

This document is a transcript of an interview with Rexford Guy Tugwell conducted by Charles O. Jackson concerning efforts during Franklin D. Roosevelt's presidency to secure major revision in food and drug legislation that eventuated in the 1938 Food, Drug, and Cosmetic Act. The interview was held in Dr. Tugwell's office in the Center for the Study of Democratic Institutions, Santa Barbara, California, on June 7, 1968.

Dr. Tugwell in 1933 went from his professorship of economics at Columbia University to Washington as Assistant Secretary of Agriculture and, in this position, initiated the effort to revise the 1906 Pure Food and Drugs Act. From 1934 to 1937 Dr. Tugwell was Under Secretary of Agriculture.

Dr. Jackson of Georgia College at Milledgeville received his doctorate in history from Emory University in 1967, writing a dissertation on "Food and Drug Law Reform in the New Deal."

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Dr. J.:

I wonder if you would talk a little bit about what prompted your interest in trying for the revision of the 1906 drug law in 1933; I am wondering if you had prior interest in the Food and Drug area.

Dr. T.:

Well, as I was reminded by Mr. Colston Warne some few months ago, I evidently had called a meeting in New York before Consumer's Research, as I think it was called then, was set up. This must have been in the late '20s, and Mr. Schlink was involved as well as Mr. Warne and a number of other people and this appears to have been the beginning of not only Consumer's Research but the other organizations which have been set up. Unfortunately, I couldn't help out because I had no recollection of this meeting. There was nothing in my notes or papers that I could find which indicated what my part in it had been, if any. So I can't document that in any way except that it does show, I think, that I had a prior interest in the consumer problems and had had for some time, and was involved in a number of New York organizations trying to work up some kind of pressure on the legislature, I think both state and federal, to up-date the 1906 law. Even as early as that time I had easy relationships with a number of the progressives in the Congress, particularly LaFollette in the Senate and LaGuardia in the House, and I often met with them and this was one of

the things that was generally on the progressive agenda and we often talked about it. It was quite natural, I think, that when I became Assistant Secretary of Agriculture I should try to do something about this interest. When I discovered the Food and Drug Administration was to be under my immediate supervision, I was faced with the problem almost at once. Walter Campbell who was the then Director, I believe they called him, of the Food and Drug Administration, came into my office in one of the first days I was behind a desk there and said to me that he had a problem which only somebody in the front office could solve. He said the immediate problem was the revision of the tolerances for insecticides particularly on apples, but other fruits as well. At that time, the insecticide being used, I believe, was lead arsenate and there were new findings which showed that lead arsenate was much more serious when it got into the human system than had been believed before, and he had come to the conviction, along with many other people, that the tolerance was much too high. I didn't know that there were tolerances of this kind and I asked him how the tolerance came about. He said it was entirely illegal; they had no business to establish tolerances but that they had gone on and done it anyway. They had reduced the amount of allowable residue remaining on the fruit to be eaten to an amount which they had believed at the time was not dangerous to the human system. They now were convinced that it was and they wanted to reduce the tolerance. I said that seemed reasonable to me, but I asked him what would happen as a result and he said, "Well, you'll be under

immediate attack from all the interests involved." And I said, "Who will they be?" He said, "Well, they'll be particularly apple-growers and you'll find they are very voluble and they'll give you a lot of trouble." I said, "Well, I suppose that that's the kind of thing I'm here for and I shouldn't mind it too much." So the tolerance was established merely by my signing a paper. I believe that I had to do it as Acting Secretary of Agriculture while Secretary Wallace was away. But this I can't be certain of. At any rate, I talked it over with Mr. Wallace, both before and after, and I found that he was very skeptical and didn't have the same interest in consumer protection that I did. He said he was there to protect the farmers, not the consumers, and if I wanted to get myself in trouble, I could, but he would prefer to be more cautious about it.

Dr. J.:

How would you describe Wallace, in general, his political perspective?

Dr. T.:

Well, Wallace's political perspective was as a mid-Western progressive, but he was right in a way. The thing that we had set ourselves to do in the Department of Agriculture was to better the situation of the farmers at that time which was extremely bad. They'd been in a depression ever since 1921, not since 1929, and nothing had been done to relieve their situation. At that moment, it was pretty terrible and those in the West were in a revolting mood. They were being

dispossessed. They were organizing parties to stop the execution of court actions, and the whole agricultural center of our country was disorganized. So he was quite right, that the first thing that the Department of Agriculture ought to do was to devise some way to relieve the situation of the farmers. But of course, we were working on that.

