

Consumer  
Assembly  
1983

Special  
Issue

## Focus on Product Safety

**S**peakers at Consumer Assembly '83 told attendees that product safety issues will again come under attack this year. As the Consumer Product Safety Commission comes up for reauthorization, and product liability legislation undergoes Congressional scrutiny, consumers must mount a vigorous offensive to ensure these vital protections are not cut back, the speakers warned.

Consumers will have some new allies on the Hill as a result of the November elections, Congressman Henry Waxman

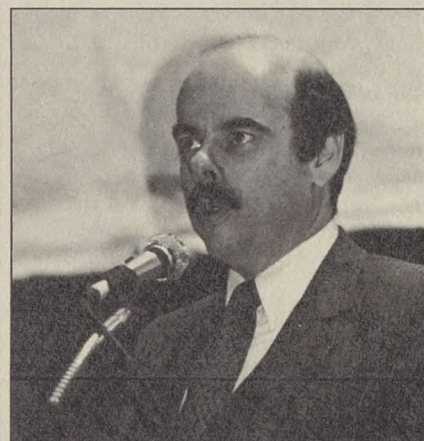
(D-CA) told the Assembly, but their power will be tested early as the CPSC reauthorization gets under way in late February.

Waxman, a staunch consumer ally and the powerful Chairman of the House Commerce subcommittee responsible for CPSC's reauthorization, led the fight on Capitol Hill to preserve the Commission during the last reauthorization. At that time the administration tried to abolish the agency.

According to Waxman, this year's battle will be no less intense. The Heritage

Foundation, he said, has called for the agency's dismantling, and the House Republican Study Group, fearing they lack the votes to abolish the agency, is calling for its transfer to the Commerce Department. Either plan, Waxman warned, "would result in the destruction of the CPSC."

Former CPSC Commissioner and now Technical Director of Consumers



Representative Henry Waxman

Union, David Pittle, also warned of a long and vicious fight over the Commission's reauthorization. He said industry forces will again be joined by administration forces to attempt to cripple the agency.

OMB Director David Stockman "has an unending distaste for the CPSC," Pittle said, and because of this personal vendetta, and Stockman's influence within the administration, the agency will come under hostile fire.

### A Good Investment

Congressman Waxman praised the efforts of the Commission in protecting the public from unsafe products. Few agencies can boast the CPSC's record for lives saved and injuries prevented, he said.

Commission Chairman Nancy Harvey Steorts agreed that the Commission "is probably the best investment the American taxpayer can make," but she argued that despite the strides the CPSC has already made, its "work is not finished."

Steorts outlined to the Consumer Assembly audience the Commission's priorities for fiscal years 1983 and 1984. She also discussed two new concepts—an improved data collection process and a better method for dealing with emergency situations—which she would like to see instituted.

Congressman Waxman pledged to fight for increased funding for the

See *PRODUCT SAFETY*, page 2

## Senators Propose Agenda

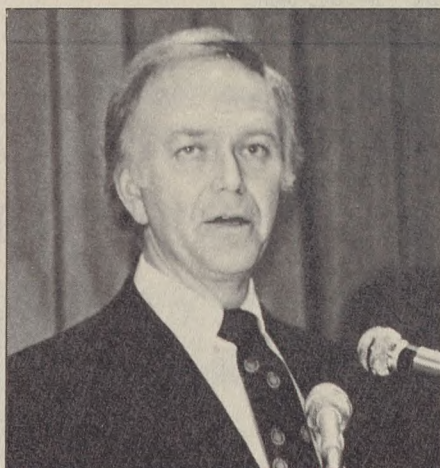
**T**wo of the most powerful members of the United States Senate told Consumer Assembly '83 that the all-out attack on key consumer programs—characteristic of the first two years of the Reagan administration—would come to an abrupt halt in the 98th Congress. Instead, Chairman Bob Packwood (R-OR) and Ranking Democrat Fritz Hollings (D-SC) let it be known that consumers can expect a warm reception before the Commerce Committee this session.

