

JEROME N. SONOSKY

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Introduction

This interview with Jerome N. Sonosky is one of a series of interviews carried out with key persons involved with the passage of the Kefauver-Harris Amendments of 1962 to the Food and Drug Act.

This act comprised the most significant alteration of the Food and Drug Act since the 1930's. In part the amendments tightened pre-market clearance of prescription drugs by adding the requirement that drugs had to be proven effective, as well as safe, for their intended purposes. Among other things the act also attempted to correct advertising abuses, tighten labeling requirements and broaden inspection powers of the Food and Drug Administration.

The passage of the act was preceded by an extensive investigation into the economics of the ethical drug industry under the guidance of Senator Estes Kefauver's Antitrust and Monopoly Subcommittee. Senator Kefauver's main legislative goal had been to reduce prescription drug prices by infusing greater competition into what he felt was a market dominated by a relatively small group of large manufacturers. He intended to do this through a series of regulations the most controversial of which involved alteration of the patent laws as they pertained to prescription drugs. Most of his pricing amendments were deleted from the law before passage. Indeed there probably would have been no legislation enacted at all except for the thalidomide tragedy which spurred Congress to action.

Jerry Sonosky, the subject of this interview, was a key participant in the passage of the Kefauver-Harris Amendments. As special assistant to Wilbur J. Cohen, Assistant Commissioner for Legislation in the Department of Health, Education, and Welfare, Sonosky was active in formulating HEW policy positions in regard to the Kefauver bill.

Sonosky's background had prepared him well for his liaison role within HEW. After graduating from the University of Minnesota in 1952 and the completion of Georgetown Law School, Sonosky went to work for Congressman John Blatnik in 1954. On Blatnik's staff, Sonosky gained first hand experience with pollution problems as well as abuses concerning the advertisement of tranquilizers. With the return of the Democrats to power in 1960, Sonosky found a place in HEW working with both Wilbur Cohen and the Secretary, Abraham Ribicoff. In this capacity Sonosky quickly found himself embroiled in transactions involving the Kefauver legislation. Sonosky later joined Ribicoff's senatorial staff after the former secretary was elected to that legislative body. Mr. Sonosky is now associated with the law firm of Hogan & Hartson, Washington, D.C.

This oral history transcript is derived from a tape-recorded interview of approximately two and one half hours held with Mr. Sonosky in his law offices in Washington on February 28, 1974. Mr. Sonosky was a most cooperative and enthusiastic subject. His answers were detailed and spirited. In editing the transcript, Mr. Sonosky made only minor changes.

Richard E. McFadyen, Ph.D.
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M: This is Richard McFadyen. Today is February the 28th, Thursday. This is an interview with Mr. Jerome Sonosky. We are now in Washington, D.C. To sort of get us started, I wanted to ask you just a little bit about your background--leading up to how you got into this position in HEW working with Cohen.

S: I came to Washington after graduating from the University of Minnesota in 1952 to attend law school--went to Georgetown Law School at night and worked as a clerk in the Tax Division of the Justice Department. In December 1954 went to work for Congressman John Blatnik who was then Chairman of the Rivers and Harbors Subcommittee that had jurisdiction over water pollution. (You'll see how that relates later.) How did that happen? --I'm from Blatnik's home town, a friend of the family, etcetera, etcetera--he knew me as a kid growing up and it was a natural. I was here in Washington; I was active in politics at home from the time I can remember; he had an opening for a legislative assistant; I went to work. That was really why I came to Washington in the first place--that was really my dream--that was what I wanted to do. The Blatnik experience: early in the Blatnik experience, we got into water pollution. And that continued. We became the granddaddies of--well, now, the fathers of the modern water pollution control act--(You got a slip in the tape there?)

M: All right. Let's continue on--

S: All right. Then--then--jumping ahead--that work continued. That bill passed in '56 and then we continued working on it, improving it. By 1960, in the campaign, we were pretty well known as the, you know, the "pollution guys!" I was doing work for the national committee--writing staff papers, writing--what did they used to call them?--position papers for Kennedy on water pollution,

air pollution, radiation--God knows what else. And then the Democrats win in 1960, I wrote a letter to Wilbur Cohen--who didn't know me from a hole in the wall--saying I want to go to work for him--'cause, you see, I knew that agency--HEW handled water pollution. I knew exactly where I wanted to go and what I wanted to do. I wanted to be Cohen's special assistant. And I especially wanted to work there because Abe Ribicoff was Secretary. It was kind of like a boyhood dream to go to work for him. I'd admired him very much from afar--from Northern Minnesota to Connecticut--for my own personal reasons. Well, that's how I came to work for Cohen, if we want to follow your outline. I had that background in pollution control law and there weren't many lawyers in those days who had that kind of background. And Cohen and Ribicoff were looking for a political-type lawyer with a background in environmental work. Drugs really hadn't entered into it at that point--you know--food and drug hadn't--but--but--the general type guy who was interested in public health regulatory law--that's what they were looking for and there I--you know--there I--was, and also active in politics. That was a rare bird in those days. (M: Right.) And that's how it came to be and as far as responsibilities--I went to work for him in May of '61 and my--you know--I came to work on like a Monday morning, checked in, said 'Hi,' and he said 'Go up on the Hill. There's a hearing on the water pollution bill.' And those were my initial and immediate responsibilities starting from say May of '61--water pollution--that was it. Now, getting down to point 3 in your outline, we worked on that continually, you know, there was just nothing else--like I transferred--I was doing the same work I was doing on the Hill except I was doing it for HEW rather than for Blatnik. And as I recall, that bill passed like in August--July/August '61 and now it became a question--okay, now what do you do? And that's when I was assigned to food and drug legislation. (M: Right.) But that's when I got in to the food and drug bill--what we called the Food and Drug Bill.

M: That's right. Could we stop here just a minute.

S: Yeh--any--you--yeh--

M: Yeh--ah--I have a set of questions here, as you know. But for the listener of the tape maybe I'd better ask them so the people will know what question you're answering.

S: Okay. Sure.

M: And also, anytime you want to go off on a direction that I haven't indicated, 'cause obviously--

S: You got it pretty good here.

M: Good.

S: Yeh.

M: Yeh. Okay. I think that's placed us pretty well in terms of what you were--how you got there in HEW--and what your responsibilities were.

S: I was Special Assistant to the Assistant Secretary for Legislation.

M: All right.

S: That was my official hat. My unofficial hat was--at the same time, I was like--in that period of time, between May '61 and September '61, Ribicoff asked me to be sort of like his personal aide--okay? So I was like--he had an Executive Assistant--so I was like the "substitute Executive Assistant" to the Secretary--when his Executive Assistant was out of town or on sick leave or something like that, I would sit in that chair--working directly for the Secretary, processing mail, handling congressional stuff, uh--uh--you know,

personal aide to the Secretary as opposed to a specific legislative role in the Assistant Secretary's office. It was like--a--

M: So you had a pretty close working relationship with both Ribicoff and Cohen.

S: Yeh.

M: I should say Cohen and Ribicoff.

S: Not pretty close--

M: So you knew what Ribicoff was thinking about--say--the Kefauver bill and--

S: Yeh.

M: Maybe we can get what we--we certainly will get to that in just a minute.

S: Yeh. That would be something I would tend to forget. No one knew in the Department which hat I had on when I would say 'I want to see you.'

M: M-huh. I see.

S: So when I'd call and say 'Do you want to--shall we talk about this'--they didn't know if I was calling as the Secretary's aide or if I was calling as Special Assistant to Cohen.

M: Right.

S: And one thing about Cohen--as Ribicoff's aide--so I'd just start off my conversation with 'The Secretary wanted--' (hah-hah) (M: Hah! With all kinds of results! Hah!)

M: Were you aware of the Kefauver hearings?

S: Oh, my God yes! Aware? My God! Aware--geez! Was I aware of the Kefauver

hearings! In 1957--I do laugh sometimes because some of the guys--some of the guys who've heard this story say 'no, no'--when you get all through-- 'Sonosky claims that he was really there at the dawn of creation," you know. To which I always say--'Had I been, things would be better than they are now!' --Like King Alphonso, I think, once said that. In 1956--blump!--1957-58-- Blatnik--who I mentioned (M: That's right--he was a--) is also chairman of a subcommittee of the House Government Operations Committee called--you wouldn't believe it!--Legal and Monetary Affairs Subcommittee. Legal and Monetary Affairs had jurisdiction over everything. FCC, FTC, FDA--unbelievable! Just had it over everything! General oversight, efficiency and economy, that sort of thing. Well, efficiency and economy was the most boring damned thing you'd wanta do and the Government Operations Committees up to that point in time had been in the doldrums. They were just a nothing committee--you know--something for what's-his-name from Chicago to have a huge staff--you know--and they could always say we have one black chairman--that was before Adam Clayton Powell. Government Operations Committees never did anything. Blatnik becomes chairman, and Blatnik is a real doer--very active, you know, an activist in whatever he does. Blatnik said 'With that jurisdiction we can really roll!' So he takes the staff inherited from Monihan of West Virginia--and these guys are dying to do something. They're all bright, good men and here comes an activist chairman who says 'Let's do something--what can we do?' Boom! They just start flying out all sorts of ideas. But Blatnik says 'Well, I'll tell you what I'm interested in.' Blatnik's background--everybody thought of Blatnik as a natural resource guy so water pollution just fit into everything. But Blatnik was a scientist at heart. Blatnik was the kind of guy who, had times been right, and he weren't born in Northern Minnesota during the Depression or grew up the-- I was born then and he grew up then--he would have been a doctor--he would have been a scientist of some kind. He ended up as a school teacher--as a teacher of

mathematics in a local high school before he went to Congress--before he got into politics. But had times been right, John would have been a scientist--fascinated by it--is to this day. These were in the early days of tranquilizers. John had--had many friends in the medical profession--in the scientific world. There was some concern starting even then about the misuse--those were the days when Miltowns were being given out like aspirin (M: right). I remember--I can remember even being nervous before I took the Bar and telling the doctor that and he gave me Miltown--I didn't know what the hell I was on! You know, if I'd stayed with that I never would have been a lawyer! You know--I was flying off somewhere on Miltown because I said I was--of course I was nervous--I was about to take the Bar! You know! Blatnik says that he is very interested in this problem--okay--that's fine. Blatnik also smoked and he knew, as a rational human being that smoking is not good for him. Okay? So, there came another idea because right at that point in time the filter-tip cigarette advertising became very big. Well, to back up, what the staff recommended is that they go into advertising as an oversight function. So Blatnik's main--first--interest was filter-tip cigarette advertising. Another interest was tranquilizer drug advertising. Another interest was dentifrice advertising--you see--ah--I think what you're going to get all the way through here is how I personalize things so that if you ever teach this stuff, let these kids know and the ones coming behind us that these things just don't happen in a vacuum. It takes a human flesh and blood person to (M: people to--) to say 'I think there's a problem.' The problem doesn't exist in a vacuum. Here you got a guy who was concerned about cigarettes, concerned about cancer, concerned about--about advertising and leading people astray. Here was a guy who was concerned about the misuse of this new type drug--concerned about dentifrices that were being touted off on kids for no good reason--you know--all--all of this--ah--oh--concerned about weight reducers (M: Yeh. I remember that.) Sure. We got into that and I sat

sort of--I think some of those old committees--the way it works on the Hill-- at that point, I get transferred from Blatnik's personal staff to the subcommittee staff. Now the reason you do that is then I can get paid more money. Okay? That's the way it works on the Hill. That's why people want to be subcommittee chairmen. You pay me more money and then my slot is emptied in Blatnik's office and then you can bring in a girl secretary who can type the letters that I'm writing--okay? But I never leave Blatnik's office physically-- I sit right there and I run water pollution for the House Public Works Committee and I work in this area. But not as closely as I was into water pollution because that was bigger--that to me was really big--and it was. Water pollution took my interest. But I kept tabs for Blatnik. I was sort of the liaison between Blatnik and that subcommittee staff on filter-tip cigarettes, tranquilizers, etc. Okay? The committee is abolished in 1958 because we stepped on too many toes--because Blatnik stepped on too many toes. The committee's abolished. You see, it did what you're not supposed to do in certain instances in Washington--it succeeded--yeah--y'know, it made the terrible mistake-- Blatnik was actually doing something with the Government Operations Committee. Nobody'd ever done that before.

M: Now, I think there's no doubt that Blatnik's investigation had a lot to do with Kefauver picking up on it--

S: Now wait! I'm getting to that! I can remember a phone call from Kefauver's staff about this. And remember, John and Kefauver were very close personal friends--very close.

M: John Blatnik and--?

S: John Blatnik. Yeah. I don't think I've ever pointed that out. They were very close. They were the same kind of Populist liberal.

M: All right.

S: One from Tennessee; one from Minnesota. It didn't make any difference.

M: Are they about the same age? I don't--I don't--

S: No. Kefauver was older.

M: Much older.

S: Yeah. Yeah. 'Cause Blatnik is just now 62.

M: All right.

S: Yeah. So Kefauver was older.

M: A good ten years older.

S: Yeah. And--but they were the same mold. They were the same Populist liberal who just couldn't stand seeing people being taken. Okay?

M: Right.

S: So I don't remember if it was a phone call from the staff--like from John Blair--or if it was Kefauver himself who called Blatnik. And that doesn't make any difference because it's one and the same. And I remember the tranquilizer drug files being shipped over to the Kefauver staff--1959. I can remember that. I got (M: that's interesting) Yeah--I got--(M: that's interesting). Okay. Because we pick that part of the story up later--as Harris points out in his book (M: right). Because Blatnik's role as a former--as the first investigator becomes critical at the end (M: right)--at the end. One of Sonosky's strokes of genius!

M: The point I'm trying to get at is--is--a--not only what you--

S: What I did--what I had. This is very interesting because when Cohen and Ribicoff were hiring me, that aspect of my background and experience in my career never entered into it.

M: Unh-huh.

S: That I had kind of never really--it was a phase I sort of forgot, I was so into water pollution. That it suddenly dawned on me and Wilbur--'Hey, I really have a background in this--that I had forgotten all about!' (M: Right.) Literally. (M: Right.) And there you are.

M: Yeah. The point I was trying to sort of get at is--what did Cohen and Ribicoff think of the Kefauver hearings? Not the bill, but the hearings? Unh--it was quite conceivable they never said anything about it.

