

"will fairly and adequately protect the interests of [the aforesaid] class" of motor vehicle operators must be substantially in excess of the number conventionally joined in class actions. Fulfillment of this requirement, however, may be self-defeating; for it conceivably might entail the joinder and service of process on so large a number of representative-defendants as to render conduct of the litigation infeasible. Also tending to contribute to a similar result is the prospect that efforts to expand the number of defendants joined for purposes of achieving more equitable representation will be negated by defaults on the part of many defendants unable or unwilling to afford the expense entailed by conscientious participation in the litigation.

Finally, inasmuch as absentee members of the class; that is, those who are not served with process and joined as party defendants to the action are intended to be bound by the decree resulting therefrom, it is important that all members of the class be identifiable for purposes of satisfying the requirements of due process. If there are absentee members who cannot be identified, manifestly the latter cannot be apprised of the pendency of the litigation and the judicial order arising therefrom; and to the extent that they remain unaware of such judicial proceedings, HEW, consistently with the requirements of due process, will be unable to subject them to contempt proceedings for disobeying the mandate of the court ordering a suspension of vehicular traffic in a metropolitan area on a given day. To the extent that their number proves not insubstantial, the unidentified operators of motor vehicles in said area accordingly cannot be dismissed as insignificant; for their existence would appear to have a bearing not only on the adequacy of representation issue heretofore considered, but also upon the efficacy of enforcement of the judicial decree enjoining vehicular movement within the municipality on a fixed date.

Any effort on the part of HEW or Government counsel acting on its behalf limited to culling from state rosters the names and addresses of licensed operators and registered owners of motor vehicles resident in the metropolitan area to be affected by the injunctive decree may be calculated to leave unidentified one or more of the following groups of licensed motor vehicle operators: (1) nonresident tourists, whether domiciled beyond the borders of said metropolitan area but within the state in which that area is located, or domiciled in another state; (2) operators, who are domiciled in the same state in which the affected municipality is situated but outside the limits of the latter, and who are authorized, either as members of the family of a registered owner, or as employees of a registered owner, or as lessees of an equipment leasing agency, all similarly domiciled, to use the vehicle throughout the state and who may be within the limits of the affected city on the day on which the injunctive decree becomes operative; and, finally, (3) out-of-state commuters operating vehicles within the affected municipality on the date fixed for cessation of automotive traffic. Perchance, operators within these enumerated categories, having been apprised by out door posters, newspaper dispatches, or by radio or television announcements of the pendency or actual issuance of the decree, may volunteer to comply therewith; but on the basis of established precedents, such casual modes of notification would appear to be inadequate for purposes of exacting obedience from such operators in a manner consistent with the requirements of due process. "Where a group names a person its representative, or an individual