

History
of the
U.S. Food and Drug Administration

Interviewee: Arthur Kallet

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Arthur Kallet Interview

Index

Page #:	Subject:
1	Introductory remarks about interviewee Arthur Kallet
2	Founding of Consumers' Research
	Early employment (1917) American Standards Association
3	1906 Food & Drug Law provisions & limitations
	Tenure of FDA Commissioner Walter Campbell
5	Chamber of Horrors documentary on needed new legislation
7	Depression effects
	Consumer Research & FDA relationship
9	Consumer Research interest in new legislation
11	Rexford Tugwell's role in new legislation
12	Public apathy; media blackout
14	Sen. Royal Copeland sponsorship role
16	Other Congressional Members interest
17	Women's organization interests
19	American Medical Association (AMA) role & orientation
21	Franklin D. Roosevelt's interest
24	New Deal's impact on consumer protection
27	Consumer Research support for making FDA an independent Agency, apart from USDA
29	Lobbyists' influence on Congress in the 1930's
31	Federal Trade Commission (FTC) role in regulating advertising
32	One Hundred Million Guinea Pigs - publication that triggered interest in new legislation
34	Consumer Research split - organization of separate Consumer's Union
37	Differences between Schlink & Kallet
39	1938 Federal Food, Drug & Cosmetic Act commentary - strengths & weaknesses
41	James L. Goddard, as FDA Commissioner
42	FTC's advertising control, since 1938
43	Ongoing shortcomings in consumer protection re food & drug products

Arthur Kallet, an engineer, joined with his associate at Consumers' Research, F. J. Schlink, to publish, in 1933, 100,000,000 Guinea Pigs: Dangers in Everyday Foods, Drugs, and Cosmetics, which brought him immediate national prominence. In 1936 Kallet founded the Consumers Union of which he was director for many years. More recently he has been executive director of *The Medical Letter*.

Professor Charles O. Jackson of the Department of History at the University of Tennessee is author of Food and Drug Legislation in the New Deal, published in 1970.

INTERVIEW – ARTHUR KALLET, November 18, 1968

The following is an interview with Mr. Arthur Kallet at one time associated with the Consumers' Research and founder of Consumers Union. The interviewer is Charles O. Jackson. The interview was carried out in Mr. Kallet's New York City office, November 18, 1968.

CJ: I wonder if you would talk a little bit about the founding of Consumers' Research and the motives that were involved in the founding of Consumers' Research?

AK: I had nothing to do with the founding of Consumers' Research. I didn't meet Schlink until sometime after Consumers' Research was started, after he and Stuart Chase had published Your Money's Worth.

I went to work for the American Standards Association in 1927. Schlink was then assistant secretary of the organization and soon after we met, I became interested in what they were doing and shortly after that, became a member of the board of directors of Consumers' Research. I had nothing to do with its founding or with its organization.

CJ: Could you describe Schlink a little bit, what type of man was he?

AK: that's a difficult question to answer. He was a very able, hard-working man. He had an enormous capacity to work, go through reports and studies and publications. He did an extraordinary job, I think, in getting Consumers' Research started, developing patterns, and testing consumer products. He was really the father of the entire consumer-testing movement.

CJ: How would you evaluate the work of Consumers' Research with regard to consumer protection? Do you feel this was something important, that it made an impact?

AK: I'm sure it did, perhaps not so much through the individual subscribers, in general, but through its influence on other people who were in positions of influence, college professors, and people in government, and so on. I'm sure it had a great deal of influence. Its voice was heard. The voice was often quite loud, very emphatic, and I'm sure the influence was favorable.

CJ: Let me go back a little bit to Food and Drug legislation. As you think back, how would you evaluate the adequacy of the 1906 Food and Drug Law, let us say, by the 1920's?

AK: The 1906 law really has to be evaluated in terms of the fact that before that, there was nothing. There was no significant control except very, very limited control exercised by some states and cities over various hazards, but in general, there was nothing. The 1906 law was an enormous advance even though, as proved in the course of time, it had very serious holes in it. As I'm sure you know, it was fought by the industries as though it would put them out of business, the same way that the 1938 law was fought later, but it brought about some great advances. It barred adulteration and misbranding. Enforcement was difficult because of the terms of the law, but a start was made, at least. It barred certain harmful preservatives from foods. Before that, almost anything, as a matter of fact, let's say anything, could be used in a food. Formaldehyde, for example, was used as a preservative. The new law required the declaration of narcotics, alcohol and a few other hazardous drugs on labels. It permitted the seizure of mislabeled or adulterated products. On the other hand, it had very serious weaknesses. Hazardous products escaped control completely if no claims were made on the labels and the claims were limited to the advertising. There was no control over advertising, no control over cosmetics, devices were not controlled and drugs which were intended, not for diseases, but for condition like obesity were not controlled. There were no standards for food; only added poisons were covered. Penalties were low. There were no official tolerances for the necessary poisons like some insecticides, which meant that every time the Food and Drug Administration (FDA) brought a case against a product with contained what were

considered to be excessive amounts of insecticide, they had to prove before the court that it was hazardous.

CJ: Well, looking back on the twenties, and thirties for that matter, how would you evaluate the effectiveness and perhaps the competence of the Food and Drug Administration in these years?

AK: Well, I must confess that over the years my views have softened as I look back on the conditions under which the Food and Drug Administration and Commissioner Walter Campbell had to work. While I feel that they were seriously at fault in many ways, I think it was amazing that they accomplished as much as they did. They had a budget of about a million dollars, as I remember. They were under constant pressure, not only from manufacturers, publishers, and distributors, but from members of Congress. If they tried to take effective action, I'm sure that they were called to account by Congressmen in whose district there were manufacturers concerned with legislation. They didn't do an adequate job, but it would have been impossible to do an adequate job. They didn't have the money; they didn't have the forces; and I really think it's quite surprising how much they did do. So far as the Federal Trade Commission (FTC) is concerned, it was almost a total failure so far as consumer protection was concerned. Perhaps that's a little bit too strong. They did take action occasionally, and I'm sure that the net effect was to discourage certain kinds of misrepresentations and frauds, but out of the total that needed to be done, I would say that perhaps one per cent or less was done.

CJ: Do you think of the Food and Drug Administration as a stronger regulator agency than the FTC in these years?

AK: Yes.

CJ: In regard to FDA, how about Walter Campbell? What kind of an administrator was he?

AK: I don't know what kind of administrator he was. As I have said before, I think it was amazing that he did as much as he did with his budget and in view of the pressure he was under. On the other hand, there were many things he could have done that he didn't do. I think he was too lenient with many manufacturers. For example, permitting the reprocessing of foods that were found to be adulterated or contaminated. They were very slow in getting out notices of judgment which might have had some little effect. They were often years late. When the new Food and Drug Bill, the so-called Tugwell Bill was introduced, the FDA prepared what was called the "Chamber of Horrors" to show the need for stronger legislation. There was nothing to prevent their doing that, nothing in the law to prevent them for doing that in earlier years. They never really put up an adequate fight for better legislation. Campbell never put up an adequate fight for larger funds. They were always asking for a little bit more, always trying to do a little bit more, but never enough. Not as much was done by way of publicity as could have been done. In other words, both things were true. Campbell did more than most people in his position would have done, but a great deal less than needed to be done. I guess we expected him to be superman. He wasn't, nor was he even a Commissioner Goddard.

