OFFICIAL TRANSCRIPT OF PROCEEDINGS
BEFORE THE
Federal Trade Commission

DOCKET NO. 215-40

In the Matter of:
PROPOSED TRADE REGULATIONS
RULES ON FOOD ADVERTISING

File No. 511008

Place WASHINGTON, D.C.
Date JANUARY 3, 1977

Pages 7352 - 7406 Dr. Stephen Barrett Testimony

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BEFORE THE
FEDERAL TRADE COMMISSION

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IN THE MATTER

OF

PROPOSED TRADE REGULATIONS

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- - - - - - - - - - - - X

Room 332, FTC Building
6th & Pennsylvania Ave., N.W.
Washington, D.C.
January 3, 1977

Met, pursuant to notice, at 9:00

BEFORE:

WILLIAM D. DIXON, Presiding Official

APPEARANCES:

JUDITH A. NEIBRIEF, JOHN R. CLEWETT & MELVIN H. ORLANS, on behalf of the Federal Trade Commission

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DIRECT TESTIMONY OF DR. STEPHEN BARRETT

DR. BARRETT: I am Dr. Stephen Barrett, Chairman of the Board of Directors of the Lehigh Valley Committee Against Health Fraud. I am a member of the Pennsylvania Society and I am co-editor of a book that was published about three months ago called The Health Robbers. It is a comprehensive book on the subject of health quackery.

In connection with the book, I have been asked to appear on a number of television talk shows, and I would like to tell you about an experience I had about two months ago.

There is a program out of Baltimore called "Prescription For Family Health" which is hosted by Dr. Neal Solomon, the Commissioner of Health of the State of Maryland. It is a very well-run program, and I was very much impressed with the literature that preceded my appearance.

About 10 days beforehand, I got a complete rundown of what I should wear, how I should look at the camera and every detail to cover my appearance, including a map with really terrific directions about how to get there.

Two days before I went I got a call to call Mrs. Solomon at her home at 7 o'clock, and so I did. And a voice answers the phone, "Speak."
I was a little startled and I said, "Did you?"
And the voice said, "Speak."
I said "This is Dr. Barrett, may I speak to
Mrs. Solomon?"
And the voice said, "I will be back to you in 12
seconds." IBM 3600.

Twelve seconds later the voice comes back, "This is
the answering service. Mrs. Solomon will be back, please
call again -- Mrs. Solomon is unable to come to the phone.
Please call again in 15 minutes."

So I hung up and I thought it was a very
extraordinary machine they had, and I was telling my kids,
9, 11 and 13, and I was telling them about this answering
device and I know the Solomons live in a communication
flood.

They have a talk show with audience participation,
and they get lots of calls, and he writes a newspaper
column, and I imagine they really have to protect and
screen their calls. A machine that can do that must
really be something. They wanted to hear the computer,
eto.

I had one kid on each telephone when I called back,
and a voice answers the phone, "Hello" and said, "This is
Dr. Barrett, can I speak to Mrs. Solomon."

It was Mrs. Solomon that answered, and we had our
conversation, and at the end of the conversation I said,
"There is one thing. My kids are going to be awfully
disappointed; they wanted to hear the computer."
She said "What computer?"
I said, "The one that answers your phone."
She said, "That wasn't a computer; that must have
been my older son."

Here I am working for five years to assemble a book
to tell the public about how to avoid being cheated, and
I got taken in by a 14-year old boy on the telephone. I
think it was probably the funniest thing I have ever
experienced.

I thought about it; what was it that did me in. The
answer was I had a certain amount of information but not
enough, and I had certain expectations that he spoke to,
because I have I.B.M. equipment.

I have a typewriter; I am involved in a
communication flood myself. I know what an answering
service is; I live on a schedule. And I assume that
Mrs. Solomon did also, and the whole thing seemed very
possible to me.

Now let's talk about what we are here today for,
basically, how the health food industry has been
misleading the public. Because some of the same
mechanisms are involved.
First of all, what attitudes on the part of consumers make it possible? For one thing, many people have a wish for magic, and they wish that they could have better health. There is a natural wish for better health, and then there is a wish for better than good health. And everybody wishes that he could be healthier, or I should say most people wish that they could be healthier.

And there are many forces, and I am going to call them collectively the Health Food Industry, that wish -- that cater to this kind of wish, and they say to you, if you use our products, our nutrients and our nutrient mixtures, they will make you healthier.

Now there may be a grain of truth to such a promotion, but what happens is that on balance the public is being misled. Now, there are advertisements -- people's attitude toward advertising is one of great trust in the area of health. I don't know whether it is that way with used cars, but in the area of health people tend to believe that ads must be true or they wouldn't be allowed.

The evidence for this was submitted as our Exhibit 1, which comes from an F.D.A. survey. But it is a general thing.

My personal experience backs this up in that I have
shown ads to people and talked about products that have
appeared on television, for example, and people are
amazed. They say, how can that be. I can't imagine that
this would be allowed if it isn't so. So we have that.

Now one of the things that has hooked the public is
that many people will have ups and downs in the way they
feel, and when they are encouraged to try a product, they
will, and they try it and they feel better, and they
don't have enough scientific knowledge to test whether
the product made them better or whether they recovered
spontaneously.

So what you have is many people attributing recovery
or improvement to a coincidence or to a placebo effect.
This is the origin, of course, of most old wives tales
and most folk remedies, that somebody along the line
tried something and appeared to be better.

And most of the folk remedies probably don't work,
but some have become persistent because many people have
been promoting them. Let's talk about the advertising
practices of the Health Food Industry.

The main advertising of the Health Food Industry is
not done by the people who sell the products. Every once
in a while I walk around a health food store to look at
the labels to see if I can find anything to turn into the
F.D.A...
In recent years, I haven't found a single misbranded product on the shelf of a health food. As a matter of fact, I haven't found any products that make claims. It is amusing to contemplate how an industry can sell a product when the label doesn't tell you why you need to take it.

What is happened is that the media, television talk shows, books, magazines, special Health Food Industry publications have become the label.

And if the claims that were to appear, if the claims in the media were to be placed on the labels, there would be a lot of legal trouble for the manufacturers.

Let me give you some examples. This is an Exhibit 2 of our previous submissions. It is called "Pathways to Living." I don't know if you want to look at the original.

This was picked up by someone unknown to me and just sent in the mail from Schaeffers Health Center, Lehigh, Pennsylvania, it was written by Roland Horvath, President and founder of the American Health Education Foundation.

