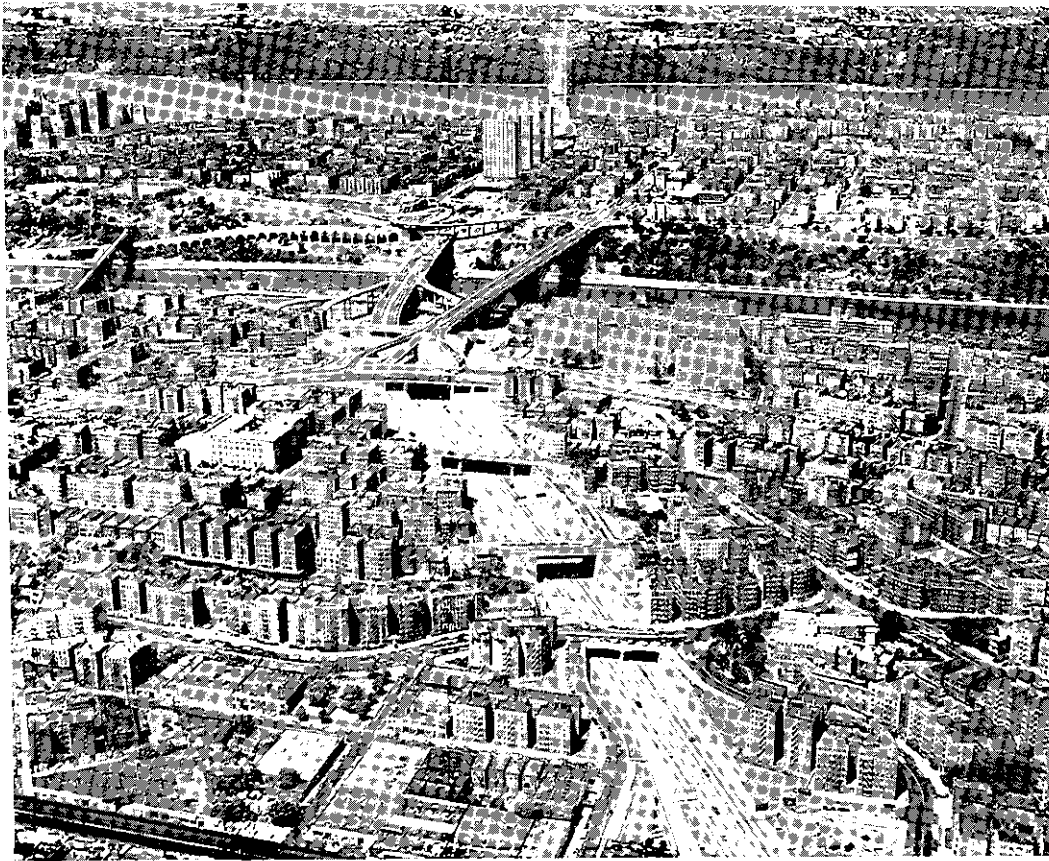
We as an organization will stay highly decentralized. We have delegated to our field officials and division engineers in each of the states almost complete authority to handle our program and to handle all of the details in administration of the job. We could not do it any other way.

We have, at any given time, some 20,000 projects in some stage of activity. We have a total engineering force of about 1,800 people, including both field and Washington offices, and we could not begin to cope with the number of projects and the diversity of problems that come to us today, if we didn't decentralize the decision-making process to the lowest level of the organization possible.

This is done by giving it to our division engineer. He is, of course, supervised by a regional engineer who is attempting to develop consistency of application and interpretation in his particular region. And, while I may be prejudiced in the situation, I believe that we do a reasonably good job of obtaining consistency in the application or interpretation of policy.

We could organize in such a way that we could bring all of these projects into the Washington office or into the regional office and designate a minimum number of individuals to make the decisions. If you wanted to wait 10 years for an answer, instead of the two years which you claim you wait now, maybe we could have consistency. I would be inclined to believe that, in a 10-year interval, what was decided on some other project in the past would have been forgotten. So we would have to balance this kind of situation against a decision-making process which comes closer to the individual problem in the location where it exists. It is there that we have a staff on ground familiar with the details





Cross Bronx Expressway, New York City, New York.

of the problem and with the many sets of variations existing on the problem, and where the local office knows much more about it than we could ever put into a memorandum.

By decentralizing, we invariably develop some potential for inconsistency in interpretations and applications to problems. Against this, we have working the advantages of an early decision, the availability of more facts to the decision-makers and all the other benefits derived from the process of decentralizing decision-making to the man on the scene. This is good business. The disadvantages that may come with it are minor compared to the advantages, and so this is the way we have to operate.

Of course, we do have some differences, and we make a serious effort to find them. We have personnel who do nothing but scout around and see what is being done differently in the regions or in our divisions, in order to try through administrative, supervisory processes to get as much consistency as possible. The potential is there; we have the ma-

chinery to minimize some of those inconsistencies. But again I want to emphasize that many of these inconsistencies are what may be differences of interpretation of policy.

Let us take an example in the urban planning process. I won't mention the state, but we were recently accused by page-wide headlines in a newspaper of reversing our field and proposing new rules and of changing the requirements suddenly. This was disturbing to us. Particularly so, when it was brought to our attention by several calls from individual Congressmen. We investigated and found that exactly the same charge had been made by the same highway department, with almost exactly the same headlines in support of a similar charge made some six or eight months previously on another project.

We found that six months prior to that they had written to us making these charges and had been told what the changes were and what the interpretations were going to be. It took six months for them to get around to dis-

covering what it was we had written.