CJ: Well, the reason I asked that is, of course, as you may well remember, Harvey Wiley became very critical of the operation of FDA in the late twenties and apparently for reasons such as those you just elaborated upon. You mentioned asking for federal appropriations and perhaps stronger legislation . . .do you think there was a possibility of getting these things in the 1920s or was the socio-economic situation wrong?

AK: No. I don't think there was a possibility of affecting any great changes. The point you're making is a very important one. What could be done in the thirties, and again in the sixties, could not have been done, rather what could have been in later years, could not be done prior to 1938. The time wasn't right; there wasn't a demand for it. Consumers, generally, weren't aware of the frauds that were being practiced

on them and the hazards they were being subjected to; but that doesn't mean that there couldn't have been some improvements and there would have been if Campbell and others had spoken up more. I think that one of the greatest faults of the administration under Campbell was the concealment of the bad state of affairs.

CJ: Well, that reminds me of something and it's a small matter. I'm not sure that you would remember it, but, it was something I ran across in research. It tended to do with the importation of ergot in the late twenties in which there were many charges, particularly by a man, named Howard Armbruster, of laxity in FDA. I believe you and Schlink mentioned this in your book.

AK: Yes.

CJ: Do you think this was true, in looking back on it? Was there this kind of laxity in regard to ergot or in general in FDA?

AK: I think there was. I think there was a good deal of laxity in general, that the constant pressure to which FDA was subjected by the food and drug manufacturers was effective. I think that it was withstood up to a point, but only up to a point. That there was too great a tendency to trust some of the larger, more respected companies and I believe that the charges were substantially correct. There was negligence.

CJ: Going back to this matter of socio-economic situation, do you feel that the onset of the Depression, in the 1930s, intensified the abuses in the food, drug and cosmetic market. Did this have any effect?

AK: I don't know that it did, I don't know that it had any effect one way or the other. I would guess at this point that it probably did have some effect, probably did intensify some of the abuses. There was an even greater tendency than previously on the part of manufacturers to cut corners, and possibly the inability of many persons to pay for medical care led to increased self-medication, which, in turn, invited abuse. This is all surmise. I don't know what happened.

CJ: Oh, yes, I understand all this is guess work. I sometimes wonder, however, whether the Depression also perhaps increased the number of charlatans in that those unemployed, who had a little creativity in a few empty bottles, might well go into the business.

AK: That may well have been done though there was no lack of such people before the Depression.

CJ: Was there much contact between Consumers' Research and the Food and Drug Administration in the early 1930's, direct communication? I am wondering how you would evaluate the relations between FDA and Consumers' Research.

AK: There were always arm's length relations. They were relations mainly by letter-writing. There was a great deal of written communication. I never met Campbell. Whether Schlink had any direct contact with him, I don't know.

CJ: Well, were relations friendly or did the FDA seem leary of Consumers' Research?

AK: Relations were very cold and the FDA certainly was leary.

CJ: Why was this true?

AK: We were very critical of FDA. We were making demands on them. They were much more receptive, I think, to criticism and demands from the business world than they were from the consumer's world. That is not really understandable, but that's the way it was.

CJ: It seems to me that the FDA might well have sought to make a friend out of Consumers' Research, to convince this organization which is a voice of consumers that good things were going on in the FDA.

AK: Oh, I think there was some effort to do that. In the main, I think there was cold reaction to criticism.

CJ: Were there those in the FDA, individuals, with whom Consumers Research could feel some rapport?

AK: Not that I remember. I'm not sure there weren't, but I don't remember.

CJ: Well let me turn that around. Were there those individuals in FDA for whom Consumers' Research held disrespect?

AK: Aside from Campbell, the one name that I remember is a man named Cullen. I think he was rightly regarded as a great friend and protector of the drug industry and in no sense a protector of consumers. As I remember, he went to work for some other drug company subsequently.

CJ: I believe you're right. I was just thinking that he did. Perhaps, later came back to FDA but I do vaguely remember that he went with one of the drug manufacturers. Was Consumers' Research or

Consumers Union consulted by the Food and Drug Administration during this long battle for a new law, a new drug law in the 1930's as to provisions in any of the several bills.

AK: I don't think either was ever consulted by FDA.

CJ: What was the reaction of Consumers' Research to the introduction in Congress in 1933 of this first version of drug law reform and provisions that it embodied? This is the Tugwell Bill.

AK: We certainly welcomed it and unquestionably regarded it as a very great step forward. But at the same time, we were highly critical of many provisions and lack of provisions. I think that I should make clear at this point some of our philosophy in our reactions, our public reactions, to the original bill and the subsequent bills. We didn't take the position of some other organizations that were in favor of stronger control, that if something is better than what has been, we should favor it and go all out for it. Our view was that with much pressure from the other side to tear down, to worsen, that we should apply whatever pressure we could from the consumer's side for improving, for making a bill, no matter how good it was, even better, that we should fight against any weakening and, in general, oppose efforts to change for the worse and try to get improvements on as many points as possible. We would have been delighted to see the original bill passed as it was. It had many features that were later dropped in subsequent bills, and we still felt that we were serving consumers bet by fighting for an even stronger law.

CJ: You mentioned deficiencies in the original Tugwell Bill . . .do you recall any particular thing that was not in that bill that you or Consumers' Research wanted in it?

AK: We wanted registration of manufacturers, for example. We want more than registration. We wanted licensing so that they would have to prove their qualifications before being permitted to enter these fields. We want registration of proprietary products so that no product could enter the market

without government knowledge and without approval in terms of safety and effectiveness. There were a number of other provisions we wanted. I don't recall them at the moment.

CJ: It's interesting. I have found, or I think I have found in my research and perhaps you could verify this. . . in the early drafting stages of this Tugwell Bill, there was a new drug provision, a registration provision, which was dropped out some place along the line, apparently before the bill ever got to the floor of the Congress. Apparently some Congressmen were consulted and they said, "Drop it. It won't go through.

AK: Yes. One other thing we wanted was continuous inspection of food and drug plants.

CJ: Did Consumers' Research of individuals employed by that organization have any role in the drafting of the 1933 bill or an Administration bill thereafter?

AK: No.

CJ: I recall this was a charge from some of the manufacturers that it had been written by Consumers' Research.

AK: No, we had nothing whatsoever to do with it. Several bills were introduced that we drafted, but none that were introduced as Administration bills.

CJ: Many people, particularly in the affected industries, were very unhappy that Rexford Tugwell was a part of the drug-revision movement. What was the reaction of Consumers' Research to Tugwell?

AK: We had great respect for him and we were delighted that he was undertaking to have something done.

CJ: Did you know him, Tugwell, personally?

AK: No.

CJ: Did you know either David Cavers or Milton Handler who did the drafting?

AK: I talked with both of them but knew them only casually.

CJ: Did you talk with them at the time the drafting process was going on?

AK: I talked with Handler, but not at that time with Cavers.

CJ: How would you evaluate Tugwell's role in the revision effort?

AK: As I remember, his was the role of the initiator. He got things started, but my recollection is that he didn't do any of the drafting himself. I think all of the drafting was done by others. As I remember, when he testified it was only very briefly, casually.