And basically it contains a large number of claims and various suggestions as to vitamins that would be helpful to you.

Just to give you an example, it says vitamin C is helpful. When tests are made -- on page 4, last
paragraph -- when tests are made of the "lens it is found
that vitamin C is located in these delicate tissues.
This indicates the need for vitamin C supplementation for
building natural eye health."

Well, I won't dispute -- I am not enough of an
expert on vitamins to know how accurate the statement is,
and I won't dispute that vitamin C may have value in
building natural eye health, but this publication
suggests you need to take supplements.

It says this indicates the need for vitamin C
supplementation for building natural health. It does no
such thing. Whatever vitamin C you may need, you can get
from eating a variety of different foods. One brussels
sprout per day has enough vitamin C, as far as I
understand it, to prevent scurvy. It doesn't require
much more than that to meet the recommended dietary
allowance.

So here is an example of an independent publication
which tells you what vitamins and other supplements to
buy. This one happens to have the name of a health food
store on it.

Exhibit 3 is another example of part of an article,
just another example of misleading propaganda which
serves to confuse the public.

Exhibit 4 is an advertisement for Carleton
Fredericks' former syndicated radio program. I say
"former" because I understand it was recently removed
from the air.

Prevention magazine paid Cinema Sound Studios in New
York $100,000 to put together this radio program and send
it to various stations, and I think it went to some 70
stations. And this was what is called public service
programming.

Stations would take this as a public service, but
they would propose in return to run Prevention
advertisements free of charge at other times in the day,
and at the same time they would offer local advertisers a
chance to put their ads sandwiched into the program.

And I understand that a number of health food stores
in various communities would buy advertising time which
occurred during this program.

Now the problem with this is that Fredericks is not
selling a product. He is selling himself. He received,
I understand, $25,000 for preparing the tapes of this
program, and Fredericks' discussion contained many claims
about nutrition that were not true, many of which would
encourage people to buy supplements, and, of course, he
is protected by freedom of speech.

The health food stores didn't necessarily know what
he was going to say, but they would attract attention and
Prevention Magazine, which put up the money I am sure did very well by getting advertising space elsewhere on the station. That is another example of the way in which products are sold without the claims being made either in advertising or on the label.

Many talk shows have had people like Fredericks and Adele Davis, gather on the radio and television, and they are free to say whatever they please, which would encourage people to buy supplements.

I can remember one program in particular, a Meriv Griffin program where he, himself, said if you listen to this program your life will be prolonged by so and so many years. I have tape, but I haven't had it transcribed.

So as a result of these various workings of the media, false beliefs about our food supply are quite widespread.

And the sellers of so-called health foods no longer have to make any claims, because everybody knows what the truth is about nutrition, except the trouble is that that isn't so. But everybody knows what their product is for. They have heard it on television, they have seen it in a book, read an article, and heard it from their friend.

There are some specialized publications that on a regular basis place false beliefs in articles, editorials
and letters to the editor.

Exhibit 7 is from *Let's Live* magazine, and Dr. Paavo
Airola answers your questions, and the general gist of
this is that people need supplements. As a matter of
fact, the magazine as a whole -- I will just show you
what it physically looks like.

This is *Let's Live* magazine, with a circulation of
about 150,000. It is a slickly fabricated magazine, very
nice to look at, spatially laid out well, and so on.

It is full of advertisements for supplements and
full of articles that tell you why you need supplements.
The ads very rarely have any claims about health.

Here is another one which is slightly different.
This is called *Body Forum*. This appears to be published
by a company that actually sells products in contrast to
*Let's Live*. Let's Live does not sell products and
neither does -- that is, I am not aware of and I don't
think that the owner of *Let's Live* is in the business of
selling products, and there are certainly no *Let's Live*
branded products.

On the other hand, *Body Forum* appears to be made by
a company that -- by a supplement company, and it has
articles which tell you what the products are for, and it
has ads in the same magazine.

And this particular issue which is Exhibit No. 8 is
intriguing to me because it is a letter to the editor, it
says -- Exhibit 8 down near the bottom:

"Dear Body Forum,

In your May issue you wrote quite an
article about salinium. Where can I purchase
this vitamin?"

And then the editor replies:

"Actually salinium is a trace mineral
rather than a vitamin. It is presently being
researched by Crest Labs and should be
available for sale by the time this issue of
Body Forum reaches you.

It will, of course, be advertised in our
magazine and you may purchase it by use of the
order blank found on the last page of the book."

Now I suspect that when a company that makes and
sells a nutrient puts out its own publication that there
may be a law violation involved where the publication can
be considered to be part of the label or certainly the
text of the publication can be considered advertising.

Now Prevention Magazine -- here is a copy of that --
Prevention Magazine is a little bit different in that
respect. It has articles that make false claims, but
Rodale Press, which publishes Prevention is not in the
vitamin business in the United States."
The advertisements in Prevention appear without health claims, and essentially do not tell you what disease you can prevent or treat with these products. But the articles in the magazine do tell you.

Interestingly a Rodale Company does sell vitamins, but not in the United States. They sell vitamins in England. There is a J.J. Rodale, Limited. And we have some ads from Rodale in England that do contain claims that would be illegal in the United States.

One of the main tactics taken in articles that do deal with claims for supplements are -- I am sorry -- these are advertisements -- there are advertisements which deal with claims for supplements that tell you why you need certain nutrients.

For example, they may say that you need vitamin A to protect your good vision. But what happens is that these advertisements fail to tell you that the nutrients are readily available in ordinary food.

And if you turn to Exhibit 9, "Stress can rob you of vitamins." This ad suggests that if you are an ordinary person who eats -- that is, to the ordinary person this ad may suggest that you need supplements to protect you from stress.

There is a play on words in that what may be stress in a scientific sense ascribed in the article, may not be
the same thing as what the ordinary reader takes to be stress.

And so what happens is the reader personalizes this type of advertising, and instead of telling you that if you are eating a reasonable diet you don't have to take supplements unless your diet is interfered with, this ad suggests, and the very name of the tablet follows, "Stress Tabs," that if you want to be protected during periods of stress, take Stress Tabs. A very slickly worded ad, and an example of how they tell you just part of the story.

Exhibit No. 10 is an ad from Prevention and it is a typical kind of -- one of the typical kinds of ads. It says, for example, "Daily zinc in your diet can make a big difference in how you feel. Read the current reports of zinc and learn how your body enzymes needed for life depend upon this vital element."

