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LAWRENCE E. (LARRY) LEVINSON ORAL HISTORY, INTERVIEW IV
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LAWRENCE E. LEVINSON

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INTERVIEW IV

DATE: May 13, 1969

INTERVIEWEE: LAWRENCE E. LEVINSON

INTERVIEWER: Paige E. Mulhollan

PLACE: Mr. Levinson's office, New York City

Tape 1 of 1

M: The two legislative stories left are the Revenue Act of 1968 and the Truth in Packaging bill. Take your choice as to which one you want to go first on.

L: I might talk first about the Truth in Packaging bill because that got to pretty well represent a significant breakthrough in consumer legislation in the sense that Truth in Packaging had been discussed and had been knocked around on the Hill for about four or five years just as Truth in Lending was knocked around and discussed heavily for four or five years. There came a time for Truth in Lending as there came a time for Truth in Packaging when the consumer wave which was largely propelled by Lyndon Johnson got to a crescendo. And within that crescendo we did get the fallout of the enactment of Truth in Lending and also the enactment finally of Truth in Packaging.

The President's consumer messages, in fact, the earliest message I recall, the February 1964 message, as well as messages he sent up in 1966 and 1967 I believe also stressed heavily the need for giving the housewife a good break in the supermarket. While we were mainly concerned with the labeling provisions of the bill, which is to say that what had caused great confusion was the fact that unless you were a mathematician of sorts it was very difficult for you to convert ounces, pounds, and so on into some standard measure for comparison. One of the most overlooked portions of the bill was

that the requirement that there be relatively uniform descriptions of the contents of the package by weight so that you wouldn't be dealing with 82 ounces, but they would have to describe it as one pound, four ounces. In other words, there would be uniform standards so that when you looked at one package it wouldn't say one pound, fourteen ounces, it would either say X number of ounces We felt that given a clearly disclosed weight comparison without having to go through mental computation, the housewife would be able to make a better shopping comparison. So I think that that part of the bill which dealt with a clear statement of weight was not the hang-up. Now everybody agreed with that.

Where the bill got hung up was on the shapes and sizes of packages themselves. For a long time a very powerful lobby headed by the soap and detergent industry, which incidentally was represented in Washington by a fellow named Bill Geoghegan, who at one time was an assistant attorney general or deputy assistant attorney general during the Kennedy days, who then went to work for a law firm in Washington, who then was known later as Suds Geoghegan because of his effective representation for the packaging for the soap and detergent industry. The heart of the Truth in Packaging bill was a section in the earlier versions, as I recall called 3(c) 1, which would require a curtailment of the many sizes and shapes of, let's say, peanut butter jars or detergent jars. The packaging industry and the manufacturers got very upset because they thought that would inhibit packaging innovation in a market climate where you would sell your product not by as much what was inside but what it looked like from the outside. For many years there was a great hang-up on the so-called packaging proliferation provisions of the Truth

in Packaging bill. And at that point the soap and detergent lobby particularly was very powerful in getting the item blocked.

Now, where the breakthrough came in, it seemed to me was that in either 1966 and I can't pin the date down, but this is certainly recorded in the presidential papers, we had a meeting at the White House with members of Senator Hart's staff including Jerry Cohen who was at that time a staff director, and Mike Pertschuk, who was the general counsel of the Commerce Department where this bill was being pigeonholed. In conversations with Califano and myself and with Pertschuk and with Cohen, we worked out a program for trying to get that bill through the Senate Commerce Committee, knowing once we got it through the Senate Commerce Committee up on the floor, we would have a good chance for passage. Then we would take our chances in the House. I remember the fact that the bill had gone through several redrafts. We had actually typed up a version of it at the White House one night and ran it off through the night. As [the White House] Correspondence [Section] was alerted, we ran off one hundred copies of the new draft legislation so that the Senate staff would be able to distribute it to the members the next day. By working closely with the Senate staff, and with the President using every chance he had to press for the enactment of that bill, we began to make progress in the Senate.

Now, one of our drawbacks, serious drawbacks, came in with respect to the activities of Esther Peterson who was then the President's consumer adviser. She had for a long time made Truth in Packaging a major issue in terms of her forays in supermarkets and her speeches. We were beginning to find out that because of the way she was

handling herself in public and on the Hill that she was beginning to have a negative effect on the chances for the passage of that legislation.

M: With the congressmen.

L: With the congressmen.

M: The housewives seemed to like her.

L: The housewives liked her because she was more like one of them, like sort of your friendly grandmother. But she was causing us some problems on the Hill particularly with the powerful chairman of the Commerce Committee, Senator [Warren] Magnuson, who through his staff advised us to keep Esther Peterson off the Hill. So our human problem in dealing with Esther Peterson who had really lived with this legislation for so long was how to tell her in a very nice way not to go up on the Hill anymore but to continue to champion the cause of the legislation. I must say that we have several tearful meetings with her, and I think that we asked her to put the legislation first and put her own inclinations second in an effort to get the legislation through. With the kind of access that was so successful in the auto legislation, the auto safety legislation, pretty much the same cast of characters was involved in the Truth in Packaging legislation as far as the Senate Commerce Committee was concerned, that is, our close relationships with the Senate Commerce Committee staff. So we did successfully get the bill out of the Senate Commerce Committee and it was thereafter passed by the full Senate pretty much as we wanted it to. Then we knew that the soap and detergent lobby would be sitting back and waiting for that bill to get to the House.