Senator Packwood's remarks were especially well received, given his steadfast work over the last two years to preserve the power and funding of the Federal Trade Commission.

Fresh from a lackluster session victory over the American Medical Association, Packwood promised to fight on to ensure that the FTC retains its ability to challenge price-fixing and other anti-competitive behavior by professionals like doctors, dentists and lawyers. Packwood made it clear that he would never accept a professional degree as a license to violate antitrust and consumer protection laws.

He also pledged a tenacious effort to ensure that the FTC emerges from the reauthorization process with enough money and enough authority to do its job. For that effort, Packwood sought the continuing assistance of consumer groups and praised them for their help in the 97th Congress.

Finally, in a poke at Reagan regulators who often cannot see the difference between necessary regulation and burdensome government interference, Senator Packwood underscored that he would



Senator Bob Packwood

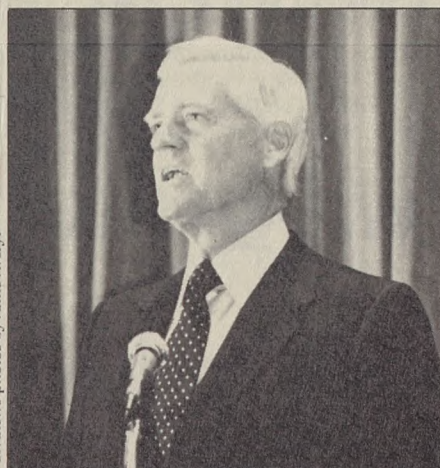
not seek to prevent "capitalistic acts between consenting adults."

### Economic Quackery

Senator Fritz Hollings, Packwood's Democratic counterpart on the Commerce Committee, was not so gentle. He attacked the Reagan approach to consumer issues with open hostility.

"Make no mistake, my friends," Hollings said, "...the Reagan Administration is not out to make programs more effective. It is out to kill them. . . . The agenda of these Reaganites really is to dismantle government."

Hollings cited a variety of examples, from the FTC, the CPSC, and Legal Services, to the Women, Infants and Children (WIC) nutritional assistance program. He spoke of these programs as the "best of investments," because they prevent injuries, help consumers make informed choices and guarantee basic services to people in dire need. Accord-



Senator Fritz Hollings

ing to Hollings, the Reagan Administration fails to grasp the importance of this government investment in people because it is lost in "sheer economic quackery."

### Solid Comeback

On this and other issues—the funeral rule, the Consumer Product Safety Commission, and most importantly, product liability law—Senator Hollings committed himself to a partnership with consumer groups to stop the Administration from "striking at the heart of consumer protection."

Thus, the view from the Senate Commerce Committee, which passes on the greatest number of key consumer issues, is clear. Both Packwood and Hollings say that with consumers' help, vital programs will move forward, and that consumer issues—which are supported by an overwhelming majority of Americans—are about to make a solid political comeback.



## Product Safety

from page 1

Commission during the appropriations hearings, so it can better fulfill these goals. He also decried the personnel cuts mandated during the last reauthorization, and said he would try to get Congress to write minimum manpower levels into the agency's charter during the upcoming hearings.

"The CPSC cannot do its job of protecting the public without sufficient funds and personnel," he said.

### Fair Balance?

The product liability legislation now before Congress was another issue addressed by several speakers who looked at its impact on consumers.

In a keynote speech, Senator Ernest Hollings (D-SC) launched the strongest attack on the legislation, which would cut off state law and substitute generally less favorable federal standards.

Hollings suggested that destroying state law and interfering with consumer and worker recovery for injuries from unsafe products was "not the way to go this Congress."

Senator Robert Packwood (R-OR) and Congressman Waxman also voiced concern that federal product liability legislation not endanger consumer rights, but both felt that a federal statute might be able to strike a fair balance between victim and manufacturer rights.