There is no suggestion to the reader as to how he knows whether he needs zinc. The whole setup of the magazine is such to try to make people think that they all need to take zinc supplements.

Another example occurs at the bottom of the page where it talks about "Protein is vitally linked to life's processes and vital in the make-up of the human body. Are you aware that proteins are in a constant state of
exchange and require replenishment each day in adequate
supply to help the body maintain optimum health?"

I am not sure whether that is even taking every
statement at face value, whether they are all completely
true, but certainly protein is available in -- is readily
available in a balanced diet of ordinary foods and I have
not -- I suspect that many of the protein supplements are
more expensive per amount of useful protein than would be,
let's say, buying other foods that are readily available.

Now so much for what is visible in the media.

Now let's talk about what isn't visible, and that is
what is going on at the grass roots level direct from the
seller.

This is not the company, this is the store. What
goes on between storekeeper and customer. I don't know
of any statistical study, but I can tell you that members
of our organization have visited health food stores and
observed storekeepers telling people what they need.

For example, a person will go into a health food
store and say, "What is good for your liver?"

and the storekeeper will say, "Oh, we have these
pills."

Very rarely does a government agency get involved at
that level. We called the resident shortly after we had
visits to health food stores, the resident F.D.A. officer
in our community. We said we would be happy to have
people go into stores and witness the events and tape
record them.

The answer was the F.D.A. tends not to be interested
in what goes on at the local level in this way; that the
priority is for things that are much broader in scope
like national advertising. And he said that this is
simply not something that the F.D.A. would be interested
in at that time.

In November 1974, I visited a convention of the
National Health Federation and I observed some about 35
exhibits, and during the brief time I was there I
observed five instances, 50 different exhibitors involved
in misrepresentation.

I don't recall the details of the other four, but
one -- the most blatant was a company that sold
concentrated seawater that was telling the audience --
the salesman was telling the audience that if they take
this seawater it will prevent cancer.

Now this is, again, what is actually happening at
the grass roots level and somewhat hidden from view of
Government enforcement agencies. And at the present time,
at least, the F.D.A. is not inclined to get involved at
that particular level.

Now in California, there have been a number of
instances where undercover agents have been sent to stores in order to observe what goes on, and there have been some criminal prosecutions as a result.

The third type of thing that is taking place -- I don't know how widespread this is, but under an assumed name we answered an advertisement in Let's Live magazine and said, "Do you have anything for arthritis."

That was to Eden Ranch which advertised that its products are available.

In response we received Exhibit 11, which is a questionnaire, and it starts out with a disclaimer but then goes on --

It says: "This information should be used -- is to assist you to help your doctor," basically.

And then they ask a lot of questions, and we filled it out, and we described a 61-year old housewife with a classic description of early glaucoma to see whether they would recognize that here was a woman who was in real trouble medically and needed to see a doctor quickly or she would go blind.

And the response was a rather elaborate program which is a pretty much form program, plus various nutrients recommended. And using the price list that they sent with the nutrients, it would cost a person somewhere between $300 and $500 a year, depending upon
the quantity that was purchased at one time. And there
were a few things that are not on the list, and we didn't
know what they cost.

So we are talking about at least a minimum of $300
dollars a year to follow the program. There was no
apparent awareness, from the response, that the potential
customer was suffering from a disease that was
potentially very serious.

We also included symptoms that were compatible with
gout. It said here "For several years I have had on and
off pain and swelling in the joints of my fingers and
toes."

That is not characteristic of gout, but gout could
give this picture. The reason we chose gout is gout is
the only form of arthritis that can be helped by a
dietary change.

But the response from Eden Ranch showed no apparent
awareness that this might be a possibility, and we
thought that was interesting.

So I don't know whether this program of sending out
questionnaires and then prescribing supplements with a
disclaimer, that this is not making no claims for the
products. I don't know whether that is illegal or not.

We have sent this to various Government agencies and
I have no awareness of what has happened. But this goes
on, and the interesting thing about this to me is here is
a black and white description of what we believe is going
on in most health food stores on a customer to salesman
basis.

Now what is needed is more of a counterforce to
protect consumers. And it is our belief that consumers
are not stupid and they are not gullible. I think they
are basically unsuspecting.

I think that people simply do not suspect that they
are being misled, and some people think that only
gullible people will be taken in. Our experience in
assembling the book is that some mighty bright people
have been taken in.

And actually in my own experience, whenever I talk,
I ask people in the audience "Who takes vitamins?"
And generally at least 25 percent of any audience
takes vitamins, except I have not asked in medical
circles yet. Perhaps I should.

But high school seniors, college students, general
public groups, generally anywhere from 25 to 60 percent
are taking supplements. I think basically the public is
unsuspecting, and our view is that there is a difference
between misrepresenting whether a flashlight works, and
misrepresenting whether something in the field of health
works, because the chances are that a health product is
more intimately connected with matters concerning life
and death. Perhaps a flashlight could be, but I am sure
there are many products that will not affect people's
lives that are advertised.

I think that advertising in the field of health is a
far more serious thing than advertising that does not
involve people's health and safety, and that therefore no
stone should be left unturned to protect people from any
form of the deception.

It is a tough job because we have freedom of
speech and there has to be a balance between freedom of
speech and the need to present the full story.
Supplement ads should be scrupulously cleansed of
misleading innuendoes. I will just show you one innuendo.

This is an ad for protein supplements. And even
from the back of the room, I think you can see the
innuendo. It is a man who has tremendous muscular
development and people look at that ad and they identify
with it, they wish they could be that guy, and they think,
"Well, okay, protein will do it; I will buy some protein."
That is how people work -- many people.

There must be away to clean out many of these
innuendoes, and I believe that in the proposals for 437.1
there are a number of things that are proposed which
would be helpful, and these are along the lines of the
F.D.A. -- the things that the F.D.A. will no longer allow to be placed in labelling, and I hope that the FTC will forbid them in advertising as well.

I don't know whether the FTC can devise a method, but we sure hope that you can, to counteract what we call the pseudo-split between the ads and the claims of the publications.

Certainly a publication like Body Forum is over the line, because this is a company that is making a product and putting out a magazine to pro -- which promotes the product in a blatant form with false claims. I should think something could be done about this.

As far as Prevention is concerned, it does have ads misleading in innuendoes. They rarely have blatant false claims. The word "organic" is inherently misleading, and we believe it should be banned in commercial use.