M: They weren't reconciled

L: They weren't reconciled because they felt very strongly that they could kill it in the House or at least knock out the proliferation of packaging section which seemed to be bothering them the most. Now, there were very serious problems in the House with this bill. Chairman [Harley] Staggers, who was the chairman of the House Interstate and Foreign Commerce Committee, had jurisdiction over that as well as other items of consumer legislation, and we found that bill slowly being bogged down in terms of the committee's workload. In addition, there seemed to be quite a bit of a feeling on the House part that this bill was a lot of nonsense, the housewives really wouldn't benefit from it and it was really much ado about nothing and that the proliferation of packaging and all of that wasn't going to make a bit of difference, and the only thing that you would get out of the bill was a harmful effect on package development and package progress. So we had quite a difficult time in the House Commerce Committee and the bill began to flounder.

Now, in the departments of the government, the leadership for getting the bill through was supposed to have been in the Commerce Department, and I must say frankly that Secretary Connor at that time was not overly enchanted with the bill. [He] felt that it might be an intrusion on American industry and that really the need for it wasn't commensurate with the requirements of the bill. At that point in time after a meeting at the White House, we knew that we needed more of a spirited leadership in the Commerce Department for the bill. And after looking around who in the Commerce Department might want to take up this bill, we settled on an assistant secretary named Herb Hollomon, who had come out of General Electric out of a \$75,000 a year job as director of research and had taken on the Commerce job as Assistant Secretary for Science and

Technology, roughly, where his main domain extended to the Bureau of Standards. Now, the Bureau of Standards was a very vital cog in the Truth in Packaging bill because they were the ones that were developing standards of weights, standards of measures, standards of packaging. Now, to understand Hollomon is to understand the kind of human dynamo who if set off on the right course could do you immense good and could provide extremely spirited leadership.

We think that the great breakthrough occurred at least as far as the administration's strategy was concerned in getting that kind of departmental leadership in the person of Herb Hollomon who once having been assigned this project really took off with it and really did a magnificent job of not only testifying but converting rather *blasé* or disinterested congressmen into the need for the bill. Now, the main argument of the packaging industry, mainly motivated by Kellogg and by Nabisco, was that if this bill were to go through they would have to re-alter substantial portions of their assembly lines and their machinery and that if the government were to prescribe only three sizes of packages for corn flakes or for peanut butter or potato chips that this would require virtually highly expensive alteration of machinery. They came up and told Congress this. Now, Hollomon's main point, and I will always remember, is that what the packaging industry seems to be saying is that they have fifty million dollars worth of machinery that is defrauding the public, and he kept making that argument that they had been misleading the public. That got a lot of congressman thinking.

Now, we obviously had to go for a compromise because our main concern was not so much the proliferation of packaging as it was the clear statement of what was on the label, what was in the packaging in big letters so that you didn't have to need a

magnifying glass to see the contents and the weight. So at that time the issue was crystallized as to whether or not the secretary of commerce would have mandatory authority to prescribe package sizes to eliminate proliferation or whether there would be a voluntary program where the industry would cooperate and that the secretary would then have to report back to the Congress within a year as to progress of the program.

M: Same problem that you had with the auto safety. Boils down to the same.

L: Right. Except in the auto safety bill we came out the other way because of the crescendo which is that the secretary ended up with mandatory standards. Now, on the Senate-passed version, the secretary had mandatory authority to issue regulation for package sizes. The House we knew simply would not take that mandatory, and the question then became whether we wanted any bill at all, even including the good parts about what was in the package clearly stated. At that point I remember we had three agencies of the government involved. We had the Commerce Department, which Hollomon spearheaded. We had HEW, because they would have to issue certain regulations through the FDA on certain aspects. And we had the Federal Trade Commission. After a lot of soul-searching and by having Wilbur Cohen go up and do a lot of work that he is so good at doing on the Hill and try to find out where we would come out, we finally settled on a modification of the proliferation of packaging section into a voluntary program with a report to the Congress. With that as the compromise and with our understanding with the Senate that they would take this compromise in exchange for certain other concessions, the Truth in Packaging bill was finally enacted and signed by the President, along with the Hazardous Safe Toys Act which was a relatively companion bill, and the upshot of it was that we did get the Truth in Packaging enacted into law.

We realized that as far as the proliferation of sizes of different packages were concerned, that that would be a kind of an evolutionary process. But the important thing was to strike while we could get the bill and later try to perfect the proliferation of packaging section which now has had about two years of experience which has proven to be somewhat unsatisfactory and which may well be remedied by the Congress in terms of tightening up the standards.