S: Well, by the time we came into it--by the time we got there, which is '61, the hearings had--the initial hearings--had run their course. (M: Right.) And they had done their--I was going to use the word typical--and I didn't want to be misunderstood--they had done their--they had finished their "phase I." Kefauver and Blair--and I give credit to Blair--Blair invented the technique of the 2-phase hearings. First, the educational hearing--the study hearing. (M: Okay.) --Finding out where the problem is, if there is one. Okay. Then you write a report on that and on the basis of that report you prepare legislation--you introduce the legislation. Then you start hearings on the bill.

M: And that's not the usual pattern? I mean--that's interesting.

S: No. Usually we start off with a bill and we have hearings on a bill and they're all deadly and dull and nobody ever learns anything and you end up with the crappy legislation that you see out on the street now.

M: That's very interesting.

S: John Blair figured out-- No. In order to legislate, educate yourself first. You become the expert. Then legislate. So that when the experts come to tell you what's wrong with your bill, you know as much as they do-- aaaand more!

M: If the experts will recognize that.

S: And more--which the experts never do! (M: chuckle) --'Cause how could a simple generalist, economist, know that? You know. But we'll end up before this conversation is over with me criticizing Blair for just that reason. (M: right) Okay. (M: But that's interesting.) Okay. So by the time we come into it, the first phase of the Kefauver hearings are over and he's really just getting in to Phase II. He's introduced S1552 dragging--you--know--let the record show that Sonosky lifted up his eyes to remember the number of the bill--huh?--was it 1552? (M: That's right.) He really just introduced it. And now, he was starting off again. Okay? (M: Right.) So we follow those hearings--HEW, as a matter of course, follow those hearings closely. But, do you think that Abe Ribicoff and Jerry Sonosky and Wilbur Cohen are sitting around--you know--at high noon and in the North Building of HEW and saying 'I think we're going to talk about the Kefauver hearings now!' No! (M: chuckle) You know! (M: 'Course not!) By September '61 and--you know--sometimes I'm gonna flip out dates--sometimes I'm gonna flip out dates you couldn't--you may find in your own research that I was wrong on dates--don't--that's just my bad memory at work. Okay? That's a trick my memory's playing. September '61-- unh-unh--August--geez--July/August '61--okay? Now the heat is coming on. Kefauver is saying to Ribicoff, 'I want you to testify, Abe.' Right? (M: right) Now, we're into it. Now we're really into it. Kefauver is putting on the pressure

and 'I want you to endorse my bill.'

M: Do you mean this figuratively or is he actually calling Ribicoff and saying--

S: He's calling the White House. He's calling everybody. (M: yeah) Ohh--he's calling everybody--he's calling Ribicoff, he's calling Cohen, he's calling the White house, he's calling--Kefauver, remember was a man who was almost President of the United States--he didn't take no shit from nobody. He was a tough, smart, able guy!

M: Well, Harris indicates that he held off doing this kind of string-pulling until the consumer message which came in March of '62.

S: No. No. No. No. I'm going back to July/August/September '61. I'll tell you why I remember it so clearly--is because my mother died August of '61 and I had to go home when I was right in the middle of getting us ready for something and as I remember it this was the--as I was thinking on my way in this morning about this--the thing we were getting ready for was testimony before Kefauver. (M: right) Now, this may be a funny interview, but that's something you're going to have to check. My memory says--

M: No. You're right. The Department was definitely working up a report. Now there's no doubt about that.

S: Not a report. Testimony.

M: Right. Ribicoff's testimony. And as I understand it--

S: Before Kefauver on S1552 around--

M: Right--but the point I was getting at--was Kefauver directly making phone calls urging support of his bill in these early days?

S: Oh yeah.

M: Could we stop for just a minute?

S: Oh yeah.

Short break in recording

M: Okay. Let's go ahead.

S: Yeah. I mean, you know, and let's make one thing clear. I don't consider The Real Voice the fount of all knowledge--the source--

M: No. I don't either.

S: Okay. All right. You know. Yeah. All right. Kefauver was doing it then. His staff was doing it then. I can never say Kefauver was doing it 'cause he never called me.

M: But you were aware that--I mean--were they asking you to support the bill or--

S: Not support--Kefauver and his staff didn't fool around with namby-pamby words like 'support!' You endorse that bill!

M: Right.

S: Period! Not support. You endorse it.

M: Okay. What's the reaction of HEW to this?

S: Wanna turn the tape off? (chuckle) No---hah-ha-ha!

M: (chuckle) Noooo!

S: The reaction, in those early days, now--now we're into the fall of '61--I

wish I could remember, Dick, and you would know better--when the hell did Kefauver testify--uh--when did Ribicoff testify?

M: September 13th, 1961.

S: Whew! Okay. Thank you for that. One month after my mother died.

M: Right. But of course, months before this, you were in the process of deciding what you were going--what he was going to say.

S: That's what I'm saying--when my mother died in August 11, '61, I had to go home; I had to leave the papers and Dean Coston had to come in and start putting them together--the main question was 'How do we handle this?' 'Cause we're not gonna endorse that bill. Hnnnh? 'Cause we're not gonna endorse that bill. Now. How do we do it? How do we not endorse the bill, testify in its support, not offend Kefauver and his staff, and come out of the thing with our skin.

M: Can we stop again?

Break in recording

M: Okay, let's go ahead.

S: All right--I mean, you know--those were a problem. Those were some of our practical problems. You couldn't of--you couldn't offend Kefauver. You didn't want to offend Kefauver. These were instructions from the White House.

M: Instructions from the White House--?

S: Why, of course!

M: Not to offend him?

S: Why, of course!

M: Right.

S: Absolutely! Nobody wanted to offend Estes!

M: Right.

S: Hunnh?

M: Right.

S: You know. You really didn't. It wasn't worth it. You didn't want to get into a fight with Estes. You didn't want to be in a position where Estes was saying that the Kennedy administration was weak on drug safety. Because Kefauver by that time had established himself as the spokesman in behalf of the American people--(phone rings) (M: chuckle) --Oh yeah, yeah, Kefauver-- there was no--there was--you had to be very careful not to offend Estes Kefauver because he could kill ya. He could literally kill you. He--if Estes Kefauver said that the drug is bad, it was bad. Because Morton Mintz would write that it was bad--mmmmmm (M: that's right) c'mon! And the public accepted him. He had air--through John Blair's genius he had already established that he was the world's living expert on this subject. Huh! So you had to be very careful not to offend Estes--or his staff--or his staff. Keep that, because he had--he had a highly professional staff. And when I use the word professional I mean political as well as otherwise. He had Bud Fensterwald, he had John Blair and--a--what--some of those others--these were real men--these weren't some of these kids that you got running around up here now. When Bud Fensterwald said something, you listened. John Blair--and Wales Brown-- they were real men. Okay? And I mean you listened to the White House. Okay. So you weren't--so that was our trouble, but at the same time we had two difficulties with S1552, from the HEW standpoint, okay? And I keep--all I'm citing is from the HEW standpoint all the way through the interview. We didn't like the drug--the drug provisions of the bill because, first, they didn't go far enough--they didn't go far enough--

M: They didn't include--ah--patent medicines--

S: That's right! They just didn't go far enough--they didn't cover the problems that we knew in HEW and Food and Drug to exist. And that was always my problem with Blair. He discovered problems that he wanted solved. He was a very single-minded guy. He was after the patent provisions. He was after reducing the cost of drugs. Okay? And he discovered just enough--he--remember, this was an efficacy bill. (M: right) If you read the early stuff it was as if 'Safety! What safety! We got the Food and Drug Law!' Hunnnh! Well, we don't have anything in the Food and Drug Law about effectiveness so we gotta fix that. And here we're sittin' back there in the--you know--in the doldrums in HEW worrying like Hell about drug safety--knowing how inadequate the 1939 act--the 1938 act is as to the safety of drugs. We know the inadequacy of the recall provision; we know the inadequacy of the factory inspection authority; we know the inadequacy of getting the stuff off the market once you determine; we know the whole problem of the burden of proof. John Blair doesn't! He couldn't care less--couldn't care less. He had efficacy--because efficacy proved the cost issue. Safety didn't prove the cost issue. He had to establish that there were ineffective drugs being sold for 50¢ a tablet when they were being manufactured for 1¢ and besides everything else, they don't work.

M: Let's stop a few minutes.

S: Okay.

Break in recording

M: So you're saying Blair was putting too much emphasis on just efficacy and was blind to the other problems--

S: I don't know--no--I wouldn't say that he was blind to it but Blair's--but--but--John's main goals were the patent provisions and the cost-reducing aspects

of the drug--after all, he's an economist.

M: Right--he's--a--

S: He's an economist, you know, and those were his main goals. The control of advertising--that whole thing. He wasn't focusing on some of the niceties of the Act that the administrator of the Act is gonna focus on. All right--that's one aspect. Okay.

M: Right.

S: Of what was wrong with S1552.

M: In other words, it didn't go far enough.

S: It didn't go far enough in the area that he--in the area that it tried to cover, (M: right) first. Then there's all those areas that it didn't cover at all. (M: Right.) Like non-prescription stuff. Okay, (M: right), unh, unh--

M: Therapeutic devices--?

S: The whole thing--plus food, cosmetics, etcetera. And there was this feeling that he was sort of screwing it up! We wanted to put it all together in one package and here we gotta fight the prescription drug battle over here. We--we've got a bill, remember. We've got a bill. We know where we wanta go.

M: So you're saying that there already was a bill before Kefauver's bill?

S: Yes.

M: I don't think the records will prove that out.

S: Well, I don't give a damn about the records! I'm telling you there (M: chuckle,

chuckle) was a bill--I'm tellin' you there was a bill--there was a draft bill in February 1961.

M: Well, the FD--

S: I'm telling you that there was a bill in 1960 and in 1959 and in 1958 and in 1956. I'm suggesting to you that there was a bill in 1954. (M: Okay.) I'm suggesting to you that there was a bill in 1939. (M: Yes. That's the--) That's the bill I'm talking about. (M: Right.) I'm talking about the bill that was developed following the '38 Act, where a bunch of guys who were concerned about the inadequacy of our food and drug laws sat down and wrote a law and wrote a bill to close the loopholes that they knew to exist in that law. And that bill just kept getting developed and refined and drafted and refined--some stuff passed in '52 (M: all right)--so that would get dropped and then the bill would continue to be refined and redrafted and refined and redrafted and now here we are--and obviously being rejected in 19--- --under the Eisenhower administration --you know, God forbid we should do something like that! But now Jack Kennedy is the President of the United States--and what do you think the first thing the Food and Druggers did?

M: What was that?

S: Right up to the Secretary's office with their bill that's been getting rejected right along the line for years and years and years and years. They said 'Here, we've got a bill--we've got a legislative program.' And the first question the new administration asked is 'What have we got and what do we need?'

M: Do you remember who--who in the FDA is in charge of presenting such a bill?

S: The Commissioner. What's-his-name--

M: Larrick.

S: Larrick.

M: Right. Would Winton Rankin be involved?

S: Yes.

M: And John Harvey?

S: Yes.

M: What about William Goodrich?

S: Gee, I just remembered that one myself!

M: Winton Rankin doesn't agree with you, but--

S: What did Winton Rankin say? I'll state right here where he's wrong.

M: Well, ah, in my going through the FDA bill I--I have the notion that the FDA was really not keeping up with--in terms of new legislation. Rankin sort of agrees with me.

S: Well, I disagree with Winton and I would suggest you talk with Billy Goodrich and others. There was a bill.

M: There was a bill. Okay.

S: There was a bill.

M: Do you think that Kefauver's hearings--Kefauver's investigations had something to do with--

S: Partly. Yes. Yes. --

M: --with sort of spurring the FDA on--?

S: Yes. Yes. I would assume that under the Eisenhower administration and with Fleming as Secretary in the later years and Bob Forsyth who was Assistant Secretary and a good friend of mine who I just saw at the airport yesterday--unbelievable--they would have been saying to the food and druggers 'Hey,' you know, 'what's Kefauver talking about?' and the food and druggers preparing documents. There was a draft bill and if Winton Rankin doesn't remember it, that's his problem.

M: Ah--well, there was a draft bill but it was--

S: I'm not talking about just a draft bill!

M: --but it was--but it was very hurriedly put together and obviously in response to many of the things that Kefauver had uncovered.

S: Oh--it was a damn good bill--it was--it was, was--it's what was kinda ended up drafted at the end--it became the Harris Bill.

M: Right.

S: Yeah. Is that Winton's memory--it was hurriedly put together? Sure it was hurriedly put together after thinking about it since 1938. (M: chuckle) I don't buy that. I don't buy that.

M: Okay. Well, let's move on to other things.

S: Yeah, you know, Winton, I loved Winton. Winton was like a father to me through this--in some respects, you know, but--but--what would be hurriedly in Winton Rankin's mind would be to the legislative lawyer or politician that would have been 'What's taking him so long?' (M: chuckle) You know. To him it was hurriedly. To me and Billy Goodrich and in part to Ted Ellenbogen it was 'Where in Hell you guys been!' Now--

M: Okay. We were discussing the inadequacies of (S: Okay.) S1552.

S: That--the bill itself--what it tried to cover it didn't cover adequately. Then with all the things it didn't cover, it ruined itself politically--huh?

M: Right.

S: Ruined itself politically. And then we in HEW had nothing we could do. We--we had nothing to do with the patent and cost provisions. I mean--and this is a point that--that my dear, dear friend Richard Harris can not prove the FDA had--huh?--that Blair was convinced we could just pass them as one and we could take care of all their problems. The White House could care less what a bunch of us down at HEW thought about patents and prices. It wasn't our bag. Stick to your responsibilities. Stick to what you know. That was our bag. HEW didn't have that much input into the question of--into the question of prices--in the question of patents.

M: Ah--but--but--there was a concern. What was your attitude towards the economic question--other than that?

S: The official attitude was that it's none of our business.

M: Wha--what was the unofficial attitude?

S: The unofficial attitude is--I think Kefauver's--Kefauver's got a Hell of a good point--I don't know what to do about it.

M: Oh.

S: That's in the political (M: Oh.) area. That's between us upstairs. --They've got a Hell of a good point. It's just that I don't--

M: --Don't know how to--how to tackle it--

S: You know. A bunch of guys--a bunch--a social worker from--a social worker from Michigan, a governor from Connecticut, a--a--a lawyer of water pollution--lawyer from Northern Minnesota--doesn't know what to do about the high cost of drugs. No.

Break in recording

M: Oh.

S: Is she going?

M: Yeah.