Consumer representatives were not so optimistic. Speaking at the Assembly's product liability workshop, Professor Joe Page of Georgetown Law School and Jay Angoff of Congress Watch suggested that the push for a uniform law masked business lobbyists' desire to weaken the legal rights of consumers and workers.

The workshop's industry speakers—Victor Schwartz of Crowell and Moring, and George Neidich of Steptoe and Johnson—disagreed, arguing that the present state law system serves the interests of lawyers, not victims. Thus, the workshop polarized the issues more than it resolved them. But it did reinforce CFA's views that product liability legislation will be significant in the upcoming Congress.

The theme running throughout Consumer Assembly '83 was that vital con-

sumer protections are under attack from the administration, from business and too often in Congress.

"Health and safety regulations should be regarded as a 'modern form of preventive medicine,'" Rep. Waxman urged, and other speakers agreed.

Sidney Wolfe, Director of the Health Research Group said politics rather than the health and welfare of the public now determines policy at the Food and Drug Administration. The FDA is openly more pro-business under the Reagan administration, Wolfe said. The result is that consumers' health is too often jeopardized to accommodate the food and drug industries.

Wolfe was particularly critical of the agency's lack of enforcement of defective drug recalls, and he called for a new attack on this area of white collar crime.

Joan Claybrook, President of Public Citizen, proposed a broad range of responses to the negligence of this administration. She called on consumer groups to mount a counter-offensive through studies, letters, petitions, regulatory comments, and press releases to force accountability from the Reagan regulators. If necessary, she said, we can fight in the courts to reverse the destruction of health and safety regulations.

## Report Released at Consumer Assembly '83

"The administration has been trumpeting 'America is on the mend,'" said CFA's Legislative Director David Greenberg. "But looking at program after pro-

### WARNING:

**Reaganomics**  
*is still* **harmful to consumers**

A Consumer Review  
SECOND YEAR

gram, the truth is that the pocketbook and the health and safety protections of American consumers are torn and tattered. At midterm in this presidency, consumers must face the inescapable fact that 'Reaganomics Is Still Harmful to Consumers.'"

That is the conclusion, as well as the title, of a report released at a Consumer Assembly '83 press conference organized by a coalition of six national public interest groups. The report looks at more than a dozen vital consumer programs and policies which have been eliminated or come under attack from the Reagan White House. The report is available for \$3.50 from the National Consumers League, 1522 K St. NW, Suite 406, Washington, DC 20005 (202) 797-7600.

## Brave New World of Telecommunications

Competition in telecommunications was never supposed to be so difficult. But as the participants in Consumer Assembly's telecommunications workshop learned, the brave new world created by the breakup of AT&T is fraught with problems that demand a sophisticated response from consumers.

First and foremost, the reorganization of the Bell System will require all telephone consumers to think carefully about the services they want and to shop around to take advantage of the new choices available to them.

"You'll have to do more work," said Bob Nichols of Consumers Union. "You won't be able to make one call to get service connected, to have a dial tone and to connect to anywhere in the world."

Second, consumers will have to contend with a new pricing system in which local and long-distance service is "unbundled." The access charge—which represents the costs of having the ability to make long distance calls—was the subject of a recent FCC decision that CFA Vice-President Lee Richardson predicted could add up to \$8.50 to monthly residential phone bills.

Richardson believes that such an increase could force a million families to forego their telephone altogether over the next few years.

Dade County Florida Consumer Ad-

vocate Walter Dartland saw another impact of the access charge decision. In his view, local phone companies will attempt to sell local measured service (LMS)—paying for local calls based on length and distance—as a way to gain control over phone bills swelled by the monthly access charge. However, both Dartland and Richardson argued that LMS is likely to increase not reduce bills for the overwhelming majority of residential customers.

Finally, Harry Trebbing, Director of the Michigan State University Public Utilities Institute, highlighted a variety of other issues for consumers to watch in the coming months, including depreciation methods, the valuation of telephone equipment currently in consumers' possession, and the need for capping prices for small volume telephone users.