I didn't, myself, feel that anything we might do to protect the health of consumers in this way ought to be particularly resented by the farmers. It was perfectly well-known that lead arsenate was poisonous and a reasonable tolerance, it seemed to me, was not something which would necessarily have any great effect on farmers' prosperity. In any case, it would only touch a few farmers, such as the apple-growers in the West and in my own part of New York State which was a very large apple-growing region. This touched me personally; but I didn't hesitate on that account. And so the tolerance was established.

Well, we got the immediate reaction that would be expected. I was called on by a number of politicians who had some connection with the farmers in the state of Washington, particularly, and up in my own part of the country. The political leaders up in my region said, "What are you trying to do to your home folks?" which annoyed me somewhat and I said, "Well, I'll tell you something. I'm trying to protect them." And they said, "Who are you talking about?" I

said, "Well, there are more consumers up there than there are apple-growers, and anyway, I don't think the apple-growers are particularly involved in this. It's the people who process the apples who are involved in it. And I don't have any great sympathy for them." As I've said before, the first people who called on me were Senator Bone from the state of Washington who was accompanied by Mr. Schwellenbach who was a local politician in Washington who afterwards became a senator, too. It just happened that I was pretty well-known for my progressive affiliations and Senator Bone and Mr. Schwellenbach were progressives, too, so I hadn't anticipated such a kind of disturbed reaction from people I regarded as my best friends; but still, I got it. They challenged me to show that lead had ever poisoned anybody. They didn't exactly put it that way. Bone said, "You can't prove that lead-poisoning ever killed anybody." And I said, "Well, that's right. It's a cumulative poison which shows its results very slowly and over a long period, and you know this just as well as I do. It's not something we ought to have to argue about." Well, he said, "It's going to ruin the apple business in the eastern part of the state of Washington." They thought talk of poisoning people was all nonsense, something got up by liberals who didn't really know what was going on in the agricultural world. I said, "This is the kind of talk that I expect to get from a different sort of people than you, and I'm very sorry that we have this difference, but I'm not going to change my mind."

These same people, along with a lot of others, began to talk to the President about this and the President asked me about it. He wasn't particularly disturbed at that time. I explained it to him and that was all there was to it. But I'm sure that this had some effect on his later feeling about our work on a new bill, because this led Mr. Campbell, in conversations with me, to say that this was only a small incident among a number of problems which he faced. One was the obsolescence of the old bill of 1906 which had put on the Administration not only the obligation to prove that damage had been done by adulterated foods or dangerous foods or drugs, but also to show that it had been done with malicious intent. Well, of course, this was impossible to do and it had the absurd effect of making the person who did it practically free of any obligation because all he had to prove was he didn't know he was doing it. The more ignorant he was, the safer he was, and this was a situation that naturally the Food and Drug people found frustrating, because every time they went into court the lawyers on the other side proved to a jury's satisfaction that what was done might have been damaging, but their client, they were sorry to say, didn't mean it, didn't even know about it and had no intention of hurting anybody. So they went free.

The Food and Drug Administration was simply not winning any cases at all and the evidence was enormous. The whole stack of papers was brought to me which showed how many cases they'd lost and how much

it had cost the government to prosecute these cases without any result at all. It didn't even scare anybody into behaving better. So I said, "At least, this part of the bill ought to be revised," and I talked to the President about it. He said, "It sounds reasonable." But then I went on to tell him it was obvious that the whole bill was obsolete. Its procedures were antiquated and if the intention was to protect consumers, it wasn't protecting consumers. The Food and Drug Administration was active enough but they weren't getting anywhere. So I said that I felt we ought to organize an investigation and produce a new bill. That we went on to do. That resulted in the first draft of the bill which was presented, I think, first in the fall of 1933, if I remember.

Dr. J.:

Did you participate actively in the drafting of this bill?

Dr. T.:

Oh, yes.

Dr. J.:

I believe also David Cavers and Milton Handler played an important role.

Dr. T.:

Well, when we got to a certain stage, which required a good deal of legal research, and a good deal of knowledge which I didn't have of

codes of various kinds, I got in touch with Milton Handler who was a colleague of mine at Columbia and with David Cavers whom I had known for a long time. He and I both had originated in Buffalo and I had known his father very well. I asked them if they wouldn't undertake the job of putting this in such shape that it was defensible from the technical point of view. I didn't want to get into the situation of trying to do something unconstitutional or which might be contrary to various codes that they would know about and I wouldn't; and so they undertook to do it.