S: You know, it wasn't that we were not concerned about the problem. Some of us personally were. Okay? Some of us personally agreed with Kefauver, but we weren't calling the shots on that part of the bill. You see, you know, it's that simple.

M: Who was calling the shots?

S: Well--more White House--economic stuff. The Commerce Department would get in on it. Lots of people were calling shots on something that big.

M: All right.

S: Yeh.

M: So in other words, the White House--

S: The Patent Office was in. Lots of people in--

M: Were there group discussions of this problem--or--?

S: Yeah--the Bureau of the Budget was in. Yeah, there were group discussions. But when the group discussion would get around to patents and prices and all of it, nobody turned to the HEW guy to say 'What do you think?' Uunnh! So

whatever the HEW guy thought--what was the difference? So what!

M: Right.

S: He wasn't making economic policy for the United States with regard to drugs. The HEW guy was there making food, drug, cosmetic, and therapeutic device policy.

M: All right. This maybe is getting ahead of the game a little bit but did the Kennedy administration ever come to any conclusive decision on the economics thing?

S: They opposed it.

M: They opposed it. I see--

S: I can't remember. You could check the record on that even better. I--(sigh) --I don't remember that because you see I was taking the position--ah--'Don't bother me with that.'--you know, like by the time they actually got down to the vote, I don't remember if they sloughed it--if they said 'We're taking no position.'--or whatever--you could check that. That would be in the record.

(M: Yeah--it--it--) I don't remember that right down at the end. If they took a "no position" or we opposed it--I don't remember. But I wasn't concerned with that. I--I--you know--from my point of view I was not into that. (M: Right.) And--and that's when I got into some of my worst scrapes with Blair and Fensterwald. You know--them screamin' at me that I should be into a thing that I'm not in. (M: Right.) You know, I have no way of getting this. (M: Right.) Me screaming at them that they should be more concerned with the inadequacy of the law--with the law governing the safety of drugs than they were. Huh? (M: Right.) You know, and never the twain meets.

M: So, it's quite evident from what you've said that--that the Kennedy administration really was not supporting Kefauver's bill.

S: Right. Not the economic part. But some parts yes.

M: Even though they might have found themselves in the position of having to make Kefauver think that they were.

S: No. It wasn't so much that--it wasn't a question--we never made Estes think that they were. He--you know--nobody's that stupid. No. You don't fool anybody in this business. Ummh. Estes didn't care--well--you know--what--what he was thinkin' is how you presented it to the general public. And to the press. And I think if you read Ribicoff's September '61 statement very carefully you'll see how--how Abe, brilliantly I think, skirts that whole issue--making Kefauver almost a hero--huh?--(M: Right.) Never saying that his bill is lousy (M: right) --nnuuh?--remember? --Okay.

M: Oh--very well. (chuckle) He supported almost everything Kefauver--a--and then said 'We can't support your bill.'

S: 'We support the intent of this and the intent of that and the intent of this and this was excellent and you left that out'--you know--'mistaken in the intent here but we would do it this way--and the intent here but we would do it that way.' By God--that's the game! That's the--uh--uh--the legislative game! Kefauver wanted more. Kefauver wanted more. And he couldn't get it. I think Kefauver--as I recall, Kefauver was pleased. I think I recall his staff pleased with the extent Ribicoff went towards saying how good Kefauver's bill was because they knew that some of us were ready to rip it apart and show how inadequate it was.

M: Who--who were these people?

S: Me--

M: Just you?

S: Including me.

M: And who else?

S: Okay. The Food and Druggers. Rankin, Harvey, Larrick--

M: And you felt it was inadequate on the level of--the technical level?

S: The technical level. (M: Right.) Yes. It wasn't giving us the protection we needed. Efficacy really wasn't that big a deal with us--(M: unh-huh) because we could make--we could make an ineffective drug unsafe. (M: unh-huh. Right.) We weren't that concerned about efficacy. We were more concerned about safety. And if Blair'd just listened to me and if everybody else had just listened to me, they would have known what the Hell I was talking about and we would have been saved maybe some of the embarrassment of--of--thalidomide later on.

M: Well, can you explain some of the inadequacies of the Food and Drug bill's weaknesses in terms of safety--

S: Now you're really asking me to go back--now--now--and what I could say to you is 'No, I can't sit here off the top of my head and explain, but I can tell you how to do it.' Go back and read and compare S1552 and the Harris Bill as originally introduced. (M: All right.) And just see how we covered a subject. (M: All right.) How we took the problem of the unsafe drug already out there on the market and got rid of it. It was brilliant! If we had known then what we know now, we wouldn't have approved the NDA in the first place and therefore --it's off the market! How we made--how we made--unh--lack of good manufacturing practices adulteration per se. Why, we figured out a way to make a drug adulterated that wasn't! Wasn't! A perfectly good drug! (M: Through a bad manufacturing process?) Yeah--but that bad manufacturing process ended up with a

perfectly good drug. (M: Right.) Huh? But we said 'That's not good enough. You lucked out this time; ya lucked out next time; we're worried about the third time when you don't luck out and that bad practice ends up with a bad drug.' (M: Right.) So we're going to say 'From the beginning, if the practice is not good manufacturing practice, it's adulterated.' What if it's adulterated or not in fact. Kefauver didn't have that stuff in his bill.

M: Okay. What about - uh - how important did your group feel that things like generic - uh - strengthening generic prescribing was?

S: That's where those of us who were the activists from an economic point of view within HEW could make some scores. In other words, we were able to go for something like that on a general proposition - uh - um - as experts in --then we could wheel in the Public Health Service types and all of that and so we were able to get those parts of Kefauver's bill in the--I think Ribicoff testified in '61 we could support that. Didn't you--I'm pretty sure--

M: Yes.

S: That was me saying 'Come on! Ya mean we can't even support that! He's right! He's right! People should be able to walk in and say to the friendly druggist 'Hi, I want some meprobamate.' --and boom!--we're back to 1958 and '59. We're back to my experience--we're back to '57 and '58 and my experience with Blatnik (M: with Blatnik, right). 'Cause I knew about meprobamate then-- I'm at least able to say the word.

M: That's the first time I've heard it pronounced.

S: Okay. Yeah. So I say, what is wrong with that? All the guy is saying is that when you read this literature--and I was always very hot on advertising --from the Blatnik experience--as a general attitude--that, that appealed to me. What appealed to me most about the generic name stuff was that it applied

to the advertising. (M: Right.) Sure. And I--I felt this is at least a step. Harris called it compromise. I call it taking steps at a time. (M: Right.) Y'know. This is at least a step. It's not--we're never gonna get to the patent stuff--we're never gonna get some of that economic stuff but we can get--we can take some of the steps. Yes. And I think eventually we endorsed that. Early in the game. In fact, none of it was good enough--don't you see--none of it was good enough because Blair's whole scheme depended on the patent reform. (M: Right.) If ya didn't buy that, his whole house of cards tumbled. (M: Right.) I'm not a house-of-cards builder. (M: chuckle) I'm not suggesting John is either. It's just that he developed a scheme that required everything to fit into place--and he took one piece out and it fell. I was willing to build it from the ground up. And--and--I think we were, you know--those things, you will recall, you know, in the end got in. (M: Right.) They got in.

M: Could--I guess we're now moving up somewhat to the--to the "secret meeting."

S: Noouhuh--my favorite subject! Haha! (M: Right.) All right, y'know, your number 5 is a discussion of HEW's and FDA's attempts to write their own bill --'Were you involved?' What I'm suggesting to you is--is that when I arrived on the scene in May and got into drug stuff in July that there was a document in front of me called "the bill." (M: Right, right.) There already was one. (M: Right.) And I took that document and Ted Ellenbogen--and Wilbur and Ted maybe have a better memory on this than I do because he drafted it. (M: Right.) I don't care what Winton Rankin says--and you tell Ted I said there was a February '61 date on that draft!

M: No, I know. By this time there was a bill. I agree with that. And it was being--it was in flux and possibly being shaped and reworked.

S: Yeah and I think my attitude in those early days was--to an Ellenbogen and to a Rankin and to a Harvey--my attitude was 'Write it! Write it! Just make sure that every loophole that exists in the law today is closed--make sure that every authority you don't have but you feel you need is provided for--make sure that everything you need to protect the health and welfare of the American people in this whole series of products is provided for in this bill.' What I say is 'Write it!'

M: It was a true omnibus bill wasn't it?

S: It was a true omnibus bill. It covered everything. Animal--antibiotics. (snicker!) That's how that bill was drafted. I didn't have to sit in on the drafting of it. (M: That wasn't your job.) That wasn't my job. That was their instructions--'Cover every loophole that exists. (M: Right, right.) Cover every one of them. And pick up everything you can from Kefauver. (M: Yeah.) You make sure that everything Kefauver's for we're for too--within reason. Make sure that you're better than Kefauver.

Break in recording

S: Okay, you're going to add right there--'better than Kefauver where that was possible.' (M: Right.) That meant, y'know, where he has tried to cover a thing and we know it should be covered better, do it better.

M: Right. OK, can we talk about events leading up to the "secret meetings?" (S: All right.) In other words, what--what precipitated this so-called "secret meeting?" You may not like the term "secret meeting"--

S: I'm trying to put it in the time frame now. Ribicoff testified in September of '61 and the days sort of drift. (M: All right.) Now comes 1962, President Kennedy wants to have--now what message was that? Is this the health message or is this the first consumer affairs message?

M: The first consumer message.

S: Okay. So we're all heavy into the first consumer message. There was a lot of activity going on then with Kefauver--with the staff demanding that the message endorse the Kefauver bill. (M: That's right.) Umh--we're fudging. I think the resolution of that--and you can check this out--is we mention Kefauver's name but not endorse the bill and we say that we're going to send up a package--we're going to send up a bill. Okay. We send up the bill but in a very interesting technique--I'm pretty sure this was the technique--again you could check it--as I recall, what we did was we sent the bill to the House only. (M: Right.) Now, that's unheard of--that's unheard of--you always send a bill to the Speaker of the House and the President of the Senate. Here was a bill that went only to the Speaker of the House. (M: Right.) Okay? Another 'give' to Kefauver.

M: Now, what was the thinking behind this?

S: That we would ride out the storm. That we would ride the Kefauver Bill and get it improved so that it was as good as the Harris Bill.

M: In other words, the strategy was to use the Kefauver--S1552 (S: As our vehicle.) as the base and alter it and--

S: We resolved that question and just proceeded--we resolved the question of the vehicle and said we'll use Kefauver's bill as the vehicle in the Senate and proceed accordingly. The vehicle for a food-drug-cosmetic bill.

M: Right. But obviously you would--if it were possible, you'd like for S1552 to disappear.

S: Obviou--well--if we--yeah. (M: Well, well--as you say--) Nauuu--I don't

know--I never know--personally? No, I thought S1552 was the greatest thing since popcorn. I was not exactly a friend of the drug industry. (M: unh-huh) Remember, I said to you in the beginning, Blatnik and Kefauver were exactly alike--they were Populist-Liberals--one from Minnesota; one from Tennessee. Well where the hell you think I'm from? (M: Minnesota.) Yeah--what the hell kind of a liberal do you think I was? (M: Right.) Okay. And still am. (M: Right.) Right. But I have a job to do--I have a job to do. I felt honestly that those guys weren't doing as good a job as they could have done. Much of this was my--(M: What guys?) The Blair guys--the Kefauver guys.

M: That they weren't doing as good a job as they could?

S: On the drug safety. Yes.

M: Oh--on drug safety.

S: On drug safety. Yes.

M: Oh, I see. I get that.

S: Yes. All right. Much of this was my strategy, as I recall. --Not taking credit--just reflecting historically. I was the guy who would sit there and they would say 'Well, we gotta send the bill to the Senate and the House.' And I'd say 'Who said that?' I gotta favorite expression--'Where is it written?' (M: chuckle) 'Where is it written that you have to send one to the House and one to the Senate?'

M: So it was your idea to use S1552 as the base (S: as the base) in the Senate? Okay. Why--why the "secret meeting?"

S: All right. We're now at a point--help me on the time--when did that bill go up?

M: The FDA bill?

S: Yes.

M: It's introduced in May of 1962.

S: I--yeah--

M: At that time it was split.

S: What was it?

M: I have two numbers--11581 and 11582. Maybe it was later that it was split.

S: Ask Ted Ellenbogen. That wasn't split was it? That wasn't a split. Wasn't there something wrong with the first draft and had to reintroduce it?

M: Could be. I'd have--

S: Have to check that. Yeah. I think I was--I--11581?

M: And 11582.

S: Did we split off with prescription drugs? Yeah. Okay.

M: That was a pretty smart move.

S: Okay. So you've got a reminder of this. Thank you for the compliment. I said 'Let's split off prescription drugs and move up there with two bills and then basically what we could say is "Let's take them one at a time."'

M: Right. Because, obviously, 11581 was better paired with S1552.

S: That's right. Yeah, yeah. That was the pair--that was the pair--and I can remember even saying 'And we'll take up '82 next year.' Yeah. Yeah. Let's

do this one now--let's do the Kefauver thing now--rolling. Okay. Now, we're in the May of '62--Kefauver's guys are mad at this approach--they don't like this--we didn't endorse 1552--came up with our own bill--announcing that our bill and [unintelligible]! Okay? Now the Senate Judiciary Committee has moved into executive session and they're marking up 1552. (M: Right.) We're practically into the end of May and there is great trouble inside the committee over each section--they're fighting like heck about it. Kefauver's not keeping us advised of his strategy--what he's doing inside the committee. In fact we didn't know what was going on inside there. As I recall I was sort of left out.

M: Okay. You were thinking about the "secret"--uh--the events leading up to the "secret" meeting.

S: All right. But see you raised a nice question. "Was the Administration really backing Kefauver's bill in the Senate as he was told," Real Voice, Harris, page 155. Don't you see--in my mind--in my mind, we were not only backing Kefauver's bill insofar as it related to drug safety and efficacy--huh (M: right)--we were trying to make it better. (M: Right.) Y'know. How much more support can you give something than to try to improve it? (M: Right.) And really improve it.

M: Well, you're not--you're not totally committed to the S1552 as it stands--as Kefauver wants it to be.

S: Supporting a bill does not necessarily mean you buy the language.

M: Right.

S: But that was a constant battle between me and Blair. 'Do you support the bill?' 'Yes.' 'Well good, why don't you say so?' 'Because we don't buy the language.'

M: Complete language.