Basically this is the subject of a chapter in our book which has been submitted to you in manuscript form. And basically the word "organic" or "organically grown" cannot be meaningfully defined in a way that is not misleading.

What the organic food industry is selling is a myth. And again at the grass roots level, storekeepers are telling people that this is organically grown; it is nutritionally superior; it is safer; and the FTC can't
control that by allowing the labelling of "organic," we
would enable the storekeeper to promote the myths. The
myths may be promoted, anyway, but it is a lot harder to
promote a myth without a label.

Another thing that would help and would be stiffer
penalties for misleading advertising in the field of
health and stiffer enforcement. It is very rare that
anybody really has it socked to him for promoting a
misleading claim in a health advertisement.

Most of the time the Government, after a lengthy
battle, or at least a difficult struggle, make the person
back off a few inches. It is about time that some of the
advertisers got sent to jail and the industry got cleaned
up.

In conclusion I would just like to say that the
health food industry has really done a magnificent job of
selling the public a bill of goods, so much so that many
of the people who are the most confused and who need our
help the most, are likely to turn around and fight you
and I when regulations are proposed that would protect
the public.

I think that the staff at the FTC and whoever wrote
the proposed rules really know what needs to be done, and
our group and the Pennsylvania Medical Society, and
everybody who can be mobilized by our book will certainly
work hard to support your effort to protect consumers.

PRESIDING OFFICIAL DIXON: Thank you. Your outline is submitted together with the attached exhibits will be entered in this record marked as Exhibit K-107.
(The document referred to was marked as Commission's Exhibit K-107 for identification and received in evidence.)

PRESIDING OFFICIAL DIXON: Do you have any questions, Mr. Orleans?

MR. ORLANS: Just a few, Mr. Dixon.

EXAMINATION

By Mr. Orleans:

Q Dr. Barrett, first of all, I presume when you refer to the incorporation of the F.D.A. prohibition on health-related claims you were referring to section 437.10 and not 437.1; is that correct?

A That is correct.

Q Dr. Barrett, do you believe that claims that a food might prevent or cure a particular illness or disease should be prohibited?

A I am sorry I missed one of the words --

Q That a food might prevent or cure a particular illness or disease should be prohibited in food advertising?

A I think a claim that a food prevents disease has a
tendency to be misleading because it suggests that that
food may be special, and it doesn't really tell you
whether you need to have that particular food at that
particular time.

I think it is okay to say, for example, that such
and such is rich in vitamin A, that vitamin A can prevent
night blindness. But if you want to put that into an
advertisement, I think you should be required to say that
if you -- something along the lines that vitamin A is not
hard to get and that it is available in foods.

Q Might such a claim also encourage consumers to self-
medicate?

A Oh, I think so. I think there was an interesting
study done by Rodale Press with a 1973 date on it, which
asked their readers "How many times a month do you
recommend to your friends that they should try a product?"

And a substantial percentage of them recommend these
products on a regular basis. Certainly more people
recommend them to themselves -- I think something like 20
percent were recommending them once a month.

Q As a physician do you see any risks from that?

A I think the risk is largely to people who go
overboard. I don't think there is a lot of risk in
taking -- I think that the average person is not at great
risk in taking supplements unless he chooses to do so too
long for symptoms that should require a doctor's visit.

I think the number of people that have been done in
by avoiding doctors and taking supplements instead is
relatively small. I don't think that is a major problem.

MR. ORLEANS: I have no further questions.

Mr. Dixon.

PRESIDING OFFICIAL DIXON: Mr. Adams?

EXAMINATION

By Mr. Adams:

Q Dr. Barrett, my name is Dale Adams. I represent
Consumer Action, and we are the designated consumer
representatives in the proceeding.

With reference to the chapter, I believe from your
an investigation conducted by Mr. Lefkowitz' office where
there was a visit to approximately 25 stores by an
investigator of Mr. Lefkowitz.

And as a result of those visits there is a
generalization made that there was a consensus that foods
were sold there were pesticide-free.

Now, was that a consensus of the proprietors of
those health food stores?

A That is how I interpret it. That is a direct quote
from the transcript of the hearing. The little dots in
there don't change the meaning. In other words, you may
notice that the -- we cut out some extra words, but we
didn't change the meaning of what he said.
Q Is there anything -- first of all, in this chapter
that comments on consumer understanding of what the term
"natural" is? Or is there any study --
A I don't believe that we deal with "natural" at all.
Q I am sorry. Strike natural. The term "organic."
Is there anything in the chapter that indicates what the
consumer, general consumer understands the term "organic"
to mean?
A Well, not directly, but I think the fact that
consumers are willing to pay more for a product that is
labelled organic suggests that they think they are
getting a superior product, and we believe they are not.
I should also point out that Rodale himself said
that when -- I am trying to see whether -- I guess it is
not included here -- but at the hearing, Rodale himself
said they found that it was difficult to set up a
consensus among the producers of organically grown food
as to what they meant, and as a result of that, Rodale
proposed the definition, but there wasn't even agreement
among the producers.
Q Just in terms of pesticide-free, there is no
understanding indicated directly, in a direct way as to
what consumers understand organic to mean?
A: I don't believe we cover that.
Q: Now in the next paragraph you cite a study by Dr. George.
A: Yes.
Q: Who reported that 17 out of 55 "Organically" labelled products purchased at health food stores by Government agents contain pesticide residues. Could you tell me where these stores were located? Were they in the same region or the same city?
A: I assume they were in New York City.
Q: Just in New York City?
A: This is a man who was located in the New York City area.
Q: Do you know whether or not the pesticide residue on an organically labelled product would vary from region to region in this country?
A: I have no knowledge of that.
Q: Would it be important to know the answer to that question to be able to make a blanket comment on the fact that organic foods, for purposes of this rulemaking, organic foods do have pesticide residues over foods not designated as organic foods?
A: I am sorry -- could you repeat that?
Q: Do you think it would be important for purposes of this proceeding to know the answer to the question that I
just asked you, the answer to the question of whether or not the high pesticide residue levels indicated in Dr. George's study are just from the New York region, or whether or not they are the same around the country or maybe lower?

A We will have to go over that a couple of times. For one thing, there is a question as to what level might be significant.

Q Right.

A And I am not so sure that the ones that were higher were necessarily -- that any of the levels were significant or that they weren't. I suspect that they were not, but it is really not my field.