The depreciation and valuation issues, according to Trebbing, will determine whether ratepayers are treated fairly based on their 'investments' in the telephone system—the charges they have paid each and every month for equipment rental, and to compensate the Bell System for its investment.

The price cap suggested by Trebbing would be geared to prevent discriminatory pricing, which he fears could arise as a result of domination of long distance traffic by a small number of large users.

## Freshman Congressmen Outline Priorities



Newly-elected Congressmen John Bryant (D-TX), Harley Staggers Jr., (D-WV) and Peter Kostmayer (D-PA), discussed the impact of the 1982 elections on the new Congress at Consumer Assembly '83. The freshman Congressmen focused on their consumer priorities in the coming session, and on the need for campaign financing reform. While the Congressmen agreed the current system is flawed, no consensus was reached on how the reform should be structured. The Congressmen also responded to questions from the audience concerning the proposed FTC funeral rule, the overhaul of the Social Security system, and the direction of the administration's proposed budget cuts.

# CFAnews

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# Pertschuk's Call to Action

Reprinted below are excerpts of a keynote speech by FTC Commissioner and former Chairman, Michael Pertschuk, entitled *The Consumer Movement in the 80s: A Sleeping Giant Stirs*.

**W**hat a sorry lot we all were two years ago this month: consumers had lost their government; you had lost a movement; I had lost my job. We were like Tom Lehrer's sad-sack "Folk-song Army"—we had all the good songs—but we had lost all the battles. . . .

Throughout the breadth of the Federal government, the Reagan administration brewed a poisonous admixture of crude freemarket ideology and corporate sycophancy. Consumers were bugs on the Reagan windshield of regulatory removal. With all the subtlety of

*As Reaganomics trails off into the sinking sunset, it is time for us to confront an untidy secret: We have grown dependent upon reacting to the follies of Reagan's regulators . . . Like our colleagues in the environmental movement, we have loved to hate the Reagan regulators . . .*

Jane Byrne clearing the snowbound streets of Chicago in an election year, the Reagan regulators set to work plowing up the national framework of regulation: sound or unsound, essential to consumer life, limb and economic security or frivolous; burdensome or benign. . . .

The monthly total of consumer complaints to the BBB in Denver rose, in one year of the recession, from 5,000 to 14,000. In Seattle, a U.S. Food and Drug Administration official complained, "Since the FTC cut back on its enforcement activities, I've never before seen such blatant claims in advertising." And when antitrust chiefs William Baxter and James Miller announced to the world they would stop the *per se* laws against retail price-fixing on the theory they are economically irrational, mass retailers warned this "nonsensical" policy "has the potential for killing the discount industry," which is so critically important to consumers in these hard economic times. Summing all this up, a prominent Washington attorney said, "My clients don't worry about obeying the law anymore because they know the FTC won't do anything." . . .

## Reagan's Recalcitrant Regulators

As if Reagan's recalcitrant regulators weren't bad news enough, a new Congress led by business PAC-horses seemed ready to do in the consumer interest by undoing any consumer rules left standing by Reagan. . . .

But then something happened. [In the 1982 election] of 112 Chamber of Commerce candidates, only 45% won, down from 70% in 1980. And of the 94 congressional candidates endorsed by CFA, 77 won. In 1981, the late *Washington Star* thought it detected in the Reagan landslide a "public howl" of indignation against consumer regulation. Yet in 1982, no sitting congressman or senator was ousted for defending consumer, environmental, health or safety regulation and no challenger rode to victory decrying regulation as the chief bane and scourge of our society. . . .

But, as Reaganomics trails off into the sinking sunset, it is time for those of us who beat our breasts as consumer advocates to confront an untidy secret: We have grown dependent upon reacting to the follies of Reagan's regulators or following the scent of the PAC's in Congress. Like our colleagues in the environmental movement, we have loved to hate the Reagan regulators. . . .