In that particular case, the charge made was that we turned down a project. Interestingly enough, the project had reached our office by special delivery registered at one o'clock on Monday following the insertion of the charge in the newspaper the previous Wednesday. Anyway, the project complained about was not submitted until after it had been complained about in the paper. It seems to me that it requires good faith on both sides, and perhaps there are instances where we should examine the other side of the coin on some of the charges made and see whether or not we have cited the instances correctly. The Bureau is an administering agency charged with carrying out whatever Congress enacts in the way of law. Whether we agree with it personally or not, we have to administer it exactly as Congress wrote it. This sometimes puts us in a straightjacket.

Sometimes there are rules that we may not agree with, but nonetheless we have to apply. Others in the highway industry may not agree with them, but they must abide by them so long as they are the law of the land. It will be our intention, as it always has been, to carry on just the way the law says.

I would like to call to your attention the planning process. The law went into effect as it was passed by Congress in 1962. There was plenty of notice that, on the first of July 1965, this law was to become operative and approval of programs of projects would require the continuing planning process being in effect. There were a number of people who said the law would never be applied, and therefore did not worry about it—that there would come a time when the law would be changed and so they need not bother to set up a planning process.

As far as the Bureau was concerned, we did not intend to recommend any change. We set about making preparations to administer it on July 1, 1965, exactly as it was written.

When July 1, 1965, came there

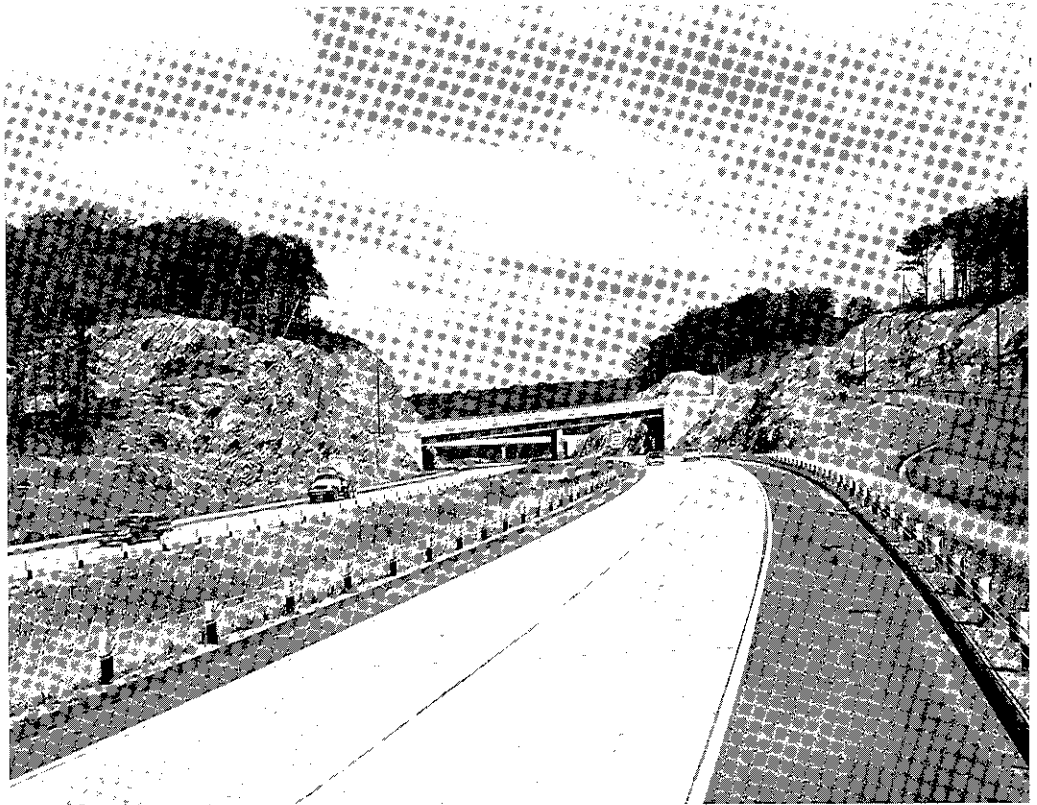
were several projects that were caught, so to speak, in mid-air. The question was what to do with those projects. Were we committed on these projects to the extent that we should continue them? Were we so far along that we had no practical way of turning back?

We took the position in the Bureau that, wherever there was a project committed in terms of a considerable amount of detailed planning work having been done, or right of way acquisition having been well along, then common sense dictated that the project should go ahead. I think you will find, in every case for that set of circumstances, we have approved those projects going ahead. We have not wanted to stop the planning process program, and we have not used this phase of the law merely as a means to halt the program. Wherever there have been questions of doubt, we have in each case resolved them in favor of going ahead with the individual project.

Now to the extent that we get a project in which there is no effort on the part of the city, county and state to really go ahead with the planning process, we take just the opposite view from what I have described. We deny permission to go ahead with that project, and disapprove it.

This is what Congress intended us to do. They wanted the planning process to be a basic part of the development of our projects and wanted us to ensure that our projects are based upon this planning process. If they are not based upon it, it was Congress' intent that we stop those projects, no matter how badly they may be desired locally.

Therefore, in those cases, we have stopped approval of projects and I make no apology for it. To do otherwise would be a complete negation of the law and the intent of Congress, and other members of the highway industry would be among the first to criticize us for doing it any other way.



I-84 near Danbury, Connecticut.

I-15 in Salt Lake City, Utah.