CJ: In talking to Tugwell a while back, I asked him about this matter of the Tugwell Bill and the label, "Rex, the Red," and I asked him did his name hurt the bill. His response was that he had a very good name until the bill came up and that he was not thought of as particularly a radical or left-wing, or whatever the charges were prior to the time of the bill. Is this true or did he have this kind of reputation prior to his participation in the New Deal?

AK: No, I think probably that's true. He had a reputation as being rather advanced in some of his ideas, but I don't think he was regarded as a great radical.

CJ: You talked about the consumer a while ago. To what do you attribute the great or what seems to be to me, at any rate, the great apathy of the public to the efforts at drug law reform, an apathy or lack of knowledge about the amount of exploitation that was going on in the area of food, drugs and cosmetics?

AK: There was no real concerted, wide-scale educational effort. I think that outside some of the women's organizations where such things were discussed, very few, relatively, had the opportunity to know what was happening. I don't think that the influence of some of the earlier exposes, Upton Sinclair, Adams, I don't think it carried over. In the earlier days, some of the problems had been widely publicized in popular periodicals. I don't think there was much carried over from that. I believe that most people were just not aware of what was happening, what they were being subjected to.

CJ: I wonder why this is true with matters like food and drug legislation which touch the consumer so vitally, why it is that they don't know. Is it just dull stuff? The public doesn't keep up with it? Their attention is taken elsewhere?

AK: What opportunity do they have to know? The press gives very little attention to such things. FDA issues notices of judgment and they still do. Sometimes now, thanks to Goddard, there is a great deal of publicity for seizures, for action against drugs and advertising, but there was very, very little in the past. I don't think that even now there is any great awareness of the real state of affairs in respect to drugs, even more to foods. Consumers just have no way of knowing what is happening. An occasional article appears. Ralph Nader has done an extraordinary job in publicizing some of the problems in this area, but, in general, the public doesn't have the opportunity to know.

CJ: Well, to go back, particularly to the thirties: it was charged by the FDA, and since that time, as a matter of fact, by some other people, that one reason for the public's lack of information on what was happening with the revision effort in Congress was that there was a press blackout. I wonder whether this is true or whether the press simply turned to other more exciting things that were going on in the New Deal.

AK: I think there was a deliberate blackout. Other hearings on other subjects received much more attention in the press than the hearings on food and drug legislation. I remember somebody's comments, that the only time the New York Times put the hearings on the front page was when there was a disturbance in the galleries. And certainly there was very little about the bills and the hearings in the papers. An exception was some of the Washington papers.

CJ: In The Christian Science Monitor, I think, carried some coverage.

AK: Yes. I think one or two of the Washington papers carried a number of stories, but, in general, there was a blackout, and I think that it was deliberate. The newspaper publishers were quite concerned about some of the possible effects of the new bills on their advertising. As I remember, they were most frightened about grade labeling, which was dropped very soon anyway. But, in general, they were, remember, their representatives in the hearings, were opposed to effective control of advertising. In general, their interests were with the manufacturers, not consumers.

CJ: Well, when this did show up in the press do you think the reporting itself was accurate or was the reporting then biased even in the limited coverage that was given?

AK: I really can't answer that. I just do not remember.

CJ: Some of the reporters themselves seemed to feel, as in a book called Lords of the Press which I read a while back, that the coverage itself was not accurate. That's the reason I asked that question. Do you feel that the Food and Drug Administration, once the effort got underway to revise the law, do you feel that the agency did all it could to counter the efforts of opponents to drug law reform?

AK: No. I'm sure they didn't do all they could. They did a great deal more than they had been doing in the past to get improvements in the old law. They were doing a good deal to see that an improved bill was passed. They did fight against some of the efforts to weaken the bill. As I remember in Campbell's testimony, he did very effectively support many of the provisions of the bill. But I don't remember him really putting up any hard fight for things that were being left out.

CJ: You feel that he perhaps was willing to compromise more than it was necessary to compromise?

AK: Yes, I think so.

CJ: You mentioned the Chamber of Horrors exhibit a while back. Was this effective? Did this have any impact on the consumer?

AK: Oh, I think it did. There was a great deal of reference to it in consumer publications. The women's organizations made a good deal of use of it. That it had any broad impact, however, on millions of people, I would doubt.

CJ: How did Consumers' Research react to the choice of Royal Copeland (Senator, State of New York) as Congressional sponsor for the revision effort?

AK: We reacted very negatively. As a matter of fact, at the first hearing in which I represented Consumers' Research, I questioned the propriety of his role in the hearings on the bill in light of the fact

that he was taking pay from some of the companies whose products would be controlled. As I remember, on the very day of the first hearing, he did a broadcast for Fleischman's Yeast which was then being promoted as a cure for skin disorders. In general, we regarded him not as a friend of the consumer in any sense but a good friend and an effective employee of the industries that were to be controlled.

CJ: Do you feel that he was serious about getting a bill through some kind of new legislation? Was he sincere in this?

AK: Yes, I think that's true. He had every intention of getting some kind of legislation through. I think he recognized that there was going to be some kind of legislation and, while I think he had no heart for making it a very strong bill, he did feel that there was some improvement that he could go along with. I think he also felt that he might be instrumental in preventing the inclusion of some provisions that would be unpopular with some of his clients.

CJ: Oh, I see. You really think of him as working with industry. That is some sense that his part in this was not totally an honest one for the consumer.

AK: No, I don't think it was. I don't think it was totally honest. It's quite possible that if Copeland hadn't been the chairman of the committee that somebody even worse would have been chairman. It's quite possible that if he hadn't been there, the bill that finally came up might have been even worse. If someone like McNary, for example, had been in charge. But Copeland certainly wasn't the ideal person from the consumer's point of view to run the hearings. There were better people, and I think that he certainly should have withdrawn as a matter, simply of ethics. There was a very definite conflict of interest there.

CJ: Do you recall anyone else in Congress? Were there those in Congress who you would have preferred to handle this bill? Do you recall any names, people you considered in Congress friends of the consumer?

AK: There were a few Congressmen who introduced bills that we prepared or had a hand in the preparation of: Congressman Coffee, for example.

CJ: John Coffee?

AK: John Coffee (Representative, State of Washington), William Sirovich (Representative, State of New York), and Patrick Boland (Representative, State of Pennsylvania). I did a good deal of lobbying during the course of the hearings on various bills. I found many congressmen sympathetic, but even among those that I just named; there really wasn't one that effectively fought for strong legislation. They were for the consumer. They were quite willing to introduce new bills, make statements, but the real battle for the consumer's interest in this legislation really was not forthcoming from any of them. There were a few that raised their voices occasionally. I think Carl Mapes (Representative, State of Michigan) was one who fought against some of the weakening provisions.

CJ: How about Virgil Chapman (Representative, State of Kentucky) in the House? I believe he handled this, in the House.

AK: Yes. My recollection is a little vague, but I think that he had a greater interest than Copeland did in seeing that a fairly good bill was passed. I'm not sure of this. I am a little vague on it.

CJ: Well, his role, or course, was much less than Copeland's.

AK: Yes.

CJ: You mentioned that a number of these people, as you lobbied, seemed sympathetic. I wonder why they would not get in and push and really fight for this. Was this a matter of pressure from interests back home?

