

History
of the
U.S. Food and Drug Administration

Interviewee: David F. Cavers

Interviewer: James Harvey Young

Date: February 15, 1967

Place: Emory University, Atlanta, GA

March 16, 1967

Professor David F. Cavers
Law School of Harvard University
Cambridge, Massachusetts 02138

Dear Professor Cavers:

Thank you very much for correcting and amplifying my summary of our conversation.

I am just leaving on a research trip to Washington. When I come home again and retype the interview document, embodying the changes you suggest, I shall send you a copy.

Sincerely yours,

James Harvey Young

Historian's Note: These are notes from James Harvey Young's preliminary interview with David Cavers in collaboration with his doctoral student, Charles O. Jackson, who was working on his seminal book on the history of the 1938 Food, Drug, and Cosmetic Act. (Jackson, Charles O. "Food and Drug Legislation in the New Deal. Princeton University Press, 1970.) Although the FDA's oral history project was begun shortly after this interview, the complete oral history interview was apparently never conducted. Nonetheless, Cavers read and provided corrections to Young's summary and for that reason, we think it appropriate to include in the FDA Oral History Collection.

May 4, 1967

Dear Charles,

Here is a copy of what I took to be the key points in my conversation with Professor Cavers on February 15. I made a first draft which I sent to him, and he made certain modifications and additions. So I have revised the draft today and sending it back to him. It is possible he may have other suggestions, but I doubt it. He says he is willing to be interviewed on tape if the National Library of Medicine oral history project comes through. This appears almost certain. As I understand, the contract for Emory to sign and should be here almost any day.

Sincerely,



CASSETTE NUMBERS

GENERAL TOPIC OF INTERVIEW: History of the Food and Drug Administration

DATE: February 15, 1967

PLACE: Emory University,
Atlanta, GA

LENGTH:

INTERVIEWEE:

INTERVIEWER(S):

NAME: David Cavers

NAME: James Harvey Young

ADDRESS:

ADDRESS: Emory University, Atlanta, GA

FDA SERVICE DATES:

FROM: N/A

TO: N/A

TITLE: Dean, Harvard School of Law

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Royal Copeland
Law and Contemporary Problems

Interview with Dean David F. Cavers, Harvard School of Law, February 15, 1967 by James Harvey Young, Professor of History, Emory University

Dean Cavers stated that he had become interested in medical quackery as a boy. The son of a dentist, he had had access to some of the anti-quackery pamphlets of the American Medical Association and had also read some of the late journalistic muckraking in this field. His interest had been stimulated anew by the work of writers like Chase, Kallet, and Schlink, which had made him aware of the need for reform in the area of food and drug law. As a young law professor at Duke, confronted with the task of finding themes to treat in the issues of the planned publication, Law and Contemporary Problems, he had selected the protection of consumers in the food and drug area as the theme for his first number.

In the meantime, Dean Cavers had taken an instructorship at Harvard to permit him to study more thoroughly the field of administrative law, where he was enrolled in a seminar conducted by Felix Frankfurter. It is his impression that Frankfurter, knowing of his interest, suggested his name when asked in 1933 for the names of experts who might help draft a new bill. By chance, Dean Cavers had earlier become acquainted with Rexford Tugwell in southern France, and this coincidence may have helped in his being selected to aid in the drafting process.

Dean Cavers undertook his assignment with some suspicion of Food and Drug Administration officials, derived from the picture presented of them in 100,000,000 Guinea Pigs. Association with them soon dispelled this suspicion: he came to have a high regard for the integrity, earnestness, and ability of Walter Campbell, Paul Dunbar, and Charles Crawford. Campbell, as chief of the agency, had responsibility for overall problems; Dunbar was concerned with FDA's workaday routine; upon Crawford devolved the main immediate responsibility for the text of the developing bill. Many conferences were held, often on weekends, to which Dean Cavers would come up from Duke. He and Milton Handler of Columbia, backed by Tugwell, pushed for thorough revision of the 1906 law and far-reaching coverage of

foods, drugs, and cosmetics, including their advertising, whereas the lawyers in the agency initially were more conservative in their desires as to how far revisions should go.

Dean Cavers does not recall that Stuart Chase sat in on any of the sessions about the bill which he attended. Nor does he recall that any foreign food and drug laws were consulted during the drafting process: it was the drafters' impression that the United States was innovating and leading the parade in the kind of bill that was being wrought.

One of Dean Cavers' major contributions to the first draft was the provision that forbade advertising of remedies in certain disease categories, those for which medical science had not yet found effective therapeutic procedures. Dean Cavers' list of diseases was a short one, and he included the provision on that the list might be curtailed by administrative decision as medical science progressed. The physicians in the agency liked this idea and in their eagerness expanded the list of diseases considerably, also getting into the draft bill the provision that new disease categories might be added to the list by administrative decision. These expansions, it is Dean Cavers' impression, had a lot to do with frightening industry, especially the proprietary industry, and led to the widespread basic approach he had suggested, Dean Cavers pointed out, had become part of Canada's food and drug law, although eventually omitted from the American bill.

Dean Cavers recalled that he and his drafting colleagues may have had some initial hope that a new bill might become law during the emergency Congressional session at the opening of the New Deal. But this hope became dispelled as it became apparent that President Roosevelt was placing major emphasis on measures to promote economic recovery. The need for continuing emphasis on economic recovery Dean Cavers sees as the major reason that Roosevelt never gave the food and drug bill a higher priority, for this goal the bill did not have. There was a constant hope, and occasionally rumors, that Roosevelt was going to put major pressure behind the food and drug bill. So there was no moment of let-

down or disillusionment with Roosevelt for not supporting the bill more strongly, just a sort of gradual realization that the bill did not have the Presidential priority its drafters initially hoped it might have.

Unlike Consumers' Research spokesmen, Dean Cavers came to have much respect for Senator Copeland, believing him a sincere advocate of reform, not damaged in his integrity by the fact he had received fees for radio broadcasts from concerns whose products would be regulated under the law, and devoted to working for as strong a bill as he could get, within the realms of political reality.

Dean Cavers stands by the comments on the legislative history of the law which he wrote for the Winter 1939 issue of Law and Contemporary Problems. He thinks the 1938 law as strong as political realities permitted. In view of the extent and power of the political opposition, indeed, he is almost surprised, in retrospect, that the bill was enacted at all and certainly in such a relative strong form.