S: 'Well, you got to buy the language.' 'No, we won't buy the language.'
'Then you don't support the bill.' 'Yes, we do.' Blah-blah, blah-blah, blah-blah. Getting to the point where Blair and Fensterwald didn't trust me. I was leading up to the "secret" meeting. I was the political guy calling the shots on the bill. So if the White House isn't endorsing the bill, and if HEW isn't endorsing the bill, who gets blamed? The political guy who's calling the shots! And I was in that peculiar situation I always found myself in. I was the political guy and I was also by now, the technician. I knew as much about that draft bill--about that bill as Ted Ellenbogen. You can tell Ted I said so. 'Cause that's the way I operate. The only way you can make good policy in this area is to be--is to be a technician. (M: Right.) And I get--always have been sick and tired of the policy maker who doesn't know how the thing works. Okay. So I made myself the technician and the policymaker and I could proceed on either path. You could talk policy to me about splittin' the bill and doing it this way and what does Estes think and all of that and I could have that hat on and I could turn right around and have a line-by-line discussion on the bill with Ellenbogen and Goodrich and Rankin and anyone else and Blair. I could say to Blair, 'But on page such-and-such, on line so-and-so, you say this and you should say that.' I don't think you would expect me twelve years later to have--to remember--okay? (M: No, no.) But--but that's the way I was--I was operating. And it is now--and--and-(sigh)-Blair and Fensterwald's attitude toward me was I could do magic. I was the guy who could perform this--turn this thing around--and I wasn't doing it and I wasn't supporting them one hundred per cent, therefore I was no good. Okay? Prior to the meeting. Now, what was happening inside that room was--and I wasn't there--was that massive disagreements--and they were voting on the bill section

by section, y'know, and Dodd wouldn't show up for a key vote and Kefauver would go in as I remember, to a meeting and he's got the thing--he's got it by two votes--and they were never there--you know. Someone said to Harris, y'know, 'It was like, you know, it--it was like ghosts!' He had--he had the votes all the time and yet they were never there. And he was losing some. Umm. At the same time--of course this is just guessing on my part--the drug industry--never forget this--the drug industry by this time had decided they want a bill. (M: Umm-humh.) They wanted a drug safety/efficacy bill--they don't want, y'know, Kefauver's economic stuff. (M: Right.) They want a bill. See--to get--and it's very obvious--they want a bill to get it off their backs. (M: Right.) All these things come together. They're making no progress in the committee. It's, y'know, knock-down, drag-out battles. The drug industry wants a bill. Okay? So now, the chairman of the committee is confronted with a real nice question. He's got two sides of a question--and they both want a bill. But neither one of them are willing to work it out. Huh! And here sits--literally, on the sidelines--the third party--y'know--the government. (M: chuckle) Huh! (M: Right.) The Administration saying--y'know, trying to knock on the door--'Hey fellows, I gotta bill, too!' (M: Mmmmmh) Huh? James O. Eastland--he figured out what to do--bring the guy from the outside in and have him sit down with the other guy who seems reasonable and maybe they can work things out. Kefauver's position is established and known. It's this (sounds as if Sonosky taps a paper--the S1552 bill?). Now. I know that John Blair and Bud Fensterwald would deny that up and down the wall, and they'd say, 'We were willing to compromise--we're not that stupid.' Y'know. And we'd been through this and my only answer to them was 'You never showed anybody.' The reason they never showed anybody is they had to take a hard-nosed position right from the beginning. They were, y'know, they knew what they were up against. Well, they weren't telling me what they were doing and I don't know if they were

telling anybody else what they were doing. And we were supposed to sit there and guess and we were supposed to know--well, let's leave everything to John and to Bud.

M: They just weren't cooperating enough and weren't willing to compromise enough?

S: Yeah. Yeah. Now, they claimed later--and this is jumping ahead--but Blair will claim--John will claim--and I have always taken the position that 'you never told me.' 'Cause if he had, maybe things would have worked out different. I think what was in Blair's mind--and certainly in Kefauver's--this was told to me later and I might be reflecting what I read in Real Voice a long time ago. Their strategy was to go out onto the floor with a weak bill. Let the Judiciary Committee report out a gutted bill. Huh! (M: Umh-huh.) Let 'em report out a gutted bill. They'll file a strong minority report, led by Kefauver, Carroll, (M: Hart) Hart, Dodd--he'd get Dodd by then--etcetera, see. And then, on the floor, offer amendments. That's--okay? He never told me this. He never told me this. And besides everything else, I don't operate that way. It may be a failing on my part--I don't know how to lose to win. (M: Right.) I--I fight 'em when I can. I--I--I--I don't think that way. Okay? My thinking was that you come out of the Senate Judiciary Committee with as strong a bill as possible. Not with as weak a bill as possible! With as strong a bill as possible. I wasn't as confident of Blair's ability or Kefauver's ability to get the bill amended. (M: on the floor)--on the floor. I was desperately afraid of a weak bill passing. Okay. And I wasn't as convinced as I think Blair and Fensterwald claimed later, that their final strategy was --'If the bill is that bad, Kennedy will veto it.'

M: Ummhum.

S: Who told them that?

M: Yeah.

S: I wasn't that satisfied that that's how it would work. Was the President of the United States, who was involved up to his eyeballs in Berlin--and, you know, lots of other things were going on in those days. Y'know. Was--was-- As I recall, the bill was finally drafted--the bill was finally signed in a hurried-up ceremony because they were afraid the missile was going to come over from Cuba or something! (M: Heh-heh-heh-heh!) You know! You know, Jack Kennedy had a few other things on his mind! And so did Meyer Feldman and Ted Sorensen and a few of the other guys, y'know. I used to sneak in--not "sneak" in, but I used to get in to Ted's office at night with--this was later on-- with the latest version, y'know, while he's sitting there and writing a--a speech for Jack Kennedy on--on--um--resumption of nuclear testing! (M: mmuum) I would say a matter--somewhat more important (M: more important! -chuckles-) than whether or not section blump of the Kefauver bill or section blump of the Harris bill were the same--huh! Y'know, and Ted used to say to me 'You are (chuckle) unbelievable!' You know. (M: chuckle) And I'd laugh, you know, and-- and we'd kid about it and I'd say 'All right, I know that nuclear testing speeches for the President of the United States are important.'--I said. But this is too!' Y'know. (M: chuckle) Because, you know, long after you stop testing nuclear devices, people are gonna be taking drugs. (M: heh-heh-heh) and--(chuckle)--um--and Ted would focus on it, but, y'know, but it wasn't the end of--(interruption--knock--S says 'Yeah, thanks a lot.') Uhhm. So where was I? All right. So with that type of setting now, we're into the end of May. You could check the dates on that. I--I'm--

M: Well, the "secret" meeting was in June--June 8th.

S: OK. I see, I called the end of May. Yeah. 'Cause you don't just walk into a "secret" meeting (M: right) uhhm--you--there--there were some negotiations

(M: right). There were some discussions that I didn't know about. I was not involved in the "setting up" of the meeting.

M: Who was involved?

S: I suppose Wilbur--maybe the White House (M: yeah). Yeah. Maybe--and Eastland. (M: Yeah.) Yeah, I mean, he was calling the meeting. (M: Uh-huh.) And I know with my liberal friends and with everybody else who reads Harris and everything else--they can't understand my defense of Jimmy Eastland, you know. Uhh--'cause see in this world you're s'posed to say that a man like Jimmy Eastland is no good--you know--but--but everybody would, you know, I'd blow everybody's minds when I'd defend Eastland--who, who in my view was the chairman of a committee that had a bill in front of it and he had problems--and he had problems--and he wanted to resolve those problems. Now the fact that Eastland may have had problems. Now the fact that Eastland may have personally opposed the Kefauver bill--that he may have had--that he was inclined more to support a--a--umm--more conservative point of view about legislating--wasn't the area I was dealing--or--I felt we were dealing with him in. --Which is a lousy sentence. I think you know what I mean. (M: Right.) I was dealing with the chairman of a committee who had a problem--he had a procedural problem--he was trying to resolve. (M: Right.) Okay. I think you'll find--I don't think Eastland ever talks about it so much--James O. Eastland I think has the attitude he doesn't have to defend himself and I always--I think I'm the only one who ends up defending him. Uhh--he had a problem--he knew where Kefauver stood. He--he knew--he knew that on a given issue there were three positions--there was the Kefauver position, a drug industry position, and an HEW position. He knew where Kefauver stood. And I think Kefauver--and his staff--overplayed their hands on 'let it go through as a weak bill and then bomb 'em on the floor.'" Okay? (M: Um-humh.) I think at this point in time Eastland wanted to know

'how far apart is the drug industry and HEW?' Okay? And proposed that a meeting take place to determine that question. (M: Right.) To determine that question--where does the drug industry--on the controversial issues--where does HEW stand--where does the drug industry stand? And I would maintain--from the beginning--I don't know if it's in The Real Voice or not--but from the beginning I maintained that was the only course of action Jimmy Eastland could take--and he took it--responsibly and--and--as a good chairman should. Okay? And so, a meeting was decided upon. And I was told by Wilbur to go. T'was my job--to go to that meeting--to sit down with--I wasn't exactly certain who was going to be there--none of us really were. When you deal with Eastland you sort of deal, you know--it was kind of nebulous--'We'll have a meeting, and work this stuff out.' Okay? Well that meeting worked itself out--okay? (M: Right.) I really didn't know who was going to be there--I didn't know names. I knew that there would be minority counsel guys there. Uhh--I figured--I really didn't have clearly in my mind who exactly would be there. But it di--I didn't care. I really didn't care. My one question to Wilbur was 'Will Blair be there--any of the Kefauver people?' 'No.' 'Humm! That's interesting.' But that's all--'That's interesting,' and in my own mind there was nothing peculiar about this. (M: Umm.) There's nothing peculiar about this--and I've said to Blair, and I've said to Fensterwald--and I almost said it once to Estes himself--'Where is it written that every fuckin' meeting regarding drug safety has to have you in it?' Huh! Where is that written! Just because you held two years of hearings that means that everytime there's a hearing--that there's a meeting on drugs, you gotta be invited? No! (M: Right.) No, I don't think so. And Jimmy Eastland didn't think so. And if that puts me in the same category as Jimmy Eastland--great! (M: chuckle) 'Cause I got to know him--and he's quite a guy (M: laugh). He is--he is quite a guy! All right. Uh--uh--so I go to this meeting--you know--with real "careful" instructions from Wilbur like--a--

'Well, you know, see where they stand and you know where we stand and see what you can work out with 'em. Write a good bill, Jerry.' What the hell else can you do! Hummh? (M: Right.) Remember, we aren't privy to or aware of or operating on the principle that you come out of the committee with a weak bill so you can amend it on the floor. (M: Right.) We are not part of that operation. We are working on the proposition that you get as strong a bill as possible every step along the way. Okay? I walk into--I go--who's gonna go with me--unnh--who's gonna go with you? 'For Christ sake I gotta have somebody, you know, if we're gonna be sitting there with their draftsmen and everything else!' 'Well--Ted.' 'Oh. Okay. Ted, you go to the meeting with me?' 'All right.' 'Gotta go, Ted.' 'Fine.' 'Winton, you comin' up in this meeting with me?' 'No.' Winton'd been at it longer than I had.

M: So he knew not to go?

S: That's always been my hunch. Always been my hunch. Okay. Not mine. I go where angels fear to tread. (M: chuckle) Always have. Always will.

M: So the more sophisticated guys were--knew just sort of to stay away.

S: More sophisticated!

M: (laughter) I--I don--

S: Bastard!

M: (laugh!) Well, you're sophisticated now!

S: Like Hell! Like Hell! More sophisticated--yeah--sophisticated in the art of not makin' waves. (M: Right.) Yeah. Sophisticated in the art of 'don't get into any trouble and don't stick your neck out.' Huh! And we'll wait another year--or five--or ten--or twenty--to get our bill passed. (M: Right.)

Well, I don't have that kind of time. (M: Okay.) So that, you know, there's two kinds of sophistication at work here. (M: Right.) All right. We wanted to get a drug safety bill out. Okay? And we wanted to do it within the confines of certain political realities like--Estes Kefauver's a damned good friend. Okay? (M: Right.) But still we need a good bill. Into this meeting I go. And--Wow! Look at this line-up! (M: chuckle) I'm not surprised when I don't see the Kefauver people. But this is a pretty heavy line-up. And I go around and I meet all these nice people (M: chuckle)--hah-hah--ahhhh--and we start!

M: Could you give me some of the names? I think I know who some of the people were.

S: You tell me who they are!

M: Ahhh--

S: I have never--to this day--told anybody who was at that meeting. You know that?

M: Well, all I know is what Harris says.

S: All right. I have never told anybody and as a matter of fact I'm quoted somewhere as saying--oh, Jack Anderson--I'm quoted in the Jack Anderson/Drew Pearson column as saying 'If you wanta know--you wanta know who goes to a party in this town, ask the host--don't ask one of the guests.' (M: mmmm-mmmm-chuckle) Huh!

M: Oh yeah. Let's stop.

S: Those were the days when it was really hot as to who was there. You know. That was--ummm--God!--That was a--that was a major item--'Who was at the meeting?'

M: Let's stop a minute. All right. Here is the list of--

S: What page ya on?

M: It's 164--(S: all right)--of who Harris reports was at the so-called "secret" meeting. "Sonosky and Ellenbogen (S: right) arrived at the Conference Room of the Judiciary Committee. Those present included not only Thomas Collins, Eastland's staff director, Peter Chumbris (is that?) (S: go ahead, I'm reading with ya) Ronald Raitt, minority counsels of the Subcommittee, but also two men from the Pharmaceutical Manufacturers Association--Foley, Cutler, and Cutler's partner, Marshall Hornblower." Were there others--do you agree with that list? (Sonosky nods in agreement) So that's it. So Harris is right. All right. Go ahead.

S: Okay. And then it started. And we sat down. And we started going over--you know--I just read the words and then Sonosky knew he was in for a bad day.

M: Mmmmyeh (chuckle)

S: You know. Good, bad, indifferent. I had been having bad days for a hell of a long time (M: chuckle) on this bill! And that's what we did. It was a straight legislative thing. We went through the bill section by section. Okay? (M: Right.) And that was when the industry--that's when we saw for the first time--it really wasn't for the first time--I'm not sure--it was for the first time I ever saw them all in one place--what we would call the 'industry amendments.' (M: ummh-humh) Okay. And so here we had it for the first time--we had S1552--here--okay? We had the Harris bill--which would be 81 (M: right) here--and we had this collection of amendments which you could call, in effect, a bill--here. Okay? (M: Right.) And the question before us was--'How does two and three relate?' 'Cause what was in my mind was, if I could make two and three relate, I'd made S1552 relate.