AK: Oh, I think there were a variety of reasons. I think that one was, at the time, they had other interests, other things they are engaged in, other legislation they were pushing. I think that all recognized the thanklessness of the job, the fact they were encountering enormous opposition, terrific pressures and that the demand for the bill from consumers was not very great. In other words, they would be losing support possibly from important quarters in their home states. All of them had manufacturers in their home states who were very vocal. They would be gaining very little. Besides, it was a difficult job. Food and drug legislation was a highly technical matter. It required considerable knowledge. It required a great deal of study for them to involve themselves seriously. The fact remains that they didn't.

CJ: So, to some degree, this was, aside from the technical nature of the work, it was a political hot potato.

AK: Right.

CJ: How would you evaluate the contribution of the national women's organizations in the bringing about the passage of the 1938 drug act or in the whole process of revision?

AK: They were almost the only organizations that were speaking for the consumer. There were a few others, but, generally, it was the women's organizations that were testifying, propagandizing, doing some

educating, and I think that without their participation, probably the final result would have been worse than it was. I want to read a brief statement that appeared in Consumer Reports in 1936. It bears on this.

CJ: Fine.

AK: It also bears on our philosophy and thinking on these bills. Speaking of women's organizations, it says, "They deplored the changes in the bill. They prayed for restoration of deleted provisions. Nevertheless, they supported almost every one of the numerous revised bills, insisting that while it wasn't all they wanted, it was better than the old food and drug law. If from the very beginning the many consumer groups represented in Washington, had fought tooth and nail for every change in the Tugwell Bill, indeed had demanded the strengthening even of the original bill which, good though it was, had notable defects, the legislative picture with regard to foods and drugs might be different."

CJ: I remember reading that particular editorial. That's what I was fixing to ask you, I suppose, whether you had reservations about the strategy that the women used, because it was very different, I think, from that of Consumers' Research. Should they have been more militant?

AK: Yes, I think, definitely they should. I think that if they had been more militant, we might have had a better law. They were, as pointed out in this editorial, they were too ready to accept changes. Their position at too many points was that, "Oh, it's defective but it is much better than the old law and we'll go along."

CJ: So this, as far as you are concerned, was not just a matter of political realism in doing this. They really could have made a better bill.

AK: I think they regarded it as political realism. We didn't regard it as political realism. Of course, there's no way of knowing after the fact whether they were right or we were right. I think we were. I really think that if they had been more militant, the law would have been better. I think without their efforts, it would have been worse.

CJ: Do you think a bill would have passed without their efforts?

AK: I think so. I think that after the Elixir Sulfanilimide business, a bill would have been passed. I think that without their efforts, it wouldn't have been as good a bill as it was.

CJ: In that connection, or in connection with proponents of the legislation, I have found and really have just begun to find, that within this area of the drug trade, there seems to have been a very early split; that professional pharmacy by and large, rallied to the cause of the bill after about 1934. Do you have any recollection of this?

AK: No, I don't.

CJ: I am thinking of periodicals from the colleges of pharmacy and groups of this sort.

AK: I just don't remember.

CJ: How would you evaluate the role of the American Medical Association (AMA) in the whole struggle for drug law revision?

AK: Oh, I think they went through the motions of supporting the bills, but I'm not sure that their hearts were really in it. They made favorable statements, as I remember, but I don't remember any real strong

efforts to bring about improvements. Their chief interest, so far as control was in proprietary medicines, the over-the-counter medicines. I don't think they were too much in favor of stronger controls of prescription drugs. I don't think that they were in favor of legislation that would have provided strong control of drug advertising.

CJ: This has been my impression, largely as you just said that they spoke out occasionally for a bill, not pressing for anything very much. I wonder, do you have any explanation for this? Do you have any idea why this organization which after all was supposed to be the organization concerned with the national health, why they did not play a more vigorous role?

AK: I think the same thing was true then that is true now, that the American Medical Association feels itself closely allied to the drug manufacturers. I think the largest part of their support has come from drug advertising, much more than from the dues of their members. They have never been ready to accept control that they regarded as interfering with the right of the doctor to choose his own medicine. I think the answer most strongly since they have challenged efforts at control they thought would, as they said, affect the rights of the doctor. Really, I think that what they were concerned about was the rights of the advertisers, advertisers of medicine. Really, I think they were more business-oriented than consumer-oriented.

CJ: Do you feel they had any fears of, general fears, about government moving into the realm of medicine? I gather they had some serious reservations and fears in the twenties and thirties over compulsory health insurance and voluntary health insurance. I wonder if this kind of fear may have carried over.

AK: I think it very well may have had some effect. In earlier years, the AMA was not quite so reactionary. It may have been in the twenties that they were much more favorable to broader medical

care, to such things as health insurance. But in later years, they were worried about every incursion of government into the realm of medicine. They always felt that it was getting its foot in the door. When the door opened, in would come socialized medicine.

CJ: I think you're right about the difference or change in posture, because certainly the AMA played a major role in getting the 1906 law. Did you know Morris Fishbein? Did you ever meet him?

AK: No, I didn't.

CJ: What do you think of his leadership with the Journal of the American Medical Association? What kind of a job did he do with the Journal in regard to critique of quackery; in regard to public health?

AK: Well, I think, in respect to quackery as it concerns proprietary drugs, he was very vocal and quite effective. The AMA has always campaigned hard against quackery, against proprietary drugs and, in the past much more than now, against self-medication of almost any kind. In more recent years, they have softened their stand on self-medication and admitted that it's not only necessary, but probably desirable in some instances. But Morris Fishbein fought very hard against self-medication, against proprietary drugs. In general, I think that many of the reactionary, socially reactionary, attitudes of the AMA can be traced to Fishbein. He was really the voice of reaction and he certainly opposed every effort at extending medical care or any changes in government control that would have affected the rights of doctors, as he saw them.

CJ: How would you evaluate the attitude of Franklin Roosevelt toward getting a stronger Food and Drug Law?

AK: He certainly was in favor of strengthening of the 1906 law. I believe that he was largely instrumental in having a new bill introduced. But I don't think he did very much, once it was introduced, to push it. I think that there were a few statements from him in favor of it, but very few real efforts to influence Congress to pass a better law than it did or even to hasten legislation.

CJ: I think you're right. I wonder why this is true. Would you have any hypothesis on why Roosevelt would fail to support vigorously something that was this important to the consumer?

AK: Well, considering the problems of the depression years, I think, it is quite understandable. There were problems that were much more immediately pressing, particularly in early years of the administration. It was a matter of saving the economy from complete bankruptcy. Many things were done for the consumer at that time.

CJ: There were homeowner's loans. Was it Homeowner's Loan Corporation they had then? The Securities Controls, what is it S.E.C. (Securities and Exchange Commission)!

AK: There were many actions taken by the government which were favorable to the consumer, certainly to the consumer in a broad sense. I suppose that with all the pressures on him, and I'm sure, too, that he was subjected to pressures from those who opposed the bill, that was unavoidable.

CJ: Political pressures?

AK: Political pressures. I'm not sure that they had great influence unless his failure to do more to promote a good bill was due to that but it must have been there.

CJ: Would you think that if Roosevelt had pushed this, if he had, from the start, made this “must” legislation, the Tugwell Bill, let’s say, could it have gone through as it stood?