Dr. J.:

But how many of the basic concepts in the first draft were yours?

Dr. T.:

They were all ours. We knew exactly what we wanted to do. We wanted to put the Food and Drug Administration in such a situation that they could protect the consumer. This was very simple. Adulterated foods ought not to be allowed to be sold and people ought not to be allowed to make cosmetics and other things dangerous to health; and on the insecticide problem, we ought to be able to prevent fruit, for instance, from getting on the market at all which was contaminated in this way.

Dr. J.:

In regard to this drafting process, one of the things that I've been

curious about in doing research in this area, do you remember did the American Medical Association have any part in drafting the original bill or bills thereafter?

Dr. T.:

Now you're getting into a field in which I've tried to recall but I can't. It got so complicated. Everybody was consulted. We consulted all the consumer groups there were; we did consult the Medical Association, particularly a lot of their members; and we got in touch with anybody that we thought had any knowledge about this, and it was done with great care and most elaborately--all of this consulting business.

Dr. J.:

But you don't recall any specific things about the AMA?

Dr. T.:

No. No. I'm sorry to say, I don't.

Dr. J.:

Well, my impression was that they did not take much of a position and I was wondering whether this was the case.

Dr. T.:

This would be what I would have to say if I were going to say what my general recollection is but I can't remember that they ever said anything

or wrote anything rejecting it. But they weren't enthusiastic, I can tell you that.

Dr. J.:

That has been my impression also. When this drafting process was through with the original draft, were you pretty well satisfied with the bill as it was written?

Dr. T.:

Oh, I was very well satisfied with what we had done. Not only that, we had consulted or I had consulted, with a number of people in the Congress, particularly the people I've mentioned with whom I was in contact, a progressive group, and I had talked to some others, too, about this problem. Some of the elders in the Senate with whom I had had contact because I had been a messenger for Roosevelt on a number of other issues and so on, and had gotten to know them, people like Jim Byrnes, who was then a senator from South Carolina, and Key Pittman, who was a senator from Nevada, and Hull, who was then Secretary of State, but knew, of course, had very strong relationships with a number of senators still. He'd been a leader. And I talked it all over with him and told him what we wanted to do and he said it was going to be difficult because the pressures would be very great, but he could see why it needed to be done. As a matter of fact, in the first stages, practically all the politicians seemed not to anticipate the difficulties that they themselves were getting into.

Dr. J.:

That's very interesting.

Dr. T.:

It was only when the bill was sent up and they got a chance to read it that the reaction of the patent medicine people and the insecticide people and even the farmer groups was very strong against it.

Dr. J.:

Some place in my research, I ran across someone who stated that either in the first draft or in the talking stages of the first draft there was a provision, a new drugs clause like the one that came in in 1937, but that this was removed prior to its introduction into the Congress. Do you recall the new drugs?

Dr. T.:

I recall that we discussed it and I don't believe that it was removed until it got up on the Hill. But I couldn't be certain about that. I remember its being discussed and I remember a long conversation with Mr. Campbell about it. I don't remember what the lawyers said. It seems to me they were brought in on this problem and they thought this would be a little more difficult than others because this was sort of pre-natal control.

Dr. J.:

Did you anticipate in this draft that there were features of it which

would probably have to be dropped as a result of trade opposition?

Dr. T.:

No. I think by the time we had gotten the bill in shape, we were much more aware of the opposition we were going to get and whenever there was a question of whether to make some modification to conciliate what was likely to be opposition and so on, I took a very strong stand. Campbell, having had long experience with this kind of thing, often warned me of trouble that was going to come from various interests. I took very strongly the attitude that we ought to make it as disagreeable as possible so we'd have something to give up when the time came. But I couldn't tell you now what those particular things were. I remember formulating this particular policy and talking it over with the President and I told him, "Some of these things are going to raise hell, but we've got some things that we can give up."

Dr. J.:

I remember also in my research, that the trade groups were very unhappy when they came to conferences, the preliminary conferences, because there was still no written draft of this bill.

Dr. T.:

This is what alerted them. We didn't want to show them exactly what we were going to say, but we told them what we had in mind pretty

frankly, and this was of course when the news got spread all around the industries and so on. So, before the bill went up to the Hill I'm sure that the opposition was getting very well organized.

Dr. J.:

Well, was there a draft at the time of the preliminary conferences?

Dr. T.:

Sure, yes; but we didn't show it, as I recall. I believe that's correct, because we felt we might modify it after we had talked to them. They did have technical information that we didn't have.