M: And the two and three being the FDA/HEW bill and the drug amen--

S: --and the amendments, the collection of amendments from the drug industry. I had no problem--see, you have to understand that whenever I was advancing the Harris bill--ummh?--the HEW bill--I was, in my mind, advancing the Kefauver bill.

M: Okay

S: Now that's something that Kefauver and his staff never accepted; Harris never accepted--you know, and that's their right. But that's what was in my mind about it. I could stren--. If I could get something from the Harris bill--if I could get the drug industry to buy the (chuckle) Harris bill, huh? (M: right) I have served the public interest. Huh? (M: right) Which is the purpose of the Kefauver bill, isn't it? (M: certainly) Yeah. Okay. You know, those realities--that's beside the point. But that's how--that's how I was functioning. We met all morning long--ahhh--the basic discussers were Sonosky and--umm--umm--Lloyd Cutler. Y'know--we were the two technicians. Ellenbogen would assist me. We went through them section by section. Lunch-time arrived. We broke for lunch. (phone rings) And had lunch in the Senate cafeteria. (brief break in recording), you know, now I've said this, I think, a million times--and so I'll just say it again. A guy as sophisticated as Sonosky who is at a secret, clandestine meeting (M: chuckle) huh! That he shouldn't be at (M: chuckle!) Okay!--doesn't have lunch in the Senate Cafeteria. (M: Right. That's a good point.) And, y'know, it's that simple! As I think I said to you on the phone, you know, the "secrecy" of the meeting was the fact that the Kefauver people were not advised that--of the meeting. Now that was Senator Eastland's choice (M: right)--now that was Senator Eastland's choice. Ahhh. He was the Chairman of the full committee. He did not believe that he had to include Kefauver's people in every meeting that he arranged to

try to work out a bill. So that he could satisfy himself as chairman as to what the hell was going on. Okay? (M: right) As as a matter of fact, the meeting--the purpose of the meeting was not to relate the Kefauver amendments to the drug industry proposals. The purpose of the meeting was to relate the Harris bill to those proposals. And remember now the background from this whole discussion--my attitude was, and the attitude of HEW was 'It's about time somebody's askin' us about our bill!.

M: Right. It's about time somebody got together and asked--said (S: yes! yes!) 'Let's get those--pull these things together!'

S: Yeah. Yeah. I was a little tired of just--of just--of letting Kefauver and his staff--uh--advancing the cause of drug safety and efficacy with his bill. (M: Right.) And as Feldman said, just looking at this book quickly, and as the President said, 'The Kefauver bill was our vehicle.' Well, by God, if it was our vehicle, then we could, then we could, we could determine what the hell was--what that vehicle was made up of. And not take--and not be put in the position of 'this is your vehicle, but we'll decide what's--how it's made.' nuh-uh! When we said that was our vehicle, that meant that we had the right to change it. (M: All right.) We didn't have to live with Kefauver's language because it wasn't written, God knows, with a moving finger of fire (M: chuckle) on a tablet of stone. (M: chuckle) Okay! And that was my attitude at the meeting. (M: right) That's what I was doin' there. I was finding out--for the first time--what the drug industry wanted. See, I knew what Kefauver wanted. I knew what HEW and the Kennedy administration wanted. For the first time, I'm finding out what the drug industry wanted. Really finding out. I'm finding out from a damn good lawyer named Lloyd Cutler.

M: You have good impressions of Lloyd Cutler?

S: Of course! He's a marvelous lawyer. He's a great lawyer. Great lawyer. I don't buy the proposition, you know, you judge guys--. He's a great lawyer and he was doin' a job for a client. You just heard me go through one where I'm doin' a job for one, too. I don't necessarily agree with anything I said to this guy. (M: Right. Cohen speaks very highly of Cutler, too.) Right. You know. Yeah. Now you don't buy this business that--that--Cutler is some kind of ogre because he's representing his client. You know. Lloyd Cutler was workin' in the public interest a hell of a lot longer--before some of us were. You know. But that's beside the point. He had a client; that client had a point of view; he was representing that point of view. Okay. I get very mean around this point in time. You know. I saw Lloyd Cutler at the Federal Court House the weekend of the Martin Luther King riots, you know, representing indigents and getting people out of jail and helping people get their families together and everything else--there--I didn't see certain other lawyers in this town there. (M: All right.) Okay. Aaah--what was I saying? And that meeting went on until about 5:30. And the gist of it was--was--we were being told that this is what the drug industry wants--this is how far they're willing to go. This is what they want in the bill. We would then fuss about it. And I'd say, 'Well, can't you do this? And can't you do that?' And, you know, and Cutler at one point said to me something about 'I have a client, Jerry.' I said to him at one point 'I just can't understand why you can't buy this. As lawyer to lawyer, why can't you buy this?' I can't remember anymore what it was. And his answer was--he has a client and the client doesn't want to buy it. (M: chuckle) And my answer to his was I have a client, too. 'Oh, who's that?' I said, 'The people of the United States. And, I'm not so arrogant to presume that I can speak for all of them, but I've got a hunch that they won't buy yours.' And that was my client. Estes Kefauver wasn't my client. (M: Right.) Okay. Well, it's in the aspect of what we did

and how we operated that, you know, that Richard Harris never--I don't think--
I don't know, you know--Estes was representing the public interest.

M: He obviously--obviously sees it all from pretty much the--

S: We weren't--we weren't--

M: --Kefauver point of view.

S: Like who the hell's interest were we representing? You know. And I, of course, resent so much of that. But that's all right. And you can see that 12 years later that resentment still shows.

M: Umm. That's good.

S: It still shows. And I can't help it if people--if--if--I don't invite people into my mind so that they know exactly every thought I have. But I know God damned well who I'm representing when I'm representing them, (M: right) and I went in there to come out with the best bill possible.

M: Ahh. Did you inform Cohen of what--(S: yeah) of what came out. Did he actually--ah--see the amendments and absorb the amendments?

S: No. 'Cause--because the amendments couldn't be seen or absorbed until the next weekend--until over the weekend--this was a Friday. They couldn't be seen or absorbed until Monday when they were reprinted. And then offered at the committee. And that's when the whole thing just unravelled. (M: Right.)
With me--

M: But Cohen was fully aware of what was going on--what had been hammered out, more or less?

S: In a very--in a very--no. But in a very--what?--I'm trying to think of the

word--ummh--

M: I mean--I can certainly understand--. He might have been busy and he didn't sit down and read through the whole amendment--

S: Well, it wasn't that so much. I didn't get back to the office 'til like 5:30--or like 6-6:30, and he said, 'How'd it go?' and, as I recall, I just said to him, 'Well, we worked it out!' (M: Yeah.) Now what I meant by "worked it out" was 'they've got their position--they've got the votes-- now that's the best I could do.' (M: All right.) 'That's the best I could do.' There's one little section in there where--if you really want to read that thing--if the damn bill had passed with it that way, they'd (FDA) still have all the power they needed. There's somethin' in there about if the false and misleading--if any statement was false and misleading in any way, you could have a recall--it was--there was some clever stuff in there. Yuh. You know. But nobody wants to get into the nitty-gritty of that. Y'know, Harris doesn't want to write about that. There's one line in there in the industry bill that, that, if it had been--if that had become law, the FDA would have all the power it would need to do anything it wanted. And Cutler knew it, and when we came back after thalidomide with the new stuff, Lloyd quickly took a look at it and he just looked up at me and he said, (S: chuckle) you know, 'I thought you were rejecting the industry amendments. I see you kept that line.' Yeah.

M: But you don't remember exactly what that line was?

S: I can't remember exactly what that was. It was--it had to do with if any statement was false or misleading in any way, then the thing was like "misbranded." You could--it was (M: yeah)--it was a new type of power that they didn't have-- that nobody thought of and that we wrote into that version of the bill. (M: Umm.) Don't get me in a position of defending that version of the bill, 'cause I don't

wanta be in that position. I don't wanta be in that position. I don't have to be. I don't have to be.

M: But your position is you did the best you could and that was the--that you felt you'd gotten the best bill you could.

S: We got the industry to revise some of their amendments as good as possible. One of the tricks--the tricks--heh-heh--when we did the factory inspection amendment we got--I just included food, drug, cosmetics and therapeutic devices --you know, what the hell did the guys from the PMA care? We walked out with a bill that gave us factory inspection authority that we didn't have before we walked in over all these others. (M: Uh-huh.) Huh! (M: Right.) Oooh, did the fur fly in those next few days--when they realized what the hell we rode off on--boom, boom, boom (M: chuckle)--that was all out! (M: chuckle) I got that in.. (M: Right.) 'Cause that was one of our initial purposes, if you'll recall--getting--getting (M: right) that factory inspection thing in. All right. But then everything unravelled. I said things like 'We can live with it.' I did. I did. I said to Jim Eastland on the phone, 'We can live with it.'

M: When--when was--

S: This would have been over the weekend. (M: Uh-huh.) Sure. Sure. I suppose I was the high administration official that Eastland was referring to.

M: Oh--the--ye--after the--after the blow-up and the Eastland (S: yes)-- Eastland goes to the floor and he--

S: Yes. Yeah. (Sonosky now reads one of McFadyen's questions) 'What was your position on these amendments--were they acceptable to you?' All right. I'll go right down. 'Cause you've got some good questions here. (reading again) 'What was your position on these amendments? Were they acceptable to you

and the Department?' No--no. Okay?

M: To--to you personally.

S: They weren't acceptable to me and they weren't acceptable to the Department.

M: To the Department.

S: No. They weren't. But if that was the vehicle to get out with, okay, let's go. I'm now ready. Okay. Now, I'm ready to go the Blair-Fensterwald route --of amend on the floor and do what we can in the House. But with the strongest bill we possibly could get out of that committee rather than the weakest.

M: So you had no--you had intentions of increasing it--or bouying it up-- or whatever--later on?

S: Of course. The Harris bill was always our bill! This wasn't our bill!

M: Uh-huh. Well that's--that's interesting.

S: This wasn't our bill--we had this "thing" that we had to improve. (M: Uh-huh.) Our bill was the Harris bill. Never forget that.

M: Umh-huh. That's a good point.

S: Because that's a point that Richard Harris could never get because Richard Harris had decided in his own mind that the Harris bill was weaker than the Kefauver bill. And--and I never--you never could get through to him! Never could get through to him! (sniff) (M: Umh.) Okay. And that's what--and that's where we were at. Yeah. I said--I said to Eastland--'We could live with it.' Damn right we could live with it. Let's get out of here with the best bill we can. Doesn't mean that that was acceptable to us. What was acceptable to us is answered in writing in the Harris bill in the House. That's

the bill that was acceptable to us.

M: Okay. Could we move on to the--ah--

S: (reading again) 'What was your reason for being at the Subcommittee meeting where the amendments were presented? (M: Right.) Well, I was told to come back. Yeah. (M: Right.) You know. All right, (reading again) 'What was HEW's position on Eastland-Dirksen amendments? Had you shown them to Cohen?' Yeah. You know. But not that Friday night because I really didn't have them. What I had Friday night were the drug amendments unaltered. Ah--I'm sorry-- the drug industry amendments unaltered. (M: Umh.) I was able to walk away with those. That's that great Jack Anderson column about (M: right) me being David against the Goliaths and what I did--I had all these (M: chuckle) papers and I said 'Oh, what a messy room.' and we picked up all the papers and walked out and I had their original amendments. (M: chuckle) Which made them a little uncomfortable--I don't know how uncomfortable. (M: chuckle)

(S reading again) 'Who was the "high official" on HEW that Eastland spoke to who said "HEW favored the bill?"' I was the "high official" on--I think-- I'll never know. Let me say this--I'll never know. I think I was. (M: Did-- did--) I don't think I said HEW favored the bill; I think I said words like 'We can live with it.' (M: Yeah.) Huh! 'We can live with it.' I think that's how that thing came out.

M: The--the reason that this is important is because in the committee meeting, when these amendments are--begin to be presented, Harris depicts the scene as --as Kefauver turning to you and saying 'What's HEW's position on this bill?' and you said, 'Well, I'm just a technician...'--sort of thing--'I'm neither for it or against it.' So he goes out and calls Cohen and Cohen says 'What amendments? I don't know what you're talking about.'

S: Wilbur was telling the truth at that point. He really hadn't seen them

because the first I saw 'em was that morning. (M: Yeah.) Yeah. The first I saw 'em was that morning. Wilbur--when Wilbur said 'What amendments? I don't know what you're talking about.' he was telling the truth 'cause he hadn't seen them. I hadn't seen 'em. Kefauver was so convinced starting from the very earliest times--and that's why that early history was important --that we were double-crossing him and screwing him and everything else (M: uh-huh) that he immediately assumed that we all had copies of it, we all knew exactly what was going to happen. I left the meeting at 5:30 on a Friday afternoon and said 'Good-by, gentlemen.' I took a bunch of stuff home with me. I went home. I didn't know that on Monday morning I was gonna show up--I was gonna come to another meeting of the committee and that these amendments would be printed up in a bill form--okay?--and being presented to the committee as something that had been approved by HEW. No, I did not know that.

M: So--so you were kind of caught off guard, too.

S: You betcha. (M: Yeah.) You betcha. And I had no instructions from anyone on what to do so I said I was a technician. (M: Right.) Yeh. I had no instructions. I didn't know what to do at that point. Well.

M: Of course, I've asked Cohen about all this and he kind of put--he doesn't remember a whole lot--or--or--

S: He wouldn't. (M: Yeah. Right.) He wouldn't.

M: Right. He says that Kefauver threw him off when he asked about the amendments--that--

S: And Wilbur had no idea what the man was talking about. (M: Yeah. Yeah.) Because he had never seen them; I had never seen 'em. (M: Right.) I left a

meeting where there were a bunch of papers with scribblings on them. Uh-huh.
(M: Right.) I came to a meeting Monday morning and I found mimeographed page after page after page of those scribblings put down in amendment form.

M: Who do you suppose prepared those--the drug industry or Eastland's office?