The Justice Department also has indicated that every time you have a voluntary program it always leads to anti-trust problems or potential anti-trust problems. So while we did get Truth-in-Packaging after a long logjam, and we did get the heart of the bill which was to have labels which clearly stated the contents and the weight, the proliferation of packaging section, which was the compromise section, now undoubtedly will need tightening and review after the two years of experience that we had with it. But the important thing was in the consumer mood that Congress was in, to move and get it passed. Being realistic and practical about it and achieving about 80 per cent of our objectives in terms of the labeling section, we felt this was a worthy concession, although I must say that at the time editorial comments were that we caved in to the lobbies and that this voluntary program would not be successful. But I think people should reflect on what progress it was to get that bill through after four and a half or five years of debate, finally getting it enacted.

M: This decision to take the compromise was made below the presidential level?

L: No, that decision was made after consultation with Wilbur Cohen and Hollomon. I believe we did send in a memo to the President on the fact that we were going to take a little less than 100 per cent. And this may have been discussed at the leadership meetings

at that time. As a matter of fact, I believe that probably the House leadership thought it was really the key to getting the bill passed and that given some time, industry might be able to work out its own problems. So, as I say, the hard-core consumer fans thought they were being let down, and immediately focused on the proliferation issue. But we felt that given the likelihood of getting nothing, with that holding up the whole bill we might as well take that bill and then try to perfect it in a given period of time. And at least we also had the voluntary program to the extent that that could be successful as a start.

What it did show is that given at first the reluctance of the department to really move the legislation, the focus of attention shifted to the White House where we at the White House staff level with the committee staff in the Senate began to move it and then in the search for new leadership within the department to push the bill, with getting Hollomon. It provided enough muscle and enough power to get the breakthrough in the House. So the very significant aspects again were in this whole folding of the legislative process, that so many instances where the department itself was lukewarm to the legislation despite all the prodding we could give it, the action moved up to the White House. Then in the search later we found a champion in Hollomon who was exactly temperamentally inclined and very bright, very aggressive, very tenacious, and a good salesman for the bill and could think of very good arguments for the bill to move in and try to push that through.

M: That's an interesting example of the way things

L: Right. To get that passed. I think in the long run Esther Peterson felt that this was an essential compromise, although I really believe she was tenacious still at the end by

saying, "This is kind of a letdown." We had to talk to her. So I think a large part of her problem in Truth in Packaging was the human problem of dealing with a secretary of commerce that was somewhat unenthusiastic about the bill, about a very keen advocate of the bill, Esther Peterson, who was doing us more harm than good on the Hill, and by looking for just the right muscle to finally get it through, which ended up with Hollomon.

M: That's a good example of what the White House staff can do and has to do--

L: To move forward. I know that our legislative files under the Truth in Packaging which we put together should give you the details on that .

M: Do you want to shift to revenue then, the act of 1968? It's the last one.

L: Yes. I would say this--that the Revenue Act of 1968, there are people that are undoubtedly much more familiar in the terms of the day-to-day struggle for that legislation, including among others, Secretary Fowler and Under Secretary Barr at the time, Gardner Ackley in the earlier stages, Chairman Okun in the later stages, Charlie Schultze in the earlier stages, and Charlie Zwick in the later stages, and Bill Martin. In other words, the whole fiscal operation of the government was deeply involved in what was a most time-consuming, make-or-break issue for the administration.

My own involvement, and I must speak only personally on this, dates back to the point where the decision was about made to go for the ten per cent surcharge. My assignment was to prepare the presidential message to the Congress which would relate the need for the surcharge. I remember working with Harry Middleton, as we always did in terms of major messages, carving through a first draft with really not much direction except to say that we knew what the program would be, 1), a ten per cent surcharge on corporate and individual income taxes. This was, I would imagine, sometime around

June when we began to prepare this message of 1967, with a section on Vietnam and how this is necessary to support the military operations in Vietnam, on how this was decidedly to be an anti-inflationary measure at the same time, and the fourth leg of it was to be how we would accompany this increase in taxes with a program of governmental expenditure reduction.

And so I think what the President really had in mind as we went along was a four-fold explanation, one being a program which was a tax expenditure reduction program, rationalized and based on a number of grounds including the anti-inflation ground, the support for Vietnam operations grounds, and the admission that we had somehow underestimated the amount of revenues that would be flowing into the Treasury so that our deficit at that juncture was approaching unacceptable limits of somewhere upwards to 29 to 30 billion dollars which would have been without the surcharge a drastic impact on the economy. I must say that that message probably went through more drafts than any single message that I know of in all my message-writing involvement at the White House for the three years that I was there. I think the records will show how many drafts we went through because the strategy and the underlying rationale kept shifting. It is also very difficult to explain clearly in a document why what is essentially a very complicated--

End of Tape 1 of 1 and Interview IV