Dr. J.:

Looking back on this, now, do you think of that as a good policy? Would it have been better if the trade had been furnished a draft?

Dr. T.:

No, I don't think so. I don't think so. I think the opposition was bound to happen anyway. I remember, oh I remember a number of incidents that occurred. One time Mr. Lambert came to see me. He was the Listerine man, you know. But he was a very nice person, and we had a conversation which I have never forgotten. He said, "What have you got against Listerine?" And I said, "I didn't know Listerine was caught in this." And I said, "What's the matter? Is Listerine poisonous?" He said, "Why, no, of course it isn't poisonous." But he said that "maybe it doesn't do exactly what we claim it does." And I said, "Well,

can't you modify your claims some?" And I said, "As far as I'm concerned, I don't have anything against Listerine except I think it costs too much for even what you claim it does." He said, "Well, Mr. Tugwell, you just published a book and I believe it sells for four dollars." He said, "Do you think it's worth it?" This was a poser. So I've always remembered this conversation.

Dr. J.:

You did not and most people, I gather, did not anticipate the trade opposition would be as strong as it turned out to be.

Dr. T.:

No. I think Mr. Campbell did and he kept warning us because he'd had these associations for years and years. But we were amateurs, you know, as far as that's concerned. The thing that I particularly didn't anticipate was the way in which the legislators gave in to the local people in their districts or in their states when they made objections. We got so around the group where we were discussing this and drafting the act that we talked about the Vicks Vapo-Rub senator and the Listerine senator and the Maybelline congressman and so on and so on.

Dr. J.:

In your upcoming article for the Food and Drug Administration /FDA Papers, June 1968⁷, you mentioned the Chamber of Horrors and your part

in this. I wonder if you could tell me a little bit about the circumstances of the Chamber of Horrors?

Dr. T.:

I didn't have very much part in that. It was something that we thought up among ourselves. I couldn't tell you who originated it, but it would have been natural for me to do it because everybody who came to me said, "This is a minor matter. Why do you make a disturbance about it at this time when we're trying to recover from Depression and we don't want to antagonize people; we want to get these other bills through." This was Secretary Wallace's argument and so I said to Mr. Campbell,--or it came up in a conversation and maybe he suggested it,--that we ought to get up an exhibit which would show how important it was. Because evidently, even a lot of our friends felt that we were diverting attention from something which was more important and so the Chamber of Horrors was quite a natural kind of thing to have been thought of by somebody. It sure caused a great disturbance.

Dr. J.:

I guess by early 1934, these exhibits had been virtually withdrawn. Was this under political pressure?

Dr. T.:

Oh, I don't think they'd been withdrawn, as far as I remember, but they'd served their purpose. We'd had them exhibited in a corridor of the

Department of Agriculture and other places. Mrs. Roosevelt, you know, had taken them over to the White House and showed them to anybody who would look at them; and I expect after awhile they had served their purpose.

Dr. J.:

Do you feel that Franklin Roosevelt really believed in 1933 that a new drug law was a necessary reform?

Dr. T.:

Well, I must have been a very poor persuader if he didn't, because I talked to him about it, explained everything to him, and he was a very quick appreciator of things like this. You didn't have to say things to him twice. And he always turned everything like this into a question of what can be done and what can't be done, and he would know better than anybody else. At first, he thought it could be done. I remember that in 1934 when the bill had gotten into trouble and it didn't look as though it would ever move, and it had been relegated to Copeland's committee, I went to the President and said, "Look, we're stuck with this. We can't get out of responsibility for it anyway even if we want to." And I said, "Particularly, you can't; and I think you've got to do more if you want to move this and even if you don't want to move it, I'd like you to consider whether you aren't stuck with it the same as I am." I said, "We ought to get rid of it, and the best way to get rid of it is to get it passed even if we don't

get exactly what we want." So he said, "Alright, we'll talk with Copeland." So he made a date with Copeland and he and I talked with him, Copeland. I remember Copeland. He was a very dignified-looking old white-haired gentleman with carefully shined shoes and he always wore a carnation in his button hole and he looked very affluent and very genial and talked very cooperatively and he said, "Oh, yes, we have to have a new food and drug bill." He said, "I'm going to get it through." And Roosevelt--I didn't join very much in this conversation except when I was asked a technical question or something--but it went on for quite a while, for an hour or more. Copeland went away promising to get it done. The President explained to him that the Democrats were stuck with it and they'd better get something done and Copeland said we'd be better off if we consulted all the industries and so on, so he was going to have hearings, but he said that at the end of that time, he'd write up a new bill on what he'd concluded from the hearings and he was sure he could get it started.