S: Oh probably. Yeah. And together--the staff guys and the lawyers. Yeah. PMA operation. Sure. That's not hard. (M: Right.) Yeah. Yeah, y'know, that's how it's done. That's how it's done. So Cohen is--when--when--and when Kefauver hit him with these amendments and I found 'em on my desk this morning, Wilbur didn't know what he was talking about! Wilbur had n--. Wilbur didn't know what he was talkin' about! And I always said to John Blair when we attended the eulogies for Kefauver after he died, John and I were sittin' there together and I turned to him and I said, 'You know, the real tragedy was that we would never talk to one another.' (M: Unh-huh.) That Estes was always ready to say that the Kennedy administration screwed him. Like that John Blair was always ready to say that Sonosky screwed him.

M: Why do you think Kefauver was that way? Was there--

S: Because he was a man who got screwed everytime he turned around (M: chuckle) --in American politics and he figured it was still goin' on! (M: Uh-huh.) Yeah. So he was a little paranoid on the subject. (M: Yeah. --chuckle) And I don't mean that in terms of he was nuts--he was convinced that nobody gave a damn for Estes Kefauver and he was, by God, gonna--he was tired of it! (M: Right.) And I don't blame him! (M: Yuh.) But he assumed all the time you were wrong. I said to him when he was still alive and we were recounting these episodes and we were laughing about it, I said, 'You know, if you had only grabbed me by the seat of my pants and dragged me out of the room and said "God damn it, Jerry, what happened?" I coulda told ya!' (M: Umh.) 'I

would of told ya! I would have said, "Well, Senator, this is what happened."

(M: chuckle) And you could have walked back into the room, huh!, put your feet up on the desk and said, "Oh. This--this is nothin!"

M: The thing that surprised me--

S: But I said, 'Butcha didn't!'

M: Yeh. The thing that surprises me--that either you or Cohen didn't realize that Kefauver was going to be really shocked by what was going on.

S: I didn't know that there was gonna be a document there to shock him!

M: Yeah. Yeah. And the way Cohen put it to me was, he said that something went wrong and that Dirksen was the one--no--yeh--that (S: right) Dirksen was the one who presented the amendment--is that true?

S: Of course. Of course.

M: And Cohen said that that was a mistake because the minute that Dirksen made these amendments--and of course Kefauver was gonna know--oh boy--

S: That's a good point. That's a good point. Well, Wilbur's sayin' that (M: A more neutral person--) they made--they made the tactical error (M: yeah). Well--no--well, they made a tactical error. What they should have done was Senator Eastland should have started the meeting off with a--'Well, Gentlemen, here's where we're at.' (M: Yeah.) And, 'On Friday Mr. Sonosky there and Mr. Ellenbogen came up, and gentlemen, I support these amendments and here they are. Now let's go through these.' But no; it was done another way. Dirksen presented them. (M: Yeh.) Boom! Kefauver went off like a rocket! And I said these words to him, directly.

M: To Kefauver?

S: Yes. Before he died. And then John and I talked about it that afternoon of his eulogy. If we had just talked together! At that moment in time! But, my God! By that time, I was sitting in the room literally going like this--I can remember later kinda goin' like this as if "talk to me" (S says this in a loud whisper). They wouldn't 'cause they knew--they were the (slap!) righteous ones. They were the (slap!) proper ones. They were the ones who were defending the public! That was their mistake. It was an arrogance of power situation that was unbelievable. It happens to all of us. It happens to all of us. They were so convinced that they were gettin' screwed by a bunch of guys who they didn't trust that by God they didn't have to talk to anybody. They knew that Meyer Feldman was screwin' them and that Jerry Sonosky was screwin' them and that Wilbur Cohen and HEW and everybody else. Haven't they been gettin' screwed all these years? (M: heh-heh-heh-heh-heh) Huh? (M: Yeah.) Where I was in there tryin' to do exactly what they were trying to do. And that was the tragedy of it. By then it was too late. By then it was too late. He goes off on the floor of the Senate; attacks me by name; and it doesn't show up in the Congressional Record now because it was edited out (M: oh). Sure. Yeah. Ribbon clerk and--by name (M: yeah)--ribbon clerk 'n junior grade--y'know--all that crap--

M: So he--on the floor he attacked you by name?

S: But he took it out later. He was very mad. Kefauver had a--Kefauver had a temper. He was very mad. Yeah. That's all right. Like Johnny Carroll said the next day--'If you can't attack your friends, who can you attack?' (M: long chuckle--Yeah.) Umh--umh--it was kind of a traumatic experience for a 32-year-old kid.

M: I'm sure it was.

S: But--uh--uh--

M: I didn't know he attacked you by name.

S: Oh, yes.

M: I knew you could edit stuff out of the Congressional Record--but--

S: That's all right. That was fun. That was almost fun. Umm--why, why, you know, you've got such good questions we can--you know--what went--then what went on, you know--Boom! The shit hit the fan! Right? (M: chuckle)
Uh--uh--(reading M's question)--'What went on in HEW and administration between "secret meeting" and Ribicoff's appearances before House Subcommittee in which he denounced the bill?' He did more than denounce the bill--that was great--we've gotta get back to that. What went on was very simple. Using S1552 as the vehicle has failed. (M: Um-huh.) We now revert back to where we should have been maybe right from the beginning. And let's ride 11581.

M: HEW/FDA bill.

S: Umh. We tried. We tried and we failed.

M: Why?

S: We tried an experiment in legislation. We tried to do something different. It failed. It failed. It failed because of the intrangi--intrangi-- --what?

M: Intransigence.

S: --of all the parties. Nobody was willing to give. Kefauver wasn't willing to give anything; the drug industry wasn't willing to give anything; and, deep down, I wasn't willing to give anything, either.

M: Had--had Kefauver's explosion sort of scared you off from the Eastland-Dirksen

so-called amendments--that came out of the "secret" meeting?

S: Listen, we were never on 'em. We were never on 'em. There wasn't a question of being--his scarin' us off. We never really were on 'em. I said we could live with 'em. We sai--yeah--I was the "high official." I was the one that Morton Mintz was quoting in the Washington Post--that was me-- I was the lightning rod. (M: Unh-huh.) We accepted--I was the one--so I took the shit--from a few. But not from many. But--never in my mind was that our bill! That--that was a bill to go out on the floor with.

M: Yeah. Yeah. My problem is that--and I see now that I'm off base--is that it appeared that HEW accepted that bill (S; accepted that bill)and then you reversed yourself. (S: That's right, that's right.) Ummh.

S: Yeah. That's OK. That some--as Abe Ribicoff said--some clerk, some technician (M: chuckle). C'mon. (M: with chuckle Some ribbon clerk!) No. You know. He said--that--that was some technician--he couldn't speak for the Department.

M: But of course--of course--that's unfair--

S: He was right--a--I--huh?

M: That's unfair to put it off on you, because they're the ones that told you--

S: So what.

M: They're the ones that told you to go ahead and do--

S: So what--unfair--you know! What's unfair. That, that's not so unfair. If I could have--if I could have written a good bill (M: eah) with the drug industry, it would have been--the--we would have been--then it would have

been fair. (M: All right.) Eahhh--come on. That's your job. (M: Right.) That's your job. And you have to get out of it as best you can so Ribicoff said 'What high official in the Department said we were for the bill? As I understand it some technician in the legislative office said that.' That was me! (M: chuckle) Me! That was me. And Abe came back from that meeting and he said 'Guess what I said about you today!'

M: Oh, did he really say that?

S: Oh, come on! Why, of course. Why, of course. (M: chuckle) You know, the answer to a lot of it was--came on Thanksgiving Day of 1962 when the then Senator-elect from Connecticut called that technician and asked him to go up on the Hill with him and be his legislative assistant.

M: That was you.

S: Yes.

M: And you were his legislative assistant for a while?

S: Yes. And I ran his Subcommittee that did the auto safety thing (M: oh, that's right) and the pesticide thing and the urban crisis thing (M: yeah, that's right). Yeah. Same guy.

M: Yeah. That's interesting. Yeah.

S: You know. Abe understood what was going on. Wilbur's being perfectly candid with you when he says he--when Kefauver hit him, Wilbur di--Wilbur had no idea-- I hadn't been able to get to a phone to tell him--what was coming. That's my point. Kefauver roared out like a bull. You know. And got a choice of phones a Senator gets first. (M: heh-heh-heh-heh-heh) Sure. Kefauver had Wilbur on the phone before I could get to Wilbur. Kefauver had the White House

on the phone before we could get to the White House.

M: Right. So Kefauver thought he was being double-crossed.

S: Of course. And he's screaming and yelling at HEW and at the White House about things that these guys didn't know anything about! (M: All right.) Because I had not reported to them that there was in fact a bill. All written up that Eastland--that Dirksen was proposing and that Eastland was saying HEW supports it! (voice rises and has an edge of laughter!) (M: chuckle)--on the basis of things I said! (M: All right.) How'd you like to be in them shoes! (M: Whewww--I can imagine! Heh-heh. Being about the age you were then.) (Sonosky sighs) (M: Oh boy!) How'd you like to have--how'd ya like to get a phone call--all this is goin' on and--it's your old friend Jack Anderson. And I mean old friend. (M: Ah, boy.) Okay? Jack Anderson says, 'Who was at that meeting?'

M: What--what did you tell him?

S: I told him, 'Why don't you ask Jimmy?' --'Now, Jerry, you know I can't do that--he won't tell.'

M: Heh-heh-heh. And you said 'I won't tell either?'

S: I said, 'Well, I'll tell you something. There's an old rule in Northern Minnesota politics--and society. If you wanta know who was at a party, ask the host.' (M: Heh-heh.) That's when I used that--that--

M: That's a good quote--

S: That's when I used that line--wanta know who's at a party, ask the host. I'm not--and then I got hit with 'Your--my--my career at stake.' You know, there's a lot of things that go on in this town. And I--and I just said,

'Look, I know that I--what I did was the best I could do. And I know that what I was doin' was in the best interests of everybody and someday you'll all find out. I don't know how, but someday you'll all find out. And I said, 'And all you have to go on, Jack, is if you can really believe, knowing me for as long as you've known me, and knowing what I've done, with Blatnik, and in my career as just a young guy in this town--if you can honestly believe that at this stage of my life, I have sold out to the drug industry, then write it.'

M: Ummh. Obviously, there was a very close relationship between Jack Anderson and Kefauver.

S: And Kefauver. (M: Yeah.) Very close. Yeah. Very close. Very close relationship between Drew Pearson (M: Drew Pearson. Right.) and Kefauver. Very close relationship between Drew Pearson and John Blatnik (M: ah-hah). And my last lines to those people was 'And I can only advise you to do one thing. You call John Blatnik and you tell John what this is and you ask John the key question--"You know Jerry better than anyone else in this town. Would he purposely go out with instructions or not with instructions and sell out the public?"'

M: Right.

S: All I know is that--that Jack Anderson called and what followed was that the Young David took on the Goliath and came out of it pretty good (M: uh-huh). Uh-huh. You know, I just re-read it the other day and that's the way it was. And that's the way it was. So--um--you know, between the "secret" meeting and Ribicoff's appearance it was just 'Okay. All bets are off.' Huh? All bets are off. Everything is thrown into a--into a kilter--and we go with the Harris bill. All righty. (M: Right.) And I'm still really upset. You know, this thing--you know--a grand legislative scheme really blew apart. And it was

a great--it--it--it coulda worked. And one day in July, one Sunday in July, I go down and I get the Sunday Post and I see--a story. Heh. And I came into work the next morning and I walked into this--you know--I didn't have to walk in. He was there waitin' for me. The Secretary wanted to see me and I walked in and Abe and I looked at each other and--I know this sounds a little, y'know, this gets a little--but when you're doin' right, Dick, huh!, things'l happen to make sure that the right happens. Huh!

M: Wha--what story was it that you saw?

S: Thalidomide.

M: Right. That's what I thought.

S: Thalidomide. Now, to the weak-hearted, thalidomide would mean--thalidomide would mean, y'know, disaster for us. We were the ones that were for that weak bill!

M: Right.

S: Nooo. I took that thalidomide and I turned it just like this and said, "This (slaps table) is what we've been talkin' about! (M: All right.) Drug safety! Not drug prices! (M: All right.) This (slaps table) is what we've been talkin' about--the inadequacy of our laws to protect us from things like this--not patents. Not patents. Because under the Kefauver patent bill, thalidomide would be on the market! Boom! And these are the things we've been worrying about--and that's what we've been concentrating on. Now, ladies and gentlemen, can we finally put our house in order and start dealing with drug legislation the way it should be?" That's what thalidomide did. Huh! (M: Right.) And I'll never know--because John Blair will never admit it to me--but I've always wondered if thalidomide didn't force John to back up a

bit--because he could hear Sonosky screaming 'Do you still want to talk about drug efficacy--or you wanta talk about safety? Do you want to talk about the HEW bill or do you wanta talk about patents?' There was no question of what people wanted to talk about after Thalidomide. (M: Right.) And now we were back in our--what's the word?--milieu. (M: Right.) Now we were back where we knew what we were doin' and we had the bill to do something about it.

M: Right. Well, why--then why these amendments?

S: Which amendments now?

M: These are amendments that--that evidently the--the President--the White House--or somebody ordered.

S: All right. (reads from M's question sheet) 'Soon thereafter White House orders revision in Senate bill. Why did administration reverse itself? Had it originally supported Eastland-Dirksen?' Huh?

M: You alrea--I was going to say you had already answered that.

S: Yeah. Yeah. You know. At no time di--were--was the so-called Eastland Dirksen amendments ever supported. The administration did not reverse itself. Read Kennedy very carefully. That was a great one. That was a great one. Kennedy says--ah--ah--did I tell you this story? We go to the White House. The President is gonna have a press conference and the subject is gonna be thalidomide and (laughs)--and I'm told 'Keep your mouth shut' because what I wanted the President to do is start the press conference off by saying 'Open your medicine cabinets and look therein and take out any unmarked drugs.' Everybody said 'No.' The Surgeon General said 'no.' Larrick said 'no.' Everybody said no. And so we're with the President--we're with Jack Kennedy. We've

got the amendments in front of us. Because, remember this, I then work all night, see. We then work all night. What did I do? Very simple--I took the Senate bill--remember, the Senate Judiciary Committee has now reported out a bill. (M: Right.) Okay! (M: Right.) I take the Senate Judiciary bill, with Ellenbogen, and we work all night amending that bill to conform to the Harris bill! And, Dick, Harris still doesn't understand that.

M: But didn't you take some of the provisions from Kefauver's bill?

S: Of course!

M: Right.

