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Shifting the Burden

The determination of safe levels for food additives has engaged the attention of scientists since the turn of the century. The first food and drugs law, passed in 1906, marked a great step forward in reducing hazards to health by declaring that foods were adulterated if they contained any deleterious or poisonous substances in dangerous amounts. But the burden of proof lay on the Government, which had to show that a given food contained poisonous substances in sufficient amount to be a danger to health.

When properly used, food additives serve to improve the quality of food or to increase food production. In the first category are those additives that are used to improve storage qualities (antibiotics in chickens) or taste (artificial flavors) or texture (as in ice cream or bread) or appearance (artificial coloring) or convenience (as in cake mixtures). In the second category are those additives that get into food either unintentionally or unavoidably: residues from substances used to increase yields (fertilizers and pesticides) or from substances used in the treatment of diseases in food animals (penicillin in milk).

Subsequent to the 1906 law, the use of additives has been growing, but this growth cannot increase indefinitely. Although each food with its additive, if eaten separately, may be harmless, several foods eaten together may contain enough poisonous substances to be harmful. Consequently, the Federal Food, Drugs, and Cosmetics Act of 1938 attempted to control the use of additives by providing that no poisonous substance could be added except when it was required or could not be avoided in production or processing. In such cases the Government was authorized to set safe limits for the amount of the additive. But again the burden of proof lay on the Government. New and untested chemicals may be added to food without legislative hindrance. The Government's testing program lags far behind as the number of additives increases. Meanwhile, products may be sold and consumed. Fortunately, most food processors carefully test all additives, but some do not and none is required to.

In view of these circumstances, it is easy to understand why eight bills directed toward the control of additives were introduced during the last session of Congress and why these bills have been the subject of continuing hearings before the Subcommittee on Health and Science of the House Committee on Interstate and Foreign Commerce.

One of the bills, which is supported by the Administration, attempts to shift the burden of proof from the Government to the processor. It requires the processor to present scientific evidence that any new additive is safe. If testing shows that the substance may in certain concentrations act as a poison, the Government requires the processor to show that it has functional value, that is, that it serves a useful purpose, or is unavoidable in the process of manufacture. In this case, the Government would determine tolerance limits as it does at present for known poisonous substances and for pesticides.

From the evidence brought forward at the hearings so far it appears probable that the subcommittee will recommend a bill embodying some or all of the provisions of the Administration bill. It is unlikely that the views of the National Canners Association, which is ". . . adamantly opposed to having any Federal agency determine what the American consumer likes or dislikes, or what serves a useful purpose in any food . . ." will prevail.—G. DUS.