You are asking me then -- let me see if I understand what you are asking -- you are asking me would it be important to be able to know whether organically labelled foods in other parts of the country are less or more than others?

Q Yes, in terms of pesticide residue.

A No. I think what is important is -- I don't know -- I think what is important is that there be a body of knowledge which may exist or may need further investigation that says what level of pesticides is significant.

And then if people who promote certain foods wish to
state what the level of pesticides is, I think that it
seems reasonable that they be able to do so.

In other words, if they feel -- you know, if they
can demonstrate that a lower level of pesticides is a
good idea, then I think they should be allowed to state
how much pesticide is in the food.

But at the Lefkowitz hearing Mark Swartz testified,
Rodale's scientist -- nutritionist -- testified that --
let's see -- I don't want to misquote him. He says, "It
is almost impossible to come up with foods that do not
contain pesticides."

Now I am not an expert in pesticide levels, but I
think if Rodale's scientific representative makes that
kind of a statement, I would suspect he is right.

Q  Let me simplify it, and just ask you whether or not
you know if consumers understand that foods labelled
organic are pesticide-free, and if you think so, what do
you base that on? It seems to me -- well, I won't
testify.

A  I think they do. I am not sure what I base it on.
I think that the investigation by Lefkowitz' investigator
suggested that storekeepers are representing it as
pesticide-free and that they believe it, I think they
must be representing it that way.

And certainly there are publications that I have
seen that say that there are less pesticides. I don't believe I have seen any that say pesticide-free. But I think they are written in a way as to suggest it.

In other words, "We grow them without pesticides."

That suggests to people that there aren't any pesticides in them, to my mind. They are not saying "no extra pesticides added." They are saying "we grow them without pesticides." Pesticides are harmful. We grow them without pesticides.

Therefore, I would think there wouldn't be any pesticides in them. As a matter of fact, I didn't know -- I am not an expert in agriculture. Before I read the statement by Dr. Swartz, I didn't have any firm knowledge or belief as to what the pesticide level was in organically-grown foods. When I started out with this business was almost five years ago, I had no particular knowledge.

Q Would it also be reasonable for a patron of a health food store to go in and purchase a product labelled organic and infer from that label that that product was grown in a certain way and nothing more?

A Well, I have evidence for that, yes -- and nothing more?

Q And nothing more.

A It is certainly possible. I have evidence as to how
people perceive that particular aspect, because I have questioned many times when I talk with groups.

Now these are mainly high school and college audiences -- I ask them questions, and I try to learn from them, and many of them asking about organic foods, I ask them, "What is an organic food." They will say it is grown without commercial fertilizers or it is grown without pesticides.

So I think I have seen evidence of perceptions on the part of the public that organic foods certainly have less pesticides and are grown with organic fertilizers.

Did I answer your question?

Q  Yes, in part.
A  And there was a study, by the way. I have not been able to get the breakdown of the figures, but there was a study by the Pennsylvania Department of Agriculture where they asked people how they perceived these various things.

I have a summary, and it says, for example, here that --

Q  Is that on the record any place?
A  No.

Q  Could you identify it?
A  This was obtained from the Pennsylvania Department of Agriculture, Research Department. Unfortunately, it is unlabelled as it was sent to me. It is not officially labelled.
It refers to the study that they did together with Rodale Press. It says, for example, that "There is a small majority that says there is no healthful difference between organic and non-organic foods."

In other words, somewhat just less than a majority, but a substantial number of people felt there was a difference.

And it says here, "There is an inexplicable and unmistakable concern about the chemical content of conventional foods."

Q  What I am trying to get at is your understanding of why you feel consumers view organic foods as superior.

A  Some of them do -- the ones who are buying them.

Q  Could that superiority that people see in organic food be attributed to a way that the food was produced as opposed to, let's say, nutritional kind of superiority? Could people use that term in the other manner that I am suggesting?

A  Well, I think there are basically several myths.

There is the myth of nutritional superiority. There is the myth involving pesticides, there is the myth involving fertilizers, which is related to safety as well as nutrition, and I think that different people have a different level of each of these myths.

Some people know that the foods may not be different,
and they may buy them because they think they are safer. The nutrition is the same, but they may buy them because they are safer.

Others may be concerned thinking that they are going to get a product that will be nutritionally better.

Q. Do you view the use of the compound term "organically grown" in the same way as just the term "organic"?

A. Would you allow --

A. I use them interchangeably because the definitions to me really have no meaning. To me organic means contains carbon. That is what I learned in chemistry.

Q. What does organically grown mean to you?

A. It means nothing to me. It is a slick label that promotes myths. It really means nothing. We took the Rodale definition in our chapter and took it apart phrase by phrase and tried to show how each phrase is either meaningless or misleading.

Q. Are you familiar with the fact that there is a method of raising meat or raising animals that is referred to as organic?

MR. ORLANS: Mr. Dixon, let me object to counsel's testimony in that regard. If he wants to ask the witness if the witness is familiar with a particular method and describe the method that is fine, but to
indicate the fact there is such is testimony by counsel.

PRESIDING OFFICIAL DIXON: That is a fine
distinction, Mr. Orlans. Does the question cause you any
trouble, Doctor?

THE WITNESS: I am not really sure.

PRESIDING OFFICIAL DIXON: Mr. Orlans, might we
say "Do you know of the existence of any such method of
raising animals?"

THE WITNESS: Let me answer from the side. I
believe that there is meat that is labelled organic.

By Mr. Adams:

Q  What does that meat -- does that conjure up anything
in terms of -- let me get right on the point -- in terms
of the use of growth hormones in your mind when a meat is
labelled organic?

A  Well, Rodale talks about that the food has not been
treated with preservatives, hormones and antibiotics. I
presume he means while either living or dead the food was
not treated with what he calls preservatives, hormones
and antibiotics.

Q  Do you know whether or not meat grown with hormones
differs in texture or color than meat grown without the
use of growth hormones?

A  No, I have no knowledge of that.

MR. ADAMS: I guess that is all the questions.
Thank you, Doctor.

PRESIDING OFFICIAL DIXON: Do you have any questions, Mr. Sloat?

MR. SLOAT: A few. Just a few.

EXAMINATION

By Mr. Sloat:

Q I am Jack Sloat with the Grocery Manufacturers of America. I am interested in knowing a little bit more about the type of dietary practices of people who patronize health food stores. I gather you have read the book and done research through interviews of such people; is that correct?

A I am sorry I didn't catch every word. Read the book?