But reacting only to their misguided ventures enables us to postpone the awkward day when—like the Demo-

*. . . but reacting only to their misguided ventures enables us to postpone the awkward day when we must shape an affirmative program [of our own].*

cratic Party—we must shape an affirmative program that is both realistic and compatible with a broader vision of a just society.

## "There Oughta Be a Law!"

It is useful to return to the public impulses that fueled the consumer movement of the sixties and early seventies. In large part, the movement was born of growing frustration: defective products backed by evaporating warranties; cigarette commercials that promised bliss and delivered cancer; autos and toys so casually designed that they neglected elemental safeguards against maiming and killing; phony or distorted advertising claims; the persistent marketing of useless drugs—or worse, useless and hazardous drugs. These and other accumulating consumer blows converged to evoke the elemental cry of the ripped-off consumer "There Oughta Be a Law!" . . .

The consumer impulse—perhaps not quite a movement, but not just another special interest—can perhaps best be viewed as a stirring of what philosopher William M. Sullivan calls the American "civic republican" tradition. To be sure, the objectives of consumer activists—economic justice and consumer safety—are broadly self-interested. But consumer issues have engaged the energies of citizens not as narrowly self-interested economic players but as citizens striving for the betterment of their community and society.

## Squeezing the Lemon

For the revived consumer movement, the agenda is full. The Reagan anti-consumer binge is only half spent. Preserving the fundamental framework of consumer protection and antitrust laws erected over more than fifty years will continue to occupy consumer leaders until the Reagan administration ends.

Campaign finance reform must share the top of all citizen group agendas. No citizen interest is more vulnerable to the bureaucratized plutocracy of the PAC's than the consumer interest. . . .

Finally, consumer leaders must seize back from Mobil and the libertarian economists the symbols of debate. They must make it clear that their concerns are neither narrow nor trivial nor incompatible with a society under economic stress.

Despite the efforts of Reagan's de-regulators to convince the American public that government has no legitimacy in enforcing standards of responsibility and fairness, the American public won't buy that lemon. For indeed the consumer movement has the good songs. And in the future, it is not going to lose all of the battles.

# International Consumer Movement Grows



CFAnews photo by Anne Avery

The growing force of the international consumer movement was the focus of a keynote address by Consumers Union Executive Director, Rhoda Karparkin, at Consumer Assembly '83. Karparkin emphasized the importance of the International Organization of Consumers Union (IOCU) in helping countries deal with the threat of hazardous wastes, hazardous products and hazardous technologies. IOCU has been the leader of a worldwide campaign to restrict the marketing of infant formula, and was instrumental in winning approval of the WHO-UNICEF code regulating the promotion and marketing of breastmilk substitutes. IOCU also established the Consumer Interpol, an international hazardous products warning system, and the Health Action International which concentrates on pharmaceutical issues. Karparkin lauded the success of the IOCU, and stressed its importance to the international consumer community: "As the marketing of consumer products has crossed national boundaries, consumer protection and advocacy must be international as well."

## Green Calls For Consumer Offensive



CFAnews photo by Anne Avery

Mark Green, President of the Democracy Project, told Consumer Assembly '83 attendees that Reagan's administration is a "Reign of Error," misreading the public will and succumbing to business interests. He called on consumers to take the offensive in campaigning against corporate waste and for em-

ployee participation in the workplace. Most important of all, Green said, is for consumers to take the lead on the issue of PAC contributions. Green proposed, as an alternative to PAC financing, establishment of matching federal funds to lower PAC contributions in all federal campaigns.



## Lou Harris Challenges Consumer Movement

At Consumer Assembly '83, after chronicling the growing rejection of Reagan's anti-consumer policies, pollster Louis Harris issued a challenge to consumer advocates. In a January poll, Harris found continued strong support for the Consumer Movement (see table), but warned that old advocacy approaches would no longer be effective. Below is the conclusion of his speech.

