

CHEMICAL HERITAGE FOUNDATION

**THE TOXIC SUBSTANCES CONTROL ACT:
FROM THE PERSPECTIVE OF
DON R. CLAY**

Transcript of Interviews
Conducted by

Jody A. Roberts and Kavita D. Hardy

at

Koch Industries, Inc.
Washington, D.C.

on

16 March 2010

(With Subsequent Corrections and Additions)

CHEMICAL HERITAGE FOUNDATION
Oral History Program
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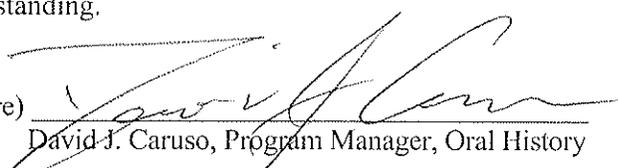
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DON R. CLAY

1937 Born in Washington Courthouse, Ohio on 26 June

Education

1960 B.S., Chemical Engineering, Ohio State University
1960 M.S., Chemical Engineering, Ohio State University

Professional Experience

1960-1961 The Monsanto Company, Springfield, Massachusetts

1961-1963 U.S. Army, Fort Bliss, Texas
Second Lieutenant

1963-1968 Operations Research, Inc., Silver Spring, Maryland

1968-1970 Research Management Corporation
Program Director

1970-1971 Resource Allocation, Inc.
Executive Vice President

1971-1972 Commission on the Organization of the Government of the District of
Columbia, Washington, D.C.
Group Leader

1972-1972 U.S. Food and Drug Administration, Washington, D.C.
Planning and Evaluation, Bureau of Drugs
1972-1974 Deputy Assistant Commissioner, Planning and Evaluation

1974-1976 U.S. Consumer Product Safety Commission, Washington, D.C.
Director, Office of Program Planning and Evaluation
1976-1981 Deputy Associate Executive Director, Engineering Sciences

1981-1985 U.S. Environmental Protection Agency, Washington, D.C.
Director, Office of Toxic Substances
1985-1986 Acting Assistant Administrator, Office of Pesticides and Toxic
Substances
1986-1989 Deputy Assistant Administrator, Office of Air and Radiation

1989-1993 Assistant Administrator, Solid Waste and Emergency Response

1993-1998 Don Clay Associates, Inc., Washington, D.C.
President

Koch Industries, Inc., Washington, D.C.
Director of Environmental and Regulatory Affairs
Vice President, Environmental and Regulatory Affairs

Honors

1983 Administrator's Award, U.S. Environmental Protection Agency
1987 Presidential Rank Award, Meritorious Executive, U.S. Government
1988 Presidential Rank Award, Distinguished Executive, U.S. Government

ABSTRACT

Don R. Clay received bachelor's and master's degrees in chemical engineering from the Ohio State University, where he was required to participate in the Reserve Officers' Training Corps. He took a job at Monsanto Company, but after six months entered the U.S. Army, serving two years at Fort Bliss, Texas, performing air defense simulation modeling. On his return to Monsanto he decided he did not like the way chemical engineering was done there, and he went to Operations Research, Inc. For a number of years there and at several subsequent companies he worked in operations research.

Leaving those companies Clay began work in the Bureau of Drugs at the U.S. Food and Drug Administration (FDA); there he spent several years as Deputy Assistant Commissioner of Planning and Evaluation. Next he took his talents and experience to the U.S. Consumer Product Safety Commission's Office of Program Planning and Evaluation. His risk assessment work included being liaison among the U.S. Environmental Protection Agency (EPA), the Occupational Safety and Health Administration (OSHA), the U.S. Consumer Product Safety Commission (CPSC), and the FDA, which gave him a chance to learn more about the EPA. Frustrated with the bureaucracy at the FDA, Clay moved to the Office of Toxic Substances, where he became Acting Assistant Administrator of what is now the Office of Pesticides and Toxic Substances (OPTS). Asbestos occupied much of his attention there, but only emberizing ash was banned. Industry testing was legislated. PCBs became regulated. Nevertheless, Clay's disenchantment with having to "look for causes" led him to the Office of Air and Radiation (OAR) and, for his final position with the EPA, to Assistant Administrator of the Office of Solid Waste and Emergency Response (OSWER). After about five years, Clay believes, one becomes stale and should move to a different area; he chose OAR because it had interesting problems. Clay received a number of government honors, and he now works in the private sector.

Clay discusses the cultural differences among agencies; their different goals and processes; the differences between career staff and political appointees; and the difficulties of the regulatory process itself. He talks about what he perceives as successes and failures, focusing on asbestos regulation. He says that asbestos was never regulated, and that the costs of determining that it would not be regulated—he cites schools causing illness by tearing out the asbestos—far outweighed the benefits, especially since the market has itself eliminated asbestos. On the other hand, emberizing ash was done away with. In fact, he believes that in his day decisions were taken on the basis of benefits exceeding costs, whereas now bodies "just do it" (regulate). This he attributes to a more recent politicization of the process, citing the return of the formaldehyde debate. He talks about his relationship with the U.S. Congress and the influence of the European laws known as REACH (Registration, Evaluation, Authorisation and Restriction of Chemicals). He notes that legislation is usually enacted within two months of a general election.

Scientists ask, "What is the risk?" but consumers ask, "Is it safe?" Reconciling these two approaches in order to determine the optimum amount and kind of regulation is not an easy job. Clay's philosophy and practice have always been to "do the right thing."

INTERVIEWERS

Jody A. Roberts is the Associate Director for the Center for Contemporary History and Policy and the Manager of the Environmental History and Policy Program at the Chemical Heritage Foundation. Roberts received his Ph.D. and M.S. in Science and Technology Studies from Virginia Tech and holds a B.S. in Chemistry from Saint Vincent College. His research focuses on the intersections of regulation, innovation, environmental issues, and emerging technologies within the chemical sciences.

Kavita D. Hardy is a research assistant in the Environmental History and Policy Program at the Chemical Heritage Foundation. She received a B.A. in Chemistry and Economics from Swarthmore College.

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