Q You have written a book and conducted interviews of people who patronize health food stores?

A I have talked with some people. I have not personally done a scientific survey where I counted the percentage of people or did this or thought that. I think the F.D.A. has pretty well done this in its study. They cover the general public, but they also break it down into health food users and non-users and so on, and they ask many many different questions.

Q Are you generally familiar with the data?

A This is a 444-page book which I have read completely through once about three years ago and skimmed through
from time to time. And it is an heck of a book to try to
find something in. It is not easily indexed. The
indexing is not very helpful. So I think I have a
general feeling about what is in it, but that is about as
much as I can tell you.
Q Let me ask some questions and if you are not
familiar maybe we will discontinue the line of
questioning.

I would be interested in, for example, if it is
possible to generalize on people who patronize health
food stores regularly, do they pretty much buy all of the
food that they consume in the health food store or would
it just be a part of their food purchases?
A I don’t believe that -- some health food stores
carry very little in the way of food. They carry mainly
supplements -- that is, they are things in bottles. It
wouldn’t surprise me to find that there are some health
food stores that carry no unbottled foods.

When I think of a health food store, I don’t think
of a store that has a large selection of fresh foods, for
example. Most of what they carry are food supplements,
plus maybe a selection of rice products and wheat, rye
products for people who are allergic.
Q Where would people buy these organic and natural
foods that you are talking about?
A I think many of them are purchased directly from the producers. There are some available in health food stores. I think probably some carry a large selection and others carry a small selection. Possibly some carry none at all.

I know in my community there are two health food stores that I pass by frequently. One carries no -- I should say I have never seen any organically labelled food in one. In the other I happened to see a sign in the window a few days ago, but that is the first indication I have had. If they do have any -- it is a little store -- they certainly don't have much.

Q From the people you have talked with who patronize health food stores, and from the literature that you have read, can you generalize as to whether you feel that people who believe in the health food movement, and purchase foods in such stores have a less good diet than people who don't?

A I would suspect that from the point of view of nutrients that the people who use health food stores exceed the recommended dietary allowance for all or most of the things that they -- for all or most of the nutrients. It is hard to measure what that means.

For some of them it may mean that they take an amount of nutrient where there is no great amount of
scientific data as to whether it is safe to take it for a long period of time.

For example, there is some suggested evidence that taking large doses of vitamin C may lead to the formation of kidney stones in certain susceptible people, maybe 5 percent of the population, but there is no long range data as to what is actually taking place. I mean, this is a relatively new idea.

The point is here you have loads and loads of people taking extra doses of vitamin C since Pallings' book came out. Certainly the people supplementing with vitamin C are taking more than people who don't. Whether they need it -- I don't think they need it -- whether it does any harm is really unknown. It probably doesn't hurt too many people. Otherwise I think we would know definitely. But it probably hurts some.

But the long range effects are not known. So if you say are they better nourished because they exceed the RDA, I don't know. I don't think so. I believe that if people -- I believe that the RDA is set high enough that it covers the general population, and I would be willing to concede, however, that if you take the general population as a whole, and you take health food users that you will have less deficiency in health food store customers.
Q. Is this partially because they are more interested
in the general subjects of diet and nutrition and are
more conscious of what they eat and take greater interest?
A. I would think health food store customers are
tremendously interested in nutrition. I don't think they
have their facts straight. A significant percentage of
health food users view nutrition as many people would
view a religion. They are true believers, and they are
not interested in outside thinking and God forbid anybody
should step on their myths.

We saw what happened to the TDA when they tried to
enforce more truthful representation. Congress got two
million letters from people who felt that -- I think the
people were misled -- but nevertheless, people who at the
time thought the Government was going to interfere with
their religion.

Q. That was more the thrust of the question -- not so
much as whether an individual might be taking more
vitamin C than was good for him or her, but whether, in
general, people interested in health food who patronized
health food stores and because of their greater interest
in diet and nutrition, whether this means they have any
lesser adequate diet or good diet than the average person
who doesn't --

A. I would like to turn your question around. Are they
better off nutritionally. The answer is I don't know, and I will tell you why. Because there is more to nutrition than supplements.

First of all, we don't know for sure whether they are better off because some of them may be hurting themselves. But even if there aren't any, there is more to nutrition than supplements.

There is the matter of saturated fats in the diet to prevent heart disease, et cetera. I personally think that is more important than anything to do with vitamins. Most people get enough vitamins, but most people in this country eat foods that run up cholesterol and triglycerides and give them heart disease at an early stage.

I think industry publications probably are helpful when they advise people about the problem. The health food industry isn't all bad. The big problem is, I think, people are wasting their money. How much? Maybe a small amount for the person who takes supplements for insurance, and a large amount for the true believer.

Rodale Press estimates the average Prevention family spends $200 a year approximately on supplements. That is a lot of waste.

Q Let me focus on that question because that is really the thrust of what I am trying to understand.
You say that they spend $200 a year on supplements which they may not need.

On the other hand, looking at this from a total dietary picture, we are talking about people, I gather I would agree, who are more nutrition conscious than the average person, and therefore they may be not eating certain other more expensive foods and therefore they might be saving $200 or more elsewhere by not eating these other expensive foods.

Is there any statistical data as to the relative level of food expenditures by people who are in the health -- you know, use health food regularly as compared to the average population for the same income level?

A That is an interesting question. I am not aware of any data, but I think at some levels of vitamin purchase I think the vast majority of people who purchase vitamins get enough vitamins in their food and don't adjust their diets to save money on the basis of their knowledge of nutrition.

I think that the average American takes a vitamin pill and the average American does not need a vitamin pill. I can't tell you how many dollars a year that wastes.

Q Now you have turned all Americans into health food people, I guess. I am a little confused.
A I think as we point out in another chapter in the book most people don't think of supermarkets as health food stores. We have healthy food in supermarkets. I think supermarkets should be called health food stores. They have lots of healthy food.

Q I don't represent supermarkets.

A Isn't that in your name.

Q No, we represent the manufacturers. We sell to the supermarkets.

A I noticed here, incidentally, in my Exhibit 5 there is a table that has quite a bit of detail about people's beliefs that may bear on some of what you asked me, what the previous gentleman asked me also.

Q Are you familiar with the Association of Food and Drug Officials of the United States?

A No.

Q I take it you are not aware then that they have a definition for natural and organically grown foods?

A No.

MR. SLOAT: No further questions.