AK: Oh, no. I don’t think that there was any chance ever of its going through as it stood.

CJ: Even with strong positive leadership in the President?

AK: No. Every bit of legislation that is introduced or almost every bit in which there are conflicting interests comes out as a compromise. And I don’t think there was ever a possibility that this bill would have been an exception. But I do think that if Roosevelt had taken a strong stand behind the bill at various stages, if he had used all of his influence in Congress to promote it, I do think there would have been a considerably better law.

CJ: I’m wondering about the bill itself in relationship to the New Deal. It was, after all, I guess, a reform measure, and I wonder whether all reform measures took second place to relief and recovery. I seem to find it true with the civil rights. I wonder whether it fell into that category and this was one of the reasons that he did not push it.

AK: I think that was true, true of necessity. I don’t think anyone could argue that food and drugs should have taken precedence over some of the recovery measures. But that doesn’t mean that a great deal more couldn’t have been done. It could have been done without causing serious difficulty in other fronts.

CJ: Do you recall if Eleanor Roosevelt played much of a role in this? Did she speak out on the bill?

AK: I just have no recollection, of Eleanor Roosevelt's association in anyway with the bill. It seems likely that she would have spoken out. I can't remember.

CJ: But you don't recall her playing a major role in it? I see. I think perhaps you've answered this, in part, at any rate, but I wonder if you could tell what you think of the New Deal as a whole with regard to consumer protection. Did it do the job? Was it concerned with the consumer?

[Change of Tape]

At the end of the previous tape we were talking about the role of the New Deal in the protection of the consumer, and I was asking you could give some overall evaluations of that.

AK: It depends on how you define "consumer" or what you think of as "consumer" legislation. Really, the most important thing done for consumers, though it wasn't consumer legislation, was to give them jobs and see that they had income, money with which to buy foods and other necessities. I think that this was the most important accomplishment of the New Deal through some of its agencies, but a great deal was also found directly on the consumer front and indirectly apart from the Food and Drug legislation. The FTC powers were broadened. They didn't make FTC an effective organization, but their right to control advertising was broadened so that it wasn't based solely on threats to competition, but also on forces that would affect the consumer directly. The Federal Communications Commission (FCC) legislation, I believe was part of the New Deal. The Interstate Commerce Commission (ICC). There were other agencies with did have controls that worked in the interest of the consumer.

CJ: So, on the whole, you feel that the New Deal did a fairly good job for the consumer. That it was interested in the consumer.

AK: It was interested in the consumer, yes, though some of these things I mentioned were really a part of the recovery effort. They weren't designed particularly, or directly or principally to help the consumer, or if they were, it was in relation to the recovery effort, but they certainly were valuable as consumer legislation.

CJ: Well, I want to go back a little bit, if I may, to do something we were talking about a while ago and that is the role of Consumers' Research and your role in the drug law fight. Perhaps you answered this, but let me ask it again, if I may. A number of critics charged that the militant posture of Consumers' Research and Consumers Union was unrealistic. David Cavers, at one point, in a letter, said that he was fearful of Schlink's intransigent perfectionism. How would you react to this?

AK: It is impossible to tell if the criticism was right or not. Let me say that I don't think it was. I think that the militancy was desirable. That without this kind of militancy, again, what finally came out might have been worse. I think the position or stand of Consumers' Research, while it offended some of the women's organizations, nevertheless, influenced them. I think that some of their positions in respect to particular provisions of the law were influenced. That is a matter of, again, opinion and surmise, but I think it was a proper role.

CJ: Would you think that were it not for the militant posture of Consumers' Research. . . let me rephrase this. Did the posture of Consumers' Research help to balance out against the militant posture of the drug industries? Do you think it played a role in this regard?

AK: That was our hope. The militancy of the drug industries was received much more calmly.

CJ: Well, periodically, Consumers' Research sponsored drug bills and Consumers Union sponsored drug bills. The Coffee Bill, I believe, came from Consumers Union in the Congress during the 1930's.

What was the strategy behind this? What I am getting at is . . . did you believe these bills had a possibility of passing or were there other motives involved?

AK: I'm sure we never expected our bills or those we favored to be passed. I think our intentions were educational. We hoped that some of the provisions would be picked up. We hoped that some of the women's organizations would be influenced by some of the provisions.

CJ: Did you have friends in Congress you thought might pick this up and try to help to strengthen the bill? With things like the Coffee Bill, did you feel that there were other Congressmen who might rally to this and perhaps incorporate some of the provisions into the administration's bill?

AK: Oh, I think that was a hope but not an expectation.

CJ: Do you feel that Consumers' Research or Consumers Union can take credit for any specific provisions of the 1938 Act as it finally passed into law?

AK: No. No. I think our influence was a negative one, rather on the negative side, in preventing worsening; I think it would have been worse if we hadn't done what we did, but I don't think any specific provisions we favored were there because we favored them.

CJ: But it was a better bill because of your efforts.

AK: I think so. I'm not even sure of that.

CJ: Do you recall, as the struggle went on to get something into law, do you recall particular provisions that your organization wanted to put into the bill, but failed to get. That is after the Tugwell

Bill. We talked a little bit about that a while ago. As time went on, were there other provisions that you sought to get?

AK: There were the provisions that I mentioned earlier. One of the things that we were eager for was the transfer of the FDA out of the Department of Agriculture and control of drug advertising by the FDA, not by the Federal Trade Commission.

CJ: Why were you particularly interested in the shift of FDA out of the Agriculture Department? Where did you want it to go and what was your feeling about the weaknesses of FDA in the Agriculture Department?

AK: We wanted a new agency to be set up with the FDA becoming an independent agency. We didn't want it to be in agriculture, because there was a very serious conflict of interest. The Department of Agriculture had the primary function of aiding farmers and not consumers. There were many points in which food and drug regulations conflict with the interests of farmers. For example, insecticide residues on fruits and vegetables, it was in the interest of farmers to have . . . to be allowed to leave residues of insecticides on the products in any amount they wanted; whatever happened to be there. They wanted to be able to use their sprays abundantly and not to be required to go to any great efforts to remove the residues. The interest of the consumer, obviously, is to have as little as possible of poisonous residues. The Department of Agriculture in its control of FDA had been backing and filling on this, they had put into effect controls which, even before the new law, administrative controls which reduced the amounts of, say, arsenic and lead allowed on fruits and vegetables, and then increased them under pressure from the apple-growers. In many ways, in respect to sanitation, in respect to food-handling in general, there was a conflict of interest between agriculture and consumer. The Department of Agriculture wasn't the proper agency to handle it. Apart from the conflict of interest, there just wasn't the concern there. They weren't oriented in that way. FDA was always a step-child in the Department of Agriculture.

CJ: Would you like to have seen the FDA moved to, say, the Public Health Service?

AK: Yes. It was moved, not to the Public Health Service, but to the Federal Security Agency after a while. Then, of course, in recent years FDA was moved to Health, Education, and Welfare (HEW).

CJ: But the Public Health Service, you think, would have been a better organization.

AK: Yes.

CJ: This, of course, was one of the things that the industry made an awful lot of noise about. They thought the Public Health Service was too dominated by the AMA. Do you think this has any substance?

AK: I don't know that it has.