Dr. J.:

You used the words "stuck with." This sounds as if perhaps Roosevelt kind of wished he had never gotten into it.

Dr. T.:

Well, by that time, it may very well be that he had been told a hundred times that this darned thing was a nuisance to people who were trying to do more important things and maybe he felt that way about it. He

didn't say so to me. But obviously, he wasn't paying very much for it. I mean, he wasn't calling people in and saying, "Look, get busy on this." He wasn't doing that.

Dr. J.:

Do you think he was under a good deal of political pressure?

Dr. T.:

Oh, yes. I'm sure you'd call it political pressure when a senator who had a drug firm in his state or a congressman who was getting support from such interests came in and said, "Look, Mr. President, you are jeopardizing my interests at home and you'd better think about this." You know? I mean, this happens all the time. Well, that's about all I have to tell you.

Dr. J.:

Well, I really have a number of questions, if you have the time, I'd like to pursue with you. I'd be glad to do this later on, if this would be more satisfactory to you.

Dr. T.:

This is our lunch time here. Suppose we have something to eat and finish this afterwards.

Dr. J.:

The opposition, in opposing the early versions of the New Deal Drug

Act, always like to label this, it would appear, the "Tugwell Bill"; do you believe the association of your name with these bills harmed their chance for passage?

Dr. T.:

What happened was that my name in this respect was alright until this bill came along. It was this bill that made a Red of me and this was deliberately done when the advertisers found out that they might be in some way limited by it. They undertook deliberately to scare the rural press, particularly, about advertising the snake oil and the Crazy Crystals kind of thing. There was a fellow, whose name I've forgotten, who was responsible in Washington for assembling the boiler plate for country newspapers who deliberately set out to do this. He said he was going to make Tugwell a Red. He told two or three of the people who were friends of mine exactly this; and he succeeded pretty well. And so, my association with it couldn't have hurt the prospects of the bill until after the bill had been discussed. I was all right. I was quite respectable up to that time. I was just associated with Roosevelt.

Dr. J.:

Let me ask you a question or two about Senator Copeland. How was he chosen to handle this bill?

Dr. T.:

He was the chairman of the sub-committee, as I recall. You'd have to

check this. But as I remember, he was chairman of the sub-committee which would be in charge of it in the Senate. And if the bill was to be passed, he wanted it to be called the Copeland Bill.

Dr. J.:

How would you evaluate

Dr. T.:

That meant he had to re-write it. It couldn't be what the newspaper men had been calling the Tugwell Bill.

Dr. J.:

How would you evaluate Senator Copeland's handling of the various drug bills?

Dr. T.:

Well, Copeland was a senator from New York. He was a Hearst columnist, you know. He wrote a medical column for the Hearst press and it turned out that he was sensitive to advertisers as everybody else and, of course, it was Copeland who handled the bill and tried to conciliate every interest opposed to it. What he got, of course, in each instance, was the minimum that those interests thought they could live with. That's exactly it.

Dr. J.:

You feel then that his effort was not totally an honest one on the part of the consumer.

Dr. T.:

Of course, it wasn't. Of course, it wasn't. He had no interest whatever in the consumer.

Dr. J.:

And were there strong differences between you and Copeland in regard to provisions of the bill?

Dr. T.:

Yes, but in time it had got definitely into Copeland's hands. I had very little further to do with it, because he wouldn't consult me or allow me to be called, or anything of the sort.

Dr. J.:

In regard to FDA, was there ever any significant differences in respect to these bills, between you and Walter Campbell?

Dr. T.:

No. Never. Never. We worked together wonderfully well, and I have the deepest respect for him. He was a great public servant in my opinion.

Dr. J.:

Let me move on to some of the groups involved in this struggle, if I may for just a couple of moments. Do you feel that Consumer's Research, as a militant consumer's organization, played a valuable role in the struggle for a new law?

Dr. T.:

This was early days for Consumer's Research and it's very difficult for me to separate it from what it was then from what it gradually became later on. I think that the most beneficial effect for the bill came from the women's organization. What was it called?

Dr. J.:

The National Women's Organization?

Dr. T.:

Yes. That's right. But what was it called?

Dr. J.:

Well, there were a number. I think thirteen all told.

Dr. J.:

But they got together in Washington and a few women represented them at all the hearings and they called themselves at that time some association, some congressional committee, political committee for consumer protection or something of that sort. I can't recall exactly the name. But they were very lively and very determined and they gave the opposition a lot of trouble.