PRESIDING OFFICIAL DIXON: Doctor, there was some interest expressed here, to get to a housekeeping detail, as to whether or not you were compensated for your testimony here by anyone connected with this proceeding?
THE WITNESS: No, I was not.

PRESIDING OFFICIAL DIXON: That takes care of that question.

THE WITNESS: I might add something else. The royalties of our book are not going to the people who wrote it. They are going to our committee for the purpose of protecting the public from quackery. I do this as a public service.

PRESIDING OFFICIAL DIXON: The origin of the question is there is a good deal of inordinate interest in how witnesses appear here.

THE WITNESS: I come here at my own expense. If the book sells, I will get back my expenses from the Committee when they pay me. I earn my living as a psychiatrist, and I get accused of having a vested interest but I am self-supporting.

PRESIDING OFFICIAL DIXON: Did I understand you to endorse the staff proposal with respect to use of the word organic in advertising?

THE WITNESS: I think that --

PRESIDING OFFICIAL DIXON: In essence, a ban on the use --

THE WITNESS: Yes. My understanding of the staff proposal is that it would ban the use, and I heartily endorse it because I think that there is no way
that a meaningful definition can be employed which will not promote myths.

PRESIDING OFFICIAL DIXON: What is your view of the staff's alternative proposal though, that instead of use of the word, advertisers should be permitted to use the description set out in the rule, in other words, loosely paraphrased, grown without pesticides and chemical fertilizers?

THE WITNESS: Well, is that what is suggested? I am rather negative on both of those. I think that the meaningful thing, if anything has any meaning is whether the food contains pesticides, not whether it is grown with pesticides.

If the food contains pesticides, it seems to me it is reasonable -- I am sorry -- if a food contains no pesticides, it seems to me it is reasonable to state so on the label or in advertising.

If the food is grown without pesticides, there is a possibility it would still have pesticides, and therefore to say that it is grown without them is misleading. I think the only non-misleading statement that can be made is that a food is pesticide free.

Now maybe there is such a thing as a low pesticide level. That is a little bit out of my field. But I think the meaningful thing is, does it have any, and if
it has none, I think manufacturers should be allowed to state that.

As far as the matter of grown without chemical fertilizers, that is a meaningless statement. All fertilizers contain chemicals. You cannot grow a food without chemical fertilizers.

PRESIDING OFFICIAL DIXON: I think one witness suggested that be changed to commercial fertilizers.

THE WITNESS: Well, we deal with this in the chapter and point out that — the real question ought to be: Is the food better or not? Is it better food? Then the food should speak for itself.

The advertising should speak for the food, not for the method of growing. If growing with no fertilizers, some fertilizers, moon dust fertilizers or whatever, produce a better food, the betterness of the food should be in the advertising or the label. But if the food isn't better, I don't think extraneous myth-building phrases should be allowed.

PRESIDING OFFICIAL DIXON: If we can assume that there are, and your studies bear that out, that there are a great number of people interested in buying foods that are grown without the application of additional pesticides than are grown using natural or organic fertilizers as opposed to the commercial.
fertilizer, we can assume that there are many people who are interested in buying food that is grown by those methods?

THE WITNESS: Wait a minute, now. I don't know how many people. I think that — I don't think the majority of people are interested in buying organic foods. I think it is a relatively small percentage.

PRESIDING OFFICIAL DIXON: What I am leading up to really is the question of if there are consumers who would like to buy food grown by those methods, whether it is a rational choice or not, how is the seller to convey to those consumers that this is what he is offering for sale?

THE WITNESS: In other words, if a customer wishes to buy a genuine fake, how is the seller supposed to tell people that his fake is genuine. That is what it really amounts to and that is how the chapter got its name.

I think you run into a problem when the Government endorses a fake as the genuine fake, or the Government endorses a genuine fake as a genuine genuine fake, and if that sounds confusing it is a reflection of the confusion that will be created with the wrong Government policy. Things are bad enough already with the label.

If the Government endorses it, the myth makers are
simply going to point out that now we are FTC approved. That is how they work. The trick is to try to create a policy that won't -- there are basically three or four myths.

There are the myth of superior nutrition, there is the myth of safety -- no, there is the myth of safety of the product, there is the myth of superior nutrition. The policy has to be one that does not encourage people to believe unnecessarily or inaccurately that the foods are safer or better.

And that is the danger of some of the proposals, the organic certification systems encourage people to believe that they are buying a better product. The key is to take the product itself and allow people to make any true claim about the product as it sits there looking at the customer.

How the product was made may have some importance if you are saying that Mercedes Benz is better engineered than some other car. But the engineering involved in the production of a food is primarily done by nature and genes; it is not done by the farmer, and that is the rub. I would hate to see the customer think that the farmer engineering has made the food a better product when it hasn't.

If the product is better, let the product speak for
itself -- "I have no pesticides" -- that is a genuine claim if it is true. But "I have more zinc than the fellow next to me" could conceivably be a claim if it is a significant amount. That type of claim.

But to say that "while I was grown my nitrogen came from a horse, whereas his nitrogen came from a chemical factory," that does not translate into a better product. I think that -- I understand Robert Rodale talked about how the label is to symbolize the movement, and I think that is misleading. It is a great idea, but it is misleading, because I don't think necessarily that scientific agriculture is out to destroy the country.

I think that there are many fine people in universities that are trying to make scientific agriculture serve the ecological needs of people, too. Rodale talks as though they have a monopoly on ecology, and that certainly isn't true.

PRESIDING OFFICIAL DIXON: Would your position then wind up that unless the seller could prove that the product was a better product because it was grown by these methods, then there is really no way that he could advertise it for sale?

THE WITNESS: That is right. If the product is not better, he can advertise "Apples for Sale." He is free to advertise that he has a product, and what will
actually happen, rule or no rule is that the small
storekeepers are going to be telling their customers,
this is organic.

But I think what the FTC can do is to make it harder
for the sellers of the so-called organically grown
products to reach a wider audience. You are not going to
stamp it out, no matter what you do. Even if you were to
start to try to put people in jail. That won't stop it
either. There is nothing that can be done.

There is a hardcore group of people that want to buy
the product, and there is a hardcore group of people that
genuinely believe that their product is better, and they
are going to find their customers.

But what the FTC can do with a good policy is to
make it a lot harder for the seller to reach buyers who
are not that deeply misled at the moment.

PRESIDING OFFICIAL DIXON: You mean that the
retailer will continue to make these representations?