S: Of course. And you can say to Winton Rankin 'Listen, man, it's one o'clock in the morning...' and I come to the part--I come to the advertising section and we--now we're advertising. Okay. Rankin says--'Well, we don't have any advertising so you gotta take that out.' I said, 'I propose we take the advertising section of the Kefauver bill and put it into our bill.' 'Oh, you can't do that!' 'Why can't we do that?' 'Because the Federal Trade Commission and FDA have been fighting over the subject since 1940 (M: right). Over who's got jurisdiction. Huh? (M: Right.) And we can't solve that. (M: Right.) We need an order from the Bureau of the Budget--the Bureau of the Budget's gotta solve that.' And I just looked at him and I said, 'I tell you what, Winton. You got--well, you got two choices--(1) it's one o'clock in the morning--pick up the phone and call Estes Kefauver or John Blair and tell him--tell them--that you are not accepting the advertising section of 1552--which the Senate Judiciary Committee has approved!' (M: Right.) --Because we have a minor little difficulty with the Bureau of the Budget (M: heh-heh-heh) --'You call them up and you tell them that,' I said, 'and if you don't do that in the next two minutes, it's in the bill. Now which way do we go? (M: laughter)

And Ellenbogen--and then we had like a vote--see, that's how we wrote the bill. We'd say 'What do we do? What's the best collective judgment?'

M: So it was the three of you--Ellenbogen, Rankin and yourself--

S: Rankin and Sonosky. Yeah. I'm pretty sure there was only the three of us.

M: Right.

S: Of course, I picked up all the good--listen, I picked up all the good from the original Kefauver bill--all the good from the (chuckle) bill that was reported out of the Senate Finance Committee--plus the--the--the Harris bill--and put it all together--that night--and had it delivered to the White House at one o'clock in the morning--see the one o'clock in the morning I'm talking about is the previous night. (M: Right.) In other words, we worked all night, starting around four--we worked all night--(sigh)--and then into the next day. And it was like one o'clock in the morning when they were finally delivered. (M: Right.) But that was after a meeting with the President and--and--that's when I got my little two cents in and--and-- I thought these senior guys would die when I said something like 'of course, what I would do is tell everybody to look in their medicine cabinet!' The President just looks at me--I'll never forget it.

M: He did say that at one point.

S: It's how he started the dawn press conference! (M: heh-heh-heh-heh-heh) Huh! And we doubled over laughing! You know, 'cause all the senior guys advising the President--and he's listening. You know--oh, Kennedy could listen--'unh, thank you very much.' You know, 'Unh, thank you very much.' And I'm standing there and I'm helping with the drafting of a letter and there's one great little interlude--the letter said--this is the cover letter to

Eastland with the amendments. (M: Uh-huh.) Okay? The amendments hadn't been drafted yet. But we gotta do the cover letter. (M: chuckle) The cover letter says 'These amendments will assure the safety of the drugs for the American people.' Huh! Kennedy says 'I don't like that. No legislation can assure that drugs will be safe. How can we fix it?' Well, everybody stands around with their mouths open and I--and then I--it was such a great thrill for me--I leaned over his shoulder and I said 'Put the word "help" in front of the word assure.' (M: Uh-huh.) So, you know, so now you see how it read. And he looked up and he said 'Good, good, that's good.' So later on in the conversation when we get to this 'what should he say' and I flip out with this 'Boy, I'd tell them to look in the medicine cabinet,' (M: laugh) he heard that. Here he's got the Surgeon General saying not to; the Commissioner of Food and Drug saying not to; Wilbur sort of--well--he's not going to contradict the Surg and the Commish--you know--mnnnnh--you know. Jack Kennedy walks out and it was one of the great thrills of my life--I just let out a yell right there in the White House! (M: laughs) I just let out this yell--'He did it!' (M: laughs) And he knew what's right--he knew what's wrong--he knew that--don't panic--don't panic--this is nothing--don't--you know--don't let this stuff throw you. We'll get--we'll win this. He saw immediately--as some of the rest of us did that thalidomide was gonna carry us through. Umh. Ah. Okay on that? (M: Right.) And that's how it happened. And then we left the White House and went back to the office. It's four o'clock in the afternoon--five o'clock in the afternoon and Ellenbogen, Sonosky and Rankin start drafting. And that process went on all through the night, all through the next day, with the material delivered to the White House that night at one o'clock with Mike Manatos's calling me at home--which is a Saturday--saying we need a press release. I dictated a press release to Manatos's girl and out they went--'White House Amends Bill.' What were we

doin'? We were riding out our vehicle through the Senate. (M: Right.) But this time the vehicle was the Harris bill--but we didn't call it the Harris bill.

M: (chuckle) It was a much--amended S1552, I--

S: It was the Harris bill!

M: Yeah. Right.

S: Okay. With improvements. Now, (reading M's questions) 'Describe meeting where President's amendments were presented to Judiciary Committee.'

M: I--I don't know that that's important. What I'm trying--

S: Yeah. Harris covers that pretty well.

M: Yeah. What I'm getting to, is he talked about a so-called second "secret" meeting.

S: Yeah. Yeah. Second "secret" meeting. My recollection of that one--my recollection of that one is hazy, Dick. But it was very similar to the first one in that--as I recall now--and, honest-to-God, I could be wrong--but it was the same situation. Eastland and the minority guys wanted to sit down with us. They still had some amendments!

M: The drug--yeah--the drug industry.

S: They still had amendments! It was after thalidomide. (M: Yeah.) And it was the same situation--'Can you sit down and go over 'em.' And I had the same attitude--'Yes, I can sit down with the minority staff members. I can sit down with lawyers for the drug industry. Yeah. I can sit down at the request of the Chief of Staff of the Senate Judiciary Committee, Tom Collins,

to review some materials that the drug industry has. Yes, I can do that without selling my soul.' (M: Right.) I've always suggested to those other people, 'If you can't, I'd suggest you've got a problem.' (M: chuckle) If they can't sit down with their opponents in a legislative battle without corrupting themselves, then there's something wrong with them. I never had any fears of sitting down with the other side in a legislative battle--and that was it. And in John walked! And I laughed--

Break in recording

S: Here we go again. (M: chuckle) John looked--and--and John knew-- See, I think if it were up to Blair, there wouldn't have been the explosion after the first meeting. Blair would have handled it differently.

M: So you think it was Kefauver who--

S: Yeah, it was Kefauver who blew--Blair, before he would have run out on the floor, before he would have called the White House and everything--Blair would --would have--'Let's find out what's going on first.' Okay? Ah--here, at the second situation, Blair was in control and it was a 'Hi! Come on in and sit down.' Y'know. It was that simple. Now we're still dealing with guys we don't trust including Bud Fensterwald--or maybe especially Bud Fensterwald--that it was like--I think someone suggested to me once that we were about to do it again and I just looked at him and said, 'You know, if it weren't so paranoid and it weren't so lunatic, I'd almost get mad, but I never get mad at lunacy. How in the name of God could anybody think that as a representative of the Kennedy administration, I would be sitting down with the minority--with the drug industry lawyers to gut the President's bill that I stayed up all night writing! (M: Right.) You know, that--that--that's paranoia run rampant! Either that or you gotta think that I'm some kind of a nut--and that

I resent! (M: chuckle) You know. I don't--I'm not the kind of guy who stays up all night with three little babies at home, writing a bill, and then meeting with guys again in the open. Y'know? (M: Right.) Y'know. I repeat. If I wanted to have a secret meeting with these guys, I wouldn't do it in the Senate Judiciary Committee Room. All right. Nick Katzenbach--Nick Katzenbach was making certain that, y'know, we weren't doin' anything that was screwin' up the Judiciary Committee. Huh! And sort of redoing our work and lookin' over, y'know, as a older brother. Making sure that we weren't screwballing --y'know--yeh--and, and keeping in mind that they had a lot of other business with the Senate Judiciary Committee besides this bill.

M: Cohen suggested that perhaps there was some kind of an agreement between Eastland and Katzenbach on other issues that perhaps unlocked part of the debate. Are you aware of any--?

S: I wouldn't be aware of that. I don't agree with Wilbur to the--to the extent that I don't think there was any unlocking that was needed. That bill was going.

M: He didn't really fill me in--

S: That bill was going. I think what he meant was that Katzenbach wanted to make sure that we weren't gonna--that we weren't gonna ram things down Jimmy Eastland's throat--to so offend Jimmy Eastland, Everett Dirksen and other people that you screw up a whole bunch of other things that you had going in the Senate Judiciary Committee. It was like more how we were doing it.

(M: Right.) But I don't think it was an agreement that this would go--because we got the bill through that we wanted. (M: Right.) Now, if they had any side discussions on patents and prices and all that--that I don't know about.

(M: You weren't aware of it.) Yeah. Because Harris sort of covers what

really happened with regard to drug safety and efficacy--that quote of mine, 'No, gentlemen, we are not through.'

M: Right. That's a--that's--yeah. That comes around about this time.

S: Sure. That comes exactly at that point because--look--it didn't take any dummy to go through the President's amendments and find those specifically related to a thalidomide-type situation. (M: Right.) Pick those out and say we support them. Now. That's it. The rest of it dropped. No-no-no.

M: So that was true. What they were trying to do was just pick those amendments out--

S: I think that's what the drug industry would have gone with--(M: yeah). Sure. I think that's what they would have gone with. And I just said 'No. That isn't what he was talkin' about. The President said that--sent these amendments up.' Well, that's what we got--

M: Yeah.

S: Yeah. That's why, y'know, there was no deal of that kind--there was no further unlocking. Thalidomide unlocked it.

M: Was it about this same time that the question of proof of efficacy was worked out?

S: Yeah.

M: And Blair came up with that--a--

S: Yeah. Oh--probably at the second "secret" meeting is when Blair came up with it. Yeah.

M: Yeah.

S: Yeah. (reading M's question) 'What significant issues were hammered out?'
 --Remember I started to say to you--at this point, Dick, I reverted back to my real role of sort of policy--political--huh!--floater. Whenever--mmm--my experience--this'd been my technique I suppose in legislation wherever I'd been-- Once it's really resolved, I leave the wordsmithing to the Ted Ellenbogen, John Blair, Win Rankin--(M: right)--Lloyd Cutler. (M: Right.) Yeah. Wordsmithing really never interested me. (M: All Right.) As long--once that policy is established and once that thing is moving--huh!

M: And that's--you--you step out of it.

S: I can--I can say 'Okay.' I--I'm not suggesting I stepped out. I stayed in, but my memory is not that--at that point it was--in effect I was doing to Cutler what he did to me before thalidomide. In effect, what I was doing was I had the language, I got burned once, trying to make language changes--okay. Post-thalidomide I got the language, I got the votes. (M: Right.) Pre-thalidomide they had the language and they had the votes. They were nicer than I was. Lloyd Cutler was a darned sight nicer than I was when he had the power. He made some changes. He bought some things. I didn't. (M: Umh.) After thalidomide I was Hell on wheels.

M: Umh. So you could stick with the President's amendments.

S: Huh? Why, I was stickin' them. (M: Umh.) And there are some of them who haven't forgiven me to this day. Umh. So--significant issues--I'm sure that Ellenbogen and Blair and others would remember some--like 'what is efficacy' and all the techni--I--I--at that point I almost lost interest. Because it was goin'. (M: Umh.) Because if they didn't work out something--huh!--look--if they didn't work out somethin', I had the language--'wanna vote?'--'Who wants to vote for thalidomide?' (M: heh-heh-heh-heh) Mean bastards. Okay.

Why did the administration still oppose Kefauver's patent amendments?

--you know--nothin'--yeah--that all went back--you know, I don't know why they opposed it in the first place so (chuckle)--you know--(M: chuckle) --thalidomide didn't change that. (M: All right.) Okay?

M: Harris makes a big point that if the Kennedy administration had just supported it, it would have--this would have passed.

S: That's Blair's--that's Blair's line (M: right). That's straight John Blair. Because he got 22 votes on the floor. (M: Right.) Without support. Think how many votes I would have gotten with support.

M: Right. And of course Cohen's position is 'They didn't have the votes so we couldn't support them.'

S: My view always was they never had the votes anyway. (M: Right.) Okay. But, you know--and Cohen saying 'Well, it's--so we didn't support 'em--I don't know--I just don't think they were ready in 1962 to support that concept and now it's 1974 and they're still not there (M: chuckle). So, you know, I don't need--you know. (reading M's question) 'Why didn't White House push for action in Harris Committee?' We did. They did. (M: chuckle) I don't get that question.

M: Why, Harris suggests that there was a lag.

S: He was full of shit.

M: Yeah. There was a lag.

S: There was a lag--Oren Harris didn't have the time to--Oren Harris hadn't set up a meeting! Y'know. To him the whole world was the drug bill (M: right). Mmmmmmmmm. Not to Oren Harris--he had other things! (M: right) So Oren Harris

gave us a hearing just as quick as (M: as quick as you could--) and fast enough for us. You know! 'Cause, y'know, we knew somethin'--you know what we knew? The world ain't gonna come to an end. This bill isn't gonna make (M: all right) a fresh new world! Huh? (M: laughs) And the world--and people aren't gonna drop dead on the street--huh? 'Cause one thing I kept reminding everybody--I said, 'Remember, y'know, under the old lousy law we've got, y'know, that's so terrible, one country thalidomide didn't make it out onto the market.' (M: Right--it was here.) Yep. Okay.

M: I think 22 is pretty self-evident--well--Did the administration--well--

S: Well--No. You see, at that point--no, at that point, Dick, you've got--no-no-no--that--no that isn't--that's wrong. At that point, the much-amended S1552, as I recall--we went into the House saying, 'Pass the Senate bill.' Yeah. So that statement there would be wrong.

M: Y--well, I think Harris raises a question--. Well, why didn't--why didn't you just take S1552 and then present it in the House instead of going--going--

S: 'Cause Oren Harris had his bill, baby--

M: Uh. So it was Oren Harris's decision to stick with his bill?