Dr. J.:

Yes. That was my impression. This is really what I was wondering about as to Consumer's Research: Schlink and Kallet's position was to disavow these bills because they were too weak, whereas the women's organizations

seemed to be more willing to make concessions.

Dr. T.:

Kallet and Schlink didn't want to get into trouble, obviously.

Dr. J.:

How do you mean that?

Dr. T.:

They wanted to be the consumer organization. They weren't particularly interested in a stronger bill. This was my conclusion from everything that went on.

Dr. J.:

Why do you think, touching back on something we were talking about a while ago, why do you think the AMA played so little part in this whole affair?

Dr. T.:

Well, I think they were interested in the advertising of the patent medicine people and, of course, pretty soon the ethical drug houses got involved in this, because practically all of them made something, you know, like aspirin or something, which they were afraid they were over-advertising, that is, representing to do something that it didn't do and, as you know, advertising was very important to the AMA Journal and Fishbein was the kind of a person that he was. He was always around in the opposition.

Dr. J.:

How would you describe Fishbein? Did you know him?

Dr. T.:

No. I didn't know him personally.

Dr. J.:

I picked up a story. I would like your reaction to this that perhaps one of the reasons that the New Deal did not go further, or Roosevelt did not go further, in the provisions of this act and in regard to some other acts, was as a result of the influence of Dr. Harvey Cushing who was speaking to Roosevelt for the AMA. Would you think there were any grounds to that?

Dr. T.:

Well, if it did happen, I didn't know about it. I can see how it might have happened, but it doesn't jibe with what I knew about Dr. Cushing. I think he would be the least likely one of the hierarchy in the AMA to have done this kind of thing. He was a singular detached and sincere person. Of course, he was the father-in-law of Jimmy Roosevelt. I knew the Cushing girls myself quite well. Betsy was a marvelous girl. That was Jimmy's wife. Mary, of course, became Vincent Astor's wife somewhat later.

Dr. J.:

Looking back on the opposition to the new bill, do you recall which

segments of the affected trades were the most effective in their opposition?

Dr. T.:

Oh, of course, the patent medicine people.

Dr. J.:

Would you think of the food people as less militant?

Dr. T.:

Oh, yes. The food people hardly counted in this.

Dr. J.:

Were they...did they seem more willing to compromise and go along with the revision effort?

Dr. T.:

Yes. But this is quite natural because they weren't really much involved. The adulteration of foods was not nearly so important as the misrepresentation of patent medicines. Those were the people who had something to lose. We could argue with the food people. We could say to them, "You'd be better off if people had confidence that you were not adulterating", and this kind of thing. And, as a matter of fact, there wasn't an awful lot of that. They were using some additives and so on which were suspect and which hadn't been tested, and all this kind of thing; but that's not something they were disposed to fight

like tigers for...Like, for example, the Vicks Vapor-Rub, which might have to go out of business if truth-telling became law.

Dr. J.:

You really think their business was in danger?

Dr. T.:

Well, that's what Senator Bailey thought.

Dr. J.:

I know he did. I was wondering if you did?

Dr. T.:

He was the Vicks senator. This is what he said many times in hearings and so on. He said, "You're going to put these people out of business. This is a big business down in my country."

Dr. J.:

Why was the press coverage of the drug law fight so limited? I wonder if you feel as many of the people in the FDA felt that the lack of coverage was a part of the opposition's strategy?

Dr. Y.:

Oh, yes. Oh, yes. They scared the advertisers and the strategy was not to mention it at all but if they ever did mention it, to disparage it.

Dr. J.:

Well, you feel there really was a press blackout as opposed to just the Depression taking the limelight.

Dr. T.:

Oh, yes. There's no question about that. This could be documented a hundred times over.

Dr. J.:

Do you recall any segments of

Dr. T.:

We kept good track of this.

Dr. J.:

Do you recall any segments of the press or writers at the time who.....

Dr. T.:

Well, it was the rural press very largely, but then it was taken up by such great newspapers at the time as the New York Sun. Their campaign against it was terrific.

Dr. J.:

Do you recall any large papers that supported revision of the drug law?

Dr. T.:

No. There wasn't one. There wasn't a single one.

Dr. J.:

Let me go back to Roosevelt for a moment. How would you evaluate Roosevelt's leadership on this drug bill as compared to his leadership with other pieces of legislation?

Dr. T.:

Well, he dropped it. He dropped it.

Dr. J.:

He just didn't push it?