THE WITNESS: Sure. One of the things that we
have done with our book is to visit a few retailers --
not nutrition people necessarily -- but we visited
retailers of one kind of quackery or another, and their
leaders are saying -- and it is a standard technique --
their leaders testify this is what it means and this is
what we do.
But you go to the grass roots and you find out that that is not what their practitioners and followers are doing.

PRESIDING OFFICIAL DIXON: One other question, Doctor. I gather you object to really the juxtaposition of these advertisements with text material that you regard as deceptive or erroneous.

THE WITNESS: Yes, but I brought it up for another point as well and that is to point out that there is a terrible problem with public confusion, and that if you have to make a decision as to who needs the protection, I think the benefit of the doubt should go toward the strictest possible rules because I think the forces at work misleading people are very powerful.

And really we need something on the other side, and Government is one form of force that can work from the other side. I think the general public is a definite underdog and I don't think the health food industry needs much protection. I think they have done a magnificent sales job.

PRESIDING OFFICIAL DIXON: How could the Government function in this area even if the Government were to assume that you are correct that the textual material is the other, what could the Government do to prevent the juxtaposition of the non-deceptive ad in the
same publication with an erroneous article about that
type product?

THE WITNESS: Right. And there is a third
thing of a book sitting here and a bottle of pills
sitting there on the shelf. There are three separate
areas.

I understand there have been successful prosecutions
in health food stores where pamphlets were sitting in one
part of the store and bottles sitting near them.

Certainly if they are in the same carton when shipped
there have been prosecutions.

Body Forum is a case where the actual seller and
manufacturer and the production of the -- the company
that produces both the magazine and the product is one
and the same. I think there that the advertisers should
be considered extensions -- should be considered part of
the labelling of the products.

PRESIDING OFFICIAL DIXON: That would be a
different situation would it not from Prevention and
Let's Live?

THE WITNESS: Yes. Prevention and Let's Live
present a different problem. I bring them up not
necessarily because I think there is a solution, but to
point out how truth is taking a beating in the hope,
frankly, to arouse your sympathy for, let's say, the side
of nutritional accuracy as opposed to the health food industry.

I think the health food industry has developed a tactic which is getting around the law. Whether anything can be done, I don't know.

I think one thing can be done and that is that there are many innuendoes, half truths, quarter truths, tenth truths in the Prevention ads and some of the Let's Live ads. I think this can be cleaned up.

I think one possibility would be you can't state that your product protects eyes without stating that you may very easily get all you need in ordinary food. I don't know if that is politically feasible. I don't even know whether the people who read the magazine would pay attention. But it might protect somebody, and I don't think it will hurt the public.

PRESIDING OFFICIAL DIXON: But you are not suggesting that the Government should take any such drastic action as attempting to prohibit or prevent the publication of advertisements in magazines which carry text material of that description?

THE WITNESS: That may not be -- I wouldn't mind if that happened, but I don't think it is politically feasible, because the ads in Prevention cost $6,000 a page and I don't think that Rodale Press can
afford to lose half a million dollars a month in
advertising for that kind of a policy.

I don't think it would be that easy to sell that
kind of a magazine, and I guess it would be unfair to
Rodale Press to demand that it stop taking advertising.
There might be an affirmative policy the Government could
try or at least think about, and that is requiring an
affirmative disclaimer in the ads.

You can see that the ad -- somebody is paying 6,000
bucks to put an ad in a magazine that doesn't make
a claim, doesn't tell you what it is for, doesn't tell
you what it can do. Obviously that ad must be
tremendously effective, otherwise they wouldn't pay
$6,000 a month.

It doesn't tell you what the product is for, how it
can be used, what it will prevent, doesn't give you any
directions. I am sure whoever is spending a hundred
thousand dollars a year to advertise the products is not
wasting his money. So a force is at work. Could the
Government develop a counterforce, yes. Public education
and an affirmative disclaimer in the ad.

PRESIDING OFFICIAL DIXON: Affirmative
disclaimer of what?

THE WITNESS: If you eat a balanced variety of
foods, you do not need this product. I don't know
whether the courts would allow that. I don't know
whether you think that is politically feasible. I think
it would protect some people. I don't think it would
hurt anybody except the health food industry. I don't
think the health food industry needs protection in that
area.

I think maybe the thing I ought to do with all my
knowledge of health food politics is either to buy stock
or open up my own store, make a quick million and turn
around on the other side and fight.

PRESIDING OFFICIAL DIXON: Maybe we can sue you.
MR. SLOAT: Can I ask a clarifying question?
PRESIDING OFFICIAL DIXON: Yes.

EXAMINATION

By Mr. Sloat:

Q   You said in response to Mr. Dixon's question that
you would permit a statement that a food is pesticide-
free is this, is, in fact, the case because this is a
significant fact --

A   And if that makes it better, yes.

Q   That is my question. I believe you said in answer
to his question that you would permit such a statement
because this is a significant factor?

A   I don't know how significant it is. It seems to me
that it is a reasonable statement to make that a food is
pesticide free. I am not so sure how significant it is, because poison is basically a matter of dose, and now that scientists can measure things down to extremely low concentrations, I am not sure pesticide-free makes it significant, but at least it seems fair to allow it at first glance.

Q: Is it because it makes a better food?
A: I don't know whether it is better, but it seems reasonable to allow it. I think that if you take, let's say, one food that has a particular pesticide, and there are lots of them, and I know nothing about the chemistry of most of them, and another one that has one part per trillion, I am not so sure that that has any meaning in health.

But there may very well be some foods — there certainly can be levels of pesticides that are dangerous, and therefore, it seems to me that saying something is pesticide-free is a reasonable thing, certainly reasonable compared to any other kind of proposal.

And as evidence builds up, I am also willing to say that the subject of pesticides is a legitimate controversy. There is genuine scientific controversy over the levels of pesticides that ought to be allowed. So at least, I think at this state of knowledge, if someone can come up with a food that has none, I think he
should be allowed to state that.

Q Thank you.

PRESIDING OFFICIAL DIXON: I think that is all the questions, Doctor. We certainly appreciate your testimony. Thank you for coming.

(Witness excused.)

PRESIDING OFFICIAL DIXON: The hearing will now adjourn, to reconvene tomorrow morning at 9:00 a.m.

(Whereupon, at 5:00 p.m., the hearing recessed to reconvene at 9:00 a.m., Tuesday, January 4, 1977.)