S: Oren Harris had a bill. And Oren Harris was saying, 'You aren't puttin' me in a position--' (M: Right.)--'of having had the bill that opposes the Kefauver bill all these months, (M: uh-huh) and then just say 'Oh, now we take the Kefauver bill.'--uh-uh--we're gonna take the Harris bill. And we're gonna massage that Harris bill!' No, the House Interstate and Foreign Commerce Committee under Oren Harris was a tough bunch of babies. They don't take--(M: I'm sure he was a little bit upset with Kefauver sort of horning

in on his jurisdiction) Nnnn--Nyah. You know, (M: he wasn't?) That was the other side. The guy who was upset was Lister Hill. (M: Yeah--chuckle) He--and-- [unintelligible] (M: chuckle). No, Harris wasn't upset at that. No. But Harris was not about to just accept the Senate Bill. Uh-uh. Not after what he had been put through. Don't you see, his bill had been described as the weak bill! (M: Right.) Well, he was going to prove that it wasn't. Sure. And I don't blame him. (M: Right.) And--and we weren't in that much of a rush. We weren't in that much of a rush--I know what the hell we were pushin' for--we had the authority to control thalidomide--that wasn't--y'know--shit! Things started breakin' down--things started breaking down a little bit and the Sherry Finkbein story broke! (M: heh-heh-heh-heh, yeah) y'know. There was a little interest laggin' goin' on--ummm.

M: And that story breaks--

S: Huh! And the Sherry Finkbein story breaks. (M: Yeah.) Let me tell you this--y'know--you can listen to this later and laugh, I think. I pick up the paper on a Monday morning and see a picture--y'know--the Sherry Finkbein story--there's a picture of Sherry Finkbein. Okay? I say to my wife, 'I know her.' Elaine says 'You're nuts!' Okay? I'm nuts. Everybody says I'm nuts. But I'm tellin' ya, I know Sherry Finkbein. (M: laughs) Drive in to work, thinking all the time, 'Where have I seen that face before?' Get to the office--the whole staff is now around 'cause we all want to talk about Sherry Finkbein now, right? And everybody's talkin' about it and I say from my desk--my room was the meeting room--and I say from my desk, 'I know her.' Same reaction. Everybody--Costun, Zumas--the whole crowd--'He's flipped!' I remember, I think it was Costun that--'He's flipped! It's happened, he's flipped! He's been livin' the drug bill for so long that now he even knows Sherry Finkbein!' I said, 'I not only know Sherry Finkbein, I used to date

her!' (M: chuckle) And her name isn't Sherry Finkbein--what was, what was her name? (M: I can't remember what her maiden name was,) Her name was _____ and I went like that. And I yelled to my secretary Pat, 'Get my niece Judy in Phoenix, Arizona!' Pat makes the phone call. 'Hello, Judy? This is your uncle--your famous uncle in Washington. How are ya?' 'Fine. How are you?' I said, 'Judy,--' and before I could ask the question, she yells into the phone 'Yes. You're right. Sherry Finkbein is _____.' and I can't remember the name now, but she was from Duluth, Minnesota (M: laughs) --her name was _____ ohhhh, darn it! I can't remember. I used to date her when I was in high school. (M: laughs) Huh!

M: What a coincidence!

S: And that was Sherry Finkbein!

M: What a coincidence.

S: And that's when the line came out that Sonosky will do anything to get a bill passed.

M: (laughs hard) That's funny!

S: That is funny. Okay. So (reading again from M's questions) 'Why didn't White House push for action in Harris committee?' We did. That's my answer to that. (reading again) 'Did we still prefer--' You know, I've answered that.

M: All right.

S: (reading again) 'Do you want to add anything to Harris's account on the battle of the Younger amendment?' No. I think you've got that pretty well where he--where he--uh--explains my relationship with Blatnik (M: right, right)

and the whole theory and concept (M: right) and everything else. (M: Right.) Umh. And how that worked. (reading again) 'Other comments on attempts to water down bill in the House.' Again, Dick, my feeling was I--I wasn't concerned--I, I told you that story on the phone about the--um--um--the factory, the factory inspection amendment. (M: Um-huh.) I mean--I think that sort of capsulates it. Here--here--I'm sitting there as the HEW honcho on a bill and I see the House of Representatives actually gut it! And I don't--I don't even say a word! Because I had total confidence that the bill that we wanted was gonna pass.

M: How did you--how did that?

S: Because of thalidomide.

M: No--I mean--how--how was that particular problem resolved? I've forgotten--

S: In conference! (M: In conference.) Sure. Because of an old legislative rule--if one house makes an error, (M: right) then the house in error recedes to the house not in error. (M: Uh-huh.) And I wanted to walk in to conference with a bad, erroneous--I didn't want to but the way it worked out it was beautiful. We walk into conference with an error in the House bill with regard to factory inspection. Now the way it works is the first thing you cover in conference are technical matters and so the Senate Conferee says--and he's of course primed for this--says--um--'There is an error in the House version regarding Section so-and-so. The Senate insists on its amendment.' To which the House says 'The House recedes.' (M: Right.) 'N that's factory inspection.

M: Right. But the Younger amendment was the major--

S: The Younger amendment was advertised--that was it.

M: It was a major--snafu--

S: I'm just talking about your number 24.

M: Right. Right.

S: Well--what do you mean--major snafu?

M: Well, I mean it was the only--

S: The big effort to weaken the bill--

M: Right. Right.

S: Yeah. Yeah. That was the big effort to weaken the bill. (M: Right.) And we--a--and what? I'd almost, you know, I'd almost have to refer to Harris to what happened. We got Blatnik to lead the fight against it and Younger was defeated.

M: Right.

S: Right. Which is kind of a nice closer to the whole thing because--because advertising was never a part of the original Harris bill and wasn't it kind of significant that in the end we ended up with a major battle over something that wasn't in the original Harris bill--that was a Kefauver baby. Huh?

M: Right.

S: Uh--It sort of took our clout to beat Younger. It was our technique. It was our contact with Blatnik.

M: By this stage in the game were you on a pretty good relationship with Blair? I believe you indicated that to me over the phone.

S: I indicated to you I sat in the gallery watching the House debate with him. Sure

M: So things have been somewhat patched up--if they'd ever been--

S: I think they were. As I indicated to you John Blair wouldn't have handled it--that it would not--wouldn't have happened that way if John Blair had handled it. (M: Right.) John Blair would not have blown to the ceiling. John Blair would have had that meeting I'm talking about. (M: Right.) Before the call to the White House people. Before the call to Cohen. Before the speech on the floor. (M: Right.) John Blair would have had a meeting. And he would have called me in and I said to Kefauver 'You should have grabbed me by the back of my pants and thrown me into a room and said "Goddam it--what're you doing!"' (M: chuckle) Then I would have been able to explain--'I'm not doing nothing!' (M: chuckle) 'I could have told you the whole story! What "secret" meeting? There was no "secret" meeting. I went to a meeting.' And I'd a told him the whole story just like I'm telling you. (M: Right.) Sure. And John understood that. John realized that. Yeah, we sat together during the House debate. And I told you the story of the up and down.

M: Yes. Tell me briefly again.

S: The non-prescription people were peddling an amendment that said--to the factory inspection provision--that said 'This is what you can look at.' Okay? (M: Yeah.) The way we draft legislation, you give a general blanket authority to look at everything except and then you list the excepts (M: uh-huh), okay? The other theory of drafting is to--instead of giving blanket authority with exceptions--give only the specific authority. Okay? (M: Right.) Now, the bill as reported--has blanket authority except (M: all right). The non-prescription people promise that they will not peddle their amendment--so I'm totally relaxed on that. Sitting up there in the gallery with Blair, next thing I knew here's Springer of Illinois standing up offering an amendment and he's offering the non-prescription drug industry's amendment on factory inspection.

Well, I looked over to Jim Cope and I went like this (gesture) like 'I'm gonna kill ya.' --Y'know. (M; chuckle) Cope comes running up--mmmm--and he says 'Jerry--Honest to God--we didn't do it! Honest to God!' he says, 'the man obviously has a copy of our amendment, but--Honest to God--we didn't--we didn't--we told him not to do this!' The only thing I can figure out is Springer--is Springer looked at it, said 'I don't care. This makes sense.' and up he got. Okay? Blair always had the feeling that that wasn't a bad way of drafting factory inspection legislation. He liked to see the things you can look as as opposed to the blanket stuff. 'cause John never trusted the administrative agency of doing the right thing anyhow. (M: Uhhuh, uhhuh.) John Dingle, who at that point is managing the bill, for the good guys, looks up in the gallery to us--we're sittin' there together--with the Springer amendment rolling. And he goes--like that--(M: thumbs up, thumbs down) Blair goes (M: thumbs up?) Thumbs up! You know--thumbs up; thumbs down, says Dingle. Blair goes thumbs up! I go--you know--(M: thumbs down) thumbs down! --Vociferous!--you know (M: laughs). I'm doin' a real (M: laughs) John Dingle --and here we get back to what I said to you real early in the game--if John Dingle has a choice between John Blair's judgment as to what's good for the American people and Jerry Sonosky's judgment as to what's good for the American people--Blair--works for Kefauver doesn't he? (M: Yeah.) Huh? (M: Yeah.) John Dingle turns around and says to the assembled throng in the House, 'Well, we on this side can accept that amendment.' (M: laughs) All the drug industry guys look up to me as if--and, y'know, they're laughin' now. (M: Yeah.) They know Sonosky's been screwed! (M: laughs) I just sit there. Don't say a thing and they're lookin' at me now--the drug industry guys--I'll never forget it--they're all down there. And they're lookin' at me--'What's he gonna do?' Everybody's expecting me to run out the door, you know, tear out my hair. I just sit there. I quietly turn to Blair and I say 'You know what he's just done?'

'What?' 'He's just repealed FDA's factory inspection authority--because all the things in Springer's list which he means you can look at follows the word "except." (M: laughs) So I said, 'The bill on the floor right now says FDA has factory inspection authority to look inside a factory's blah-blah-blah-blah-blah except (M: except--)--all the things you wanna look at.' Well, Blair said 'Whatta ya gonna do? What should we do?' I say--and I put my hand on his arm--and I said 'Let's do nothin!' We got 'em in conference.'

M: Right. You knew you could resolve it there.

S: Went downstairs when the bill was all over. Got Sam Spall, the staff guy assigned, and I said 'Sam, you know what you did with that amendment?' He said, 'No. What?' I told him. He said 'Oh, my God! (M: chuckle) What should we do?' I said 'Do nothin'.' He said 'Okay.' Press is standing around. Press guy sees me. He says 'Well, Jerry, whadda ya think?' and 'You gotta statement for HEW this time that they'll back up?' (laughs) (M: laughs) And I said 'Yes,' I said 'this was a fine day for all of us--uh--American people and now we can look forward to a much healthier future with the passage of this bill.' And--and the devil in me comes out, I s'pose, 'and I'm especially delighted that a strong factory inspection provision was adopted.' (M: Chuckle) And the guys are standing--the pros are standing around--doubled over laughing 'cause the--you know. I'd spotlighted it and then we took care of it. You know, that's a little aside that I always think are great. (M: Yeah.) Ah--'How a bill gets passed.' Conference again--it went into conference--the infighting continued--but I really, Dick, continued to sort of walk over it. I just sat and really let 'em go.

M: You--you weren't in the conference, were you?

S: No. I'd stayed outside (M: uh-huh). I'd stayed outside. Kefauver was

still mad at me. (M: Uh-huh.) Oh yeah. Kefauver was still mad at me. They hadn't explained to him yet--Blair hadn't explained to him yet that Jerry's really all right. (M: chuckle) Yeah. So I stayed outside and I'd watch things and--ah--there were some good things on the floor--they were still screwin' around even when they were on the floor of the Senate they were futzing with some things. And I literally got mad. I mean, you know, see I'm floatin' around--and, you know, 'This is all ridiculous, fellows, it's all over. Thalidomide changed it all. Will you stop this fussing around!' You know.

M: Evidently Hruska even in conference was trying to win--

S: There was still crap goin' on and it was on the Senate floor. And I got mad. You know. By mad I mean--I had a great time on the Senate floor by the way because I was with Eastland. He brought me on the Senate floor--you'll see the debate will show--Eastland asks for a (laugh) unanimous consent that I come on the floor (M: mmm-hummmh) and I had that great experience which happens to very few people of a HEW--of a executive branch aide being on the floor of the United States Senate during the debate on the bill. (M: some men are lucky--yeah) Yeah. It was really thrilling. Yeah. And I'd walk around and I'd talk to them and I'd go upstairs and then I could see that there's a little commotion on a section--I don't know what the--I don't even remember what it was--I got mad. Went in the back to the phone. Called my office and I said to my secretary, 'They've got a press release ready to go that they're holding back on that--that reports how much thalidomide is out there. (M: Yeah.) And how much they found.' I said, 'Tell them I said let it go and bring me up 15 copies.' And she brought 'em up, got them to me on the floor. I walked out looking for the boys and I found the boys in the anteroom still talking about something--I don't know! --They were a bunch of

some guys who would still have an amendment to water down the bill. Come on! You can guess who they are. (M: Right.) And I just walked up to that group of men and I said, 'Here, I think you want to read this.' (M: heh-heh-heh-heh) And one of them said, 'Gentlemen, that's it.' And he walked away and that was the end of any amendment-weakening amendments to the bill.

M: Okay.

S: And that's where it was. A fascinating legislative experience--um-- that could have been avoided if Estes hadn't blown up on that day in June.

M: Yeah.

S: 10th day in June.

M: Right.

S: Yeah.

M: Shall we stop with that?

S: I really think so. Except I don't want to--except--no. Except that-- and if Estes hadn't blown up then--then the thing may--could have taken another tack and who knows where we would have ended up? Maybe it was good that he did. Maybe it was good that this break came--so that--so that we were left with a situation where a weak bill was finally reported out by Senate Judiciary. Never forget that. Most people forget that that bill was reported out. (M: That's right.) You know. A lot of people forget that. And maybe that was good that that happened. So that when thalidomide did hit, we had something to attack. And at that point we could attack that Senate reported bill to a fare-thee-well because we had already disowned it.

M: All right.

S: It wasn't ours anymore.

M: Right.

S: See, and if we had worked things out by that time then it would have been ours and then we would have been embarrassed. Thalidomide could have been very embarrassing. That just means that there's a legislative angel somewhere that watches over Sonosky and bills he works on and other people so long as you're right and doin' a good thing--you know--the right thing--no matter how it looks. This goes on all the time.

M: Yeah.

S: It usually goes on after--by those who didn't participate. Who come in and view the thing historically and say 'By God, if I'd been there, I would have done it differently. You know. And those of us who have done it, sort of sit back and laugh at them and say 'Well, you weren't there, Charlie. I was.' And you--as often as not, Dick, I sometimes wonder if they could have survived it.

M: Yeah.

S: Yeah.

M: Well, thank you for your time.

S: Well, that was fun. That was fun.

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