CJ: Many of the food and drug manufacturers were obviously disturbed by the aggressive consumer posture of Consumers' Research and Consumers Union in the 1930's. Did their anger take forms that were harmful to your organization?

AK: No, I don't think so. I don't remember anything that happened at the time.

CJ: I recall reading someplace – the reason I asked was something about the difficulty of placing advertising for Consumers' Research or Consumers Union in general publications.

AK: Most general publications refused Consumers' Union advertising. This was started soon after, but continued long after the legislative fight had become history. I don't think it was related to that.

CJ: What was this? Why were they reluctant to accept your advertising?

AK: Many were frank about it – because their advertisers were opposed to their accepting our advertising. Consumers Union was critical of many advertised products and of much advertising. Advertising agencies were against the papers' accepting advertising. It's only in very recent years that this has been overcome.

CJ: We have touched upon this in a number of different ways, in a number of different points this morning. But I wonder if you could give an evaluation of the overall influence of the food and drug lobbies on the Congress in the 1930's?

AK: There's no question that the overall influence was great. Most of the time, by far the greater part of the time of the hearings, as I remember, was taken up by representatives of drug organizations, publishers, advertising associations; and while many professed to be in favor of improved legislation and many found parts of the bill which didn't affect their particular interests quite satisfactory, they were very unhappy about sections that did affect them and violently opposed them. As with the 1906 law and subsequently in the hearings on legislation such as the 1962 amendments, there was insistence that these proposals would wipe out their businesses. They were impossible. That the consumer didn't need the protection, that protection was adequate already, and so on. I remember one time, I think it was 1933 or 1934, there was a meeting, a food industries meeting, which I attended, where the editor of Food Industries Magazine, I think his name was Burton. . .

CJ: Yes.

AK: . . . was discussing the impact of the labeling provisions of the bill, on the food industry, and he was telling how impossible it would be in one little package to list all of the things that would have to be

on the label of a box of candy, and he unrolled a big scroll. It must have been four or five feet long and about two feet wide on which the names of all of the ingredients which might be present in a box of candy, were listed, and he said, "This is what they want us to do." I would say the most effective of the lobbies in terms of results was the lobby for the advertising people. It was able to kill all control of advertising by FDA, which really prevented any effective control of advertising until the 1962 amendments.

CJ: You think of the advertising people as more effective than, say, groups like the proprietary associations?

AK: Yes, I think so. I think the advertising people got practically all they wanted. The proprietary associations didn't. They were subjected to some labeling requirements and there was control of adulteration, not as strong as it might have been, but stronger controls than under the old law.

CJ: I'm curious about the business opposition. As time went on, and as some of these groups began to get concessions, particularly the advertising industry, they began to shift their posture and, I suppose, some of the drug people changed a little bit when they became concerned about state legislation. I'm curious as to whether you think if the opposition of 1933, if they had maintained a unified front, could a law have ever passed? In other words, must a new Food and Drug Law have a certain amount of business support?

AK: I think it is certainly probable that if the united front of all business interests was maintained, the bills would have been further weakened, but I think a law would have been passed. I think there wouldn't have been new legislation, new bills in 1933, if it hadn't have been for One Hundred Million Guinea Pigs. I think that triggered the whole effort ; but even without that, even without Consumers' Research doing anything in this area, by now, there would have been better controls than the 1906 law. Various things,

regulations, laws, have their time and while business might have succeeded in delaying more. . . might have succeeded in weakening more, I don't think that it would have been forever successful.

CJ: Simply because the need was vital, sooner or later the need would be answered. You mentioned advertising controls a few minutes ago and I believe that you and the consumer organizations preferred that advertising controls be lodged with the FDA as opposed to the Federal Trade Commission. Why did you feel this way?

AK: Mainly because of the record of the Federal Trade Commission, which had been a very sad one. They had occasionally taken actions. Of course, under the old law, before the Wheeler-Lea Act, they could exercise control only in the interests of fair trade, not in the interest of consumers. Even there, however, they were so feeble, so late, so ineffective, there was no faith at all in anything the FTC would do. Also, the enforcement prohibitions were just as about as weak as they could be. They could stop a claim from being made in the course of time. There were long, drawn-out proceedings, but there was no. . . I don't think there was any penalty unless there was a repeated offense. The advertiser could change his claims, which he probably would have done anyway.

CJ: Do you feel that the FTC was more responsive to business interests than the FDA?

AK: Yes.

CJ: Well, how did the FTC get the new advertising control power? I mean the Wheeler-Lea Bill came along and they got it, but why, why them, instead of FDA?

AK: I think that was the result of advertiser pressure. I think there was recognition that something had to be done; that there had to be some control over advertising apart from fair trade and that if control

weren't given to the FTC, the FDA, or somebody else sooner or later would get that power. That was simply an effort to forestall stronger control.

CJ: I see. Well, this is a poor word, but for want of a better one, you feel to some degree that this Wheeler-Lea business was a business plot. That is to say, do you feel that certain segments of the business industry saw this as a way out, that they thought regulation, it would be easier with the FTC.

AK: I wouldn't call it a plot.

CJ: Plot is a good, of course.

AK: Yes, I think that's correct.

CJ: I wonder if you could evaluate the effect of the 1937 Elixir Sulfanilimide disaster on the course of the reform movement.

AK: Just as One Hundred Million Guinea Pigs triggered the introduction of food and drug bills, it was the Elixir Sulfanilimide disaster that triggered the passage of a law. There would have been a law sooner or later, but that did give the impetus to congress to act to get something through. It did arouse the public enough so that there was recognition that something had to be done. They could no longer just sit back and stall legislation.

CJ: So it operated, as you said, in the same way as One Hundred Million Guinea Pigs to awaken the public, make them aware,. Let me go to that book for a moment. How did you and Schlink come to write One Hundred Million Guinea Pigs. How was the decision reached? What motivated your decision?

AK: This was the result of two things. One, the piling up of evidence that there was need for better control. The evidence was there all along and it was becoming very obvious that there were serious deficiencies, gross hazards that should be brought to the attention of the public. The other was that in 1932, a change in jobs left me with time to write and I suggested to Schlink that we write a book on food and drug hazards. He agreed eagerly and we found a publisher. So partly a matter of need for such a book and partly as a matter of chance, the book was written.

CJ: In the 1930s, a great many of the so-called guinea pig books emanated from the staff of Consumers' Research. How would you evaluate the impact on the public of these books, especially in relation to the drug law fight?

AK: As I've already pointed out, I think, that One Hundred Million Guinea Pigs triggered the introduction of food and drug bills, I think the subsequent books did help educate consumer organizations and many consumers to a greater extent than had been apparent before. I think all of this had a favorable effect, but, precisely, what effect, I don't know. Despite one of the books, I believe it was Skin Deep, not nearly as much was done on cosmetic legislation as might have been done, but after all, some kind of control of cosmetics was instituted.

CJ: Some people along in this period argued or insisted that a great deal of this literature, the guinea pig literature, was exaggerated and too sensational. How would you respond to this?

AK: I re-read One Hundred Million Guinea Pigs recently, as a matter of fact, after you told me you wanted to interview me. There are things in there that I think were exaggerated, not very many, but some. On the whole, I'd say that the situation we described was worse than what was described. But there were specific exaggerations; it was sensational. On the other hand, maybe sensationalism was needed at that

time. Perhaps if it hadn't been sensational, it wouldn't have aroused the reaction it did or brought about the effect that it did.