Dr. T.:

After he laid it in Copeland's lap and Copeland indicated that he wanted to have a Copeland Bill, and this would be a good thing as far as he was concerned, Roosevelt said, "Well, you go ahead and do it." And after that, I don't think he ever pushed it.

Dr. J.:

Do you think that his failure to push it.....

Dr. T.:

He never told me not to. He never told me to lay off or anything of this kind, but I couldn't get him to do anything further. And I tried many times.

Dr. J.:

What was Eleanor Roosevelt's interest in this? She seemed to push for

revision.

Dr. T.:

She was interested in it just as she was always interested in good causes and she did everything she could do, but the politicians paid absolutely no attention to her. They regarded her as a nuisance and didn't think that there were any votes involved in it and she had no effect at all except as she worked through the women's organizations. And, of course, she did this a lot. She did everything she could do.

Dr. J.:

But you don't feel she really had any effect on Roosevelt in so far as his doing anything to push the legislation?

Dr. T.:

No. I don't think so, except that...in the early stages we had many family dinners and meetings when she and I discussed it across him. She knew much more about it than he did. She had come over and talked with us and knew what we were doing and tried to understand it and so she was very good in bringing Roosevelt into the conversation in a technical kind of way so that we knew he understood it. But this would happen at the table. She couldn't very well go into the office.

Dr. J.:

Do you feel that FDR's personal dislike for Copeland affected his attitude towards this legislation?

Dr. T.:

No. I don't think so. No. I don't think so. I don't think so at all. I think it was the same thing that people kept telling me. "Why don't you stop this disturbance? We've got important things to do here." And when it got to be a cause with a good many of the more conservative members of Congress and the senators, this kind of thing affected me, too, because I had things I wanted to get done. I wanted recovery. I was interested in the NRA and the AAA and all these things. These were all a part of my work.

Dr. J.:

Do you think that Copeland being on the "out" with the New Deal had any effect on his colleagues in the Congress as to their lack of enthusiasm for getting the drug bills through their respective houses?

Dr. T.:

No. Except they'd say, "Well, Copeland's got it now. That's the end of it." And so I had to accept this more or less. So from 1935 on, I didn't do any work on it either, except on some occasions when there was a hearing and Copeland would say to Campbell, "Well, now get your stuff ready" and we would have a flurry of getting ready everything in the department and so on. But I didn't testify. I wasn't asked to and I wouldn't have been allowed to.

Dr. J.:

Do you know if Roosevelt had any preference between the Federal Trade

Commission and the FDA in so far as who should have jurisdiction over advertising?

Dr. T.:

No. He kept out of that and this was one of our difficulties which I unexpectedly ran into. The Federal Trade Commission did a good deal of sabotaging. There is no doubt about this, especially in the early stages, because they didn't want to lose their control of advertising. It looked as though....We didn't see any way when we framed the bill of separating different kinds of representation. We didn't think that the Federal Trade Commission had any way of finding out.

Dr. J.:

Well, it seemed a peculiar thing. I know, on one occasion, Sam Rayburn was going about the House saying "Roosevelt favors FDA" and he was followed by Judge Davis from the FTC saying "Roosevelt favors FTC." I just wondered what Roosevelt's position was on this?

Dr. T.:

This happened; but I don't think Roosevelt...I don't think he knew anything about this quarrel. I don't recollect that he did. I tried to conciliate all I could in this situation. The Federal Trade Commission was very alert about this threat to their control of advertising; but I don't believe it ever came to Roosevelt's attention. Somebody may have taken it to him, but if they did, he didn't consult me about it.

Dr. J.:

I gather that you had objections to the lodging of advertising jurisdiction with the Federal Trade Commission. What were your objections?

Dr. T.:

No. My only objection was in those matters where I didn't feel that they had any technical competence to find out what misrepresentation was and so on. And Mr. Campbell and I talked with Davis a good many times---and with the others---and said we didn't have the slightest objections to their prosecuting the cases and taking it up and so on, but that we thought that the Food and Drug Administration ought to be in on the misrepresentation part. But this didn't satisfy them.

Dr. J.:

Do you think that your departure from the New Deal affected the chances for the passage of the new drug bill as well as the substance?

Dr. T.:

No. By that time, my association with it had completely disappeared. It had become the Copeland Bill and people had forgotten my association with it pretty much, except that I was now labeled a Red and, but why, nobody could recall, because they transformed this, you see. The newspapers who wanted to call me a Red because I was threatening their advertising, never mentioned this. They said I was threatening the American way of life or something like this. They had a kind of a hard

time doing it but.....

Dr. J.:

I certainly understood all of this about the advertising....what exactly was your position on competitive advertising? Did you consider this much a waste?

Dr. T.:

I didn't think about it at all, very much, except as an economist. I thought there was a good deal of waste in it. I thought there was a good deal of misrepresentation in it and that kind of thing. That's all.

Dr. J.:

I gather, too, from the ...

Dr. T.:

This all happened as a ... this was a great surprise to me. I mean this was an attack from the side that seemed to me so unlikely and so far-fetched that I couldn't understand why it could possibly be successful, you know.

Dr. J.:

And you did not anticipate it?

Dr. T.:

No. No. And Roosevelt didn't either. I wasn't particularly a radical.

I was trying to save these guys. Only I thought they ought to behave better. They admitted it in private, you know.

Dr. J.:

How would you evaluate the effect of the 1937 Elixir Sulfanilamide disaster on the progress of the law? Do you feel this was instrumental in putting it through?

Dr. T.:

Maybe it gave it a kick, but you see, I wasn't associated with the New Deal then.

Dr. J.:

Yes, I remember that. I notice, too, in my research, that in 1938 when it finally went into law, you seemed to feel that it was very inadequate. Do you still think of it this way?

Dr. T.:

Oh, yes. We got great improvement in the amendment a couple of years ago. Great improvement.

Dr. J.:

But you regarded the law as it was passed in '38 as very weak.

Dr. T.:

As practically...very little improvement on the old law. Very little improvement.

Dr. J.:

Did you believe in 1938 that the new efforts might be made in the near future to revise and strengthen the law?

Dr. T.:

Oh, I was sure it would happen, but I didn't know how soon.

Dr. J.:

Do you think that this law, the 1938 law, or for that matter, any drug law, could be passed without a significant portion of trade backing it?

Dr. T.:

Well, this depends on a number of things. It depends on how free the President would feel, in the first place, to push it and how or what kind of connection the particular industries involved might have with influential congressmen. This is about the size of it. And, of course, Johnson has done a better job than anybody else in this kind of thing.

Dr. J.:

I was wondering this, for example, as the first draft was sent to the Congress in 1933, if Franklin Roosevelt had pushed this, could he have gotten that original draft passed?

Dr. T.:

Yes. I think he could. But I excuse him by saying that we were trying at the same time to pass the NRA and the AAA and the CCC legislation and various other things.

Dr. J.:

And these things just took precedence with him?

Dr. T.:

They took precedence. It was a question of priority. It was a very inopportune time to do it.

Dr. J.:

I see.

Dr. T.:

But it was like a number of other things. If you didn't do it then, you knew you could never do it. If we had waited until 1935, 1936, the honeymoon was over, the Congress was resisting the President about everything and we wouldn't have gotten anywhere then either. The only chance I had of getting what was called the Tugwell Bill--the first draft--was to associate it with the emergency and this was what I tried to get the President to do.

Dr. J.:

But you consider that this type of reform, this was within Roosevelt's purview of national reform. Sometime I question whether he thought this type of legislation was within the scope of his New Deal philosophy.

Dr. T.:

It was. It was. I was one of those who had urged him all during the campaign and during the early days to make a separation between what

would be called reform and what we then called recovery and I was one of the ones who had always said to him, "Now recovery comes first. We've got to get this thing going again. This is what we must do. We've got starvation in this country. We've got all of these farmers being put off their farms and we've got thirteen million unemployed. This is the first thing we have to do." And at that time, I was fighting off the progressives. All they wanted to do was spank the bankers. And, of course, this came up almost at once and so the President was in a pretty good position to tell me. He said, "Look, you're roiling the waters here. You've always been the one who said, 'Let's put off reform and get the thing going again'" and I said, "Maybe that's because I didn't particularly like your reforms."

Dr. J.:

Let me ask you one final quick question. T. Swann Harding, the old writer, for a time in the Agriculture Department, says some place that the great furor over the 1938 legislation was that there had been a shift here. That the 1906 law was primarily designed to take care of unfair trade practices whereas the '38 act was aimed at consumer protection. Do you see this kind of distinction?

Dr. T.:

I think that's right. So that when they began...when the Food and Drug people began to feel that consumer protection was more important, they didn't have any legal tools.

Dr. J.:

Do you think the trade felt this distinction?

Dr. T.:

Yes. Oh, yes. I think that was very definitely true. I think that the Wiley Bill may have been conceived as consumer protection, but it got passed and it was thought of as the kind of thing that you suggest.

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