CJ: I suspect that you are right. Speaking generally of the books coming out of Consumers' Research, and insofar as you know, what was the greatest source of data for these works? I'm wondering, for example, was the AMA helpful in providing material? Was the FDA helpful? Where did the data come from?

AK: The greatest source, of material, was published materials, clinical journals, trade association journals, the notices of judgment of the Food and Drug Administration, and the FTC reports. Almost entirely, I would say, published material of that kind. Some of it was correspondence with FDA officials and others. Mostly publications.

CJ: You don't recall that FDA or the AMA allowed you or others writing these works access to their materials, I mean other than published materials?

AK: I don't think they did.

CJ: Would you explain a bit about the circumstances of the split within Consumers' Research and the division between you and Schlink which brought about your departures from Consumers' Research?

AK: Let me make one thing clear. I was never on the staff of Consumers' Research. I was a member of the board of directors and for a number of years, and in 1935, when the split came, I was secretary of the organization. Schlink was a very able man but he had, shall we say, some problems in his relations with his staff and with other people. I think the same kind of thing that sometimes led him to attack people like Campbell and others in the government with somewhat excessive vehemence led him to

excess in respect to members of the staff. There were frequent dismissals for trivial things. The relations between the staff and management, which then were Schlink and Matthews, were such that members of the staff felt very insecure. Members of the staff came to me at times to see if I couldn't intercede for them. People were hired away from other jobs and fired in a very short order. And salaries were extremely low. As I remember, there was a minimum salary of thirteen dollars which, even for them, was rather low. The staff wanted to organize into a union and they asked for recognition. Several of the leaders in the effort were fired. Well, I sided with the union, rather with the staff and felt that they should have more protection. I believed they needed it; I believed that they had a right to form a union. Shortly thereafter, when Schlink and Matthews refused to recognize a union of the employees, the staff went out on strike. I sided with the employees in opposition to Schlink and J.B. Matthews, who was the vice-president of Consumers' Research. We tried to get a reinstatement of the people involved. The National Labor Relations Board (NLRB) entered the case. As a matter of fact, it was their first white collar case, and after hearings, they found in favor of the strikers and ordered their reinstatement. When Schlink refused to reinstate them, we decided we'd start a new organization. That was the start of Consumers Union.

CJ: I noticed in a thesis, which I believe I mentioned to you earlier, done by Max Cleland (Senator, State of Georgia) at Emory University, he suggests that Consumers' Research was not totally happy with your book Counterfeit in 1935, do you recall this? He may have been wrong.

AK: It's quite possible. Schlink had a tendency to turn against people, possibly for good reason, but this happened quite frequently and there might have been some objection, but I don't remember it.

CJ: What motivated you to organize Consumers Union after you left Consumers' Research?

AK: The thought that there was need for a new organization and specifically, that was pro-labor, rather than anti-labor. We also wanted to provide employment for the members of the staff who had been fired. I think substantially those were the compelling reasons.

CJ: In founding Consumers Union, did you view your organization as in any way a different type of organization from Consumers' Research. I understand, of course, what you said about labor, but other than this, did you view it as a different type of organization than Consumers' Research?

AK: We hoped to be able to make material available to very low income people. For that purpose, we started, in addition to what was called the regular edition of Consumer Reports, an abridged addition, at a subscription fee of a dollar a year. This was a terrible failure. We found that people, who were very interested at all, wanted everything. We didn't have reports on automobiles in the dollar edition, for example. Even if they weren't going to buy them, they wanted to know about automobiles and so on, with other things that might, I suppose, be regarded as luxuries. The inexpensive edition didn't get any considerable circulation among low income people and it was dropped.

CJ: You mentioned low income people. Do you feel that Consumers' Research was angled at a different class? Was this a middle class operation or.....

AK: It definitely was a middle class operation. I don't think the initial intention was that. I don't think it was designed to appeal only to middle and upper and not to lower income groups, but I think that was an inevitable result of many things. One, I think it required some degree of sophistication and education, to realize the need for such material. I think that even the three dollar subscription fee was too much for people with real low incomes.

CJ: I suppose what I'm wondering is whether you and Schlink were philosophically different. Were there differences in philosophy of what a consumer's organization was there for; what it was supposed to do?

AK: I don't think there was any significant difference.

CJ: You don't think of Schlink, for example, as more conservative in his view of the consumer movement than yourself?

AK: No. To the contrary.

CJ: Or more liberal?

AK: That is before the break. I would say that afterward he changed considerably. Before the break, I think he was considerably more radical than I.

CJ: Oh, really?

AK: Believing that it was possible to organize a great consumer movement that would change the world. The idea expressed by Matthews in a book that he wrote, Partners in Plunder.

CJ: But you did not feel this way?

AK: No.

CJ: You saw it as a more limited thing with more limited goals.

AK: Yes. The goal of providing specific information and in general working for consumer protection. And also we did hope that consumer influence could be used to help labor which at that time, needed help very badly. Wages were extremely low; conditions of work in many industries were very bad. In the early years we reported on labor conditions in the plants making some of the products that we rated. We did all of this with the hope it would have an influence. Whether it did or not, I don't know. I doubt it.

CJ: This was a lesser concern with Schlink?

AK: It was after the break.

CJ: That's very interesting. You talk about "after the break". How do you feel he changed his orientation. He moved. . . how?

AK: He and Matthews both had a very marked change in orientation. They charged the strike was a communist plot; that I was a communist, that others were communists, if not communists, at least communist frontiers; that we were trying to capture Consumers' Research for the communists and from that point on, so far as I can see, they were against labor unions, against labor organizations. I think that even some of their ideas for consumer protection were very much moderated.

CJ: And this seems to be largely attributable to the difficulties of the strike and the splitting of the organization itself. That's very interesting.

Well, do you feel that the view or the position of Consumers Union on the drug law revision effort. . . was this different from that of Consumers' Research after the split?

AK: I'm not sure, but I have the impression that Consumers' Research did very little after the split. I'm not at all sure of that but that is my impression. Their efforts in behalf of legislation pretty much dried up.

CJ: Again, Max Cleland in the work that I mentioned to you suggests this. He says that Consumers' Research made less mention of the revision fight and he felt that Consumers Union maintained a much more rigorous and militant posture toward what was happening. That even when Consumers' Research did pay heed to the bill that it was in a much milder way than your organization.

AK: That's true.

CJ: Well, coming on down to 1938 and ultimately to the passage of the drug act into law, how adequate was it? What kind of act finally came into law?

AK: Despite our opposition to many of its provisions and its lack, it really represented a very great advance in food and drug control. There were definitions and standards of foods for the first time, requirements for labeling ingredients in non-standard foods. There were provisions for legal tolerances, for unavoidable poisons, which made enforcement much easier. It required directions and warnings on labels of drugs. It required approval of a new prescription drug before it could be marketed. Certification of coal tar colors. It eliminated one of the serious faults in the old law, one that had been. . . had resulted from an amendment and that is, the requirement that a label had to be not only false but also fraudulent to make the product open to action. It permitted factory inspection for the first time. In many ways, it was an extraordinary advance. However, there were a number of serious weaknesses. There was no provision for control over advertising in the food and drug law. Advertising was left to the mercies of the FTC. There were administrative provisions in it that could make enforcement quite difficult. I don't know the extent to which it did. For example, the provision of the right to hearings on numerous types of

regulations and actions. Provision of court review which made many actions difficult or at least subjected them to delay and upset in the courts. Perhaps one of the most serious of the defects was that only the safety of new drugs was covered and not their effectiveness. So long as a drug could be shown by the manufacturer as safe, he didn't have to show that it was in any sense effective. The control over cosmetics was more limited than it should have been. There was no requirements for pre-marketing clearance, no requirement for proof of safety before it was marketed, no requirement for listing of ingredients. It really was a great advance but still it left very serious defects in the control and enforcement procedures, defects which to a considerable extent were remedied by the 1962 amendments.

CJ: If you had to pick the most significant reforms in the bill, in the new law, '38, what would this be?

AK: I would say that it would be the requirement that new drugs be screened for safety, even if not for effectiveness. This was a very important advance. Before that, a drug could be marketed and sold without the government's having any ways of stopping it, no matter how dangerous it was if claims of safety, no false claims were made on the label of the drug. This was what was happening: all sorts of false claims would be made in advertising, but no false claims would be made on the label. I think that the . . . that nothing could be done about it. But, as a matter of fact, this wasn't entirely corrected, but there was prohibition of dangerous drugs so that they could be kept off the market.

CJ: I would think probably that would be the most significant part. You know, hindsight is a marvelous thing. I'm wondering if what you say now, which of course must be affected by looking back and seeing what has happened since that time. How different was this from what you said at the time? What did you feel in 1938?

AK: Well, I think then we were much more aware of and concerned about deficiencies. We hoped that a greater effort would be made on the part of consumer organizations, women's organizations and some Congressmen to correct deficiencies, and I think that we didn't acknowledge the gains to the extent that they were there.

CJ: Well, of course, it was very difficult at the time when you were involved to see the full picture. In actual operation, did the 1938 Act work out better or worse in the years that followed immediately thereafter. Did it work out better or worse than your evaluation at the time of passage?

AK: I think in some respects it worked out better, but in many respects, certainly there was little improvement or not enough improvement or even some worsening. I would say in a large part, this was the result less of failures in the law than of limited appropriation of FDA, their inability or failure to exercise the controls that were given them. Even now, in the control of food, for example, the FDA is still picking up products that, if I may use the phrase common in the FDA's Notices of Judgment are "filthy, putrid and decomposed," but you can be absolutely certain that what they pick up represents only a very small portion of what should be caught. Even now with the available funds, the available manpower, it is possible to correct only a very small part of what needs correcting. And this is true even in drugs. Even now, with much improved controls over drugs. There are many areas in which control is ineffective.

CJ: Well, given the limitations of appropriations and the limited number of employees and the like in FDA, how would you evaluate the effectiveness of this organization now? I'm thinking about that as opposed to what we were talking earlier about in the twenties when you seemed to feel they really weren't doing as much as they might have done. How about now? How about since 1938?

AK: Oh, I think until Goddard came, it was still true. FDA remained very largely a business oriented commission. They were like other control agencies. Most of the control agencies in the government are

much more business-oriented than they are consumer-oriented. The FDA remained much more business than consumer oriented through most of the years. They didn't stand up sufficiently to pressures from business. There was much too much seizure of a single shipment of a product, action against a shipment when there should have been more court action against the manufacturer. In the earlier years, I suppose, this was almost impossible because of lack of funds, what it would have taken to pursue a court action. But in more recent years, there could have been a great deal more of that. There was some, but there should have been a great deal more. Penalties should have been imposed much more often than they were. To some extent, this wasn't the fault of FDA. It was a problem of the courts. But FDA could have done a great deal more than it did.

CJ: You mentioned Goddard who I believe may have been the first commissioner of FDA to be brought in from the outside. Do you think that's what made the difference? Do you think their policy . . .

AK: No. No. I think that the fact that they went outside to find that kind of a man because he wasn't available inside that made a difference. I think the change came with the selection of Gardner as Secretary of the Health, Education, and Welfare (HEW) . . . and then his appointment of Goddard as Food and Drug Commissioner.

CJ: I gather you think that Goddard has done a very good job.

AK: He's done an amazing job.

CJ: How about the Federal Trade Commission since 1938? How would you evaluate their effectiveness?

AK: They're functioning better. As a matter of fact, I think they've had a great deal of influence in improving advertising, but again, as with foods, I think what is done is such a tiny fraction of what needs

to be done. But there is really a need for more effective controls. There again, I guess the trouble is partly money. Their appropriation is not very large. Something on the order of twenty-five million or so for all of their activities and not much of it can go to control of advertising. I think recently they have taken actions which certainly indicated a desire to protect consumers, some actions in which they were slapped down by the courts. In general, I would say a much improved job, but still not an adequate one.

CJ: Would you say of the two agencies today, FDA and the FTC, as you said of them in the earlier days, that the FTC is more responsible to the business community than FDA or would you make that judgment now?

AK: You are asking about right now?

CJ: Right now.

AK: Yes, I would think that is true. I think Goddard and now his successor, Dr. Ley, are really trying very hard to do a job, the best job they can for consumers, but the job is almost impossible to do adequately owing to a variety of circumstances.

CJ: In general, how adequate is the legal scope of protection for consumers in the area of food and drug market abuses today? Is it adequate?

AK: No, I would say it's nowhere near being adequate. In meat inspections, there has been improvement, most notable because it's now possible or it will be possible for meat inspections to extend to intrastate packing plants, and of course there is continuous inspection in the packing plants. There should be continuous inspection or at least much more frequent and thorough inspection in food and drug plants and in food processing plants than there is now. Without that, it's just impossible to prevent

adulterated harmful products from coming on the market and when they come on the market or are shipped, it's impossible for the FDA to catch more than a small percentage of them. I would say there is also a great need for extension of its inspection services for registration of manufacturing and processing plants and for continuous inspections. In other respects, I think that a much better job could be done if the control of proprietary drug advertising were in the hands of FDA rather than FTC. FDA now controls only prescription drug advertising. FDA now controls only prescription drug advertising. Even there, there is need for stronger control. FDA, in comparison to everything done in the past, is doing an extraordinary job on advertising. They are controlling advertising for prescription drugs in a way that I never expected to see. But it's still not adequate. The main reason is that few doctors read the small type in the advertising. In general, they don't read the advertising. There is a requirement in the law now that contraindications and precautions and other essential prescribing information be given in advertisements for prescription drugs. It's more than a reminder ad, just the name of the drug, and then they have to have dosage indications and warnings. Contraindications and warnings are almost always in small type and the advertising agencies are very adept at subordinating them. For example, there'll be an ad with claims on one page and then in one column on the next page in small solid type, the required prescribing information.

CJ: Also contraindications.

AK: Doctors prescriptions are influenced to a great extent by their impressions. They thumb through the advertising page; they see the names and the names of drugs stick with them and their prescribing is based to a great extent on this, not on a rational judgment resulting from a careful reading of the entire advertisement. How that can be controlled, I don't know. An excellent example is the drug call Mycetum. You may have read stories about it in the papers.

CJ: I think the tape is about to run on us . . . But I want to thank you for the time you have given me.

END OF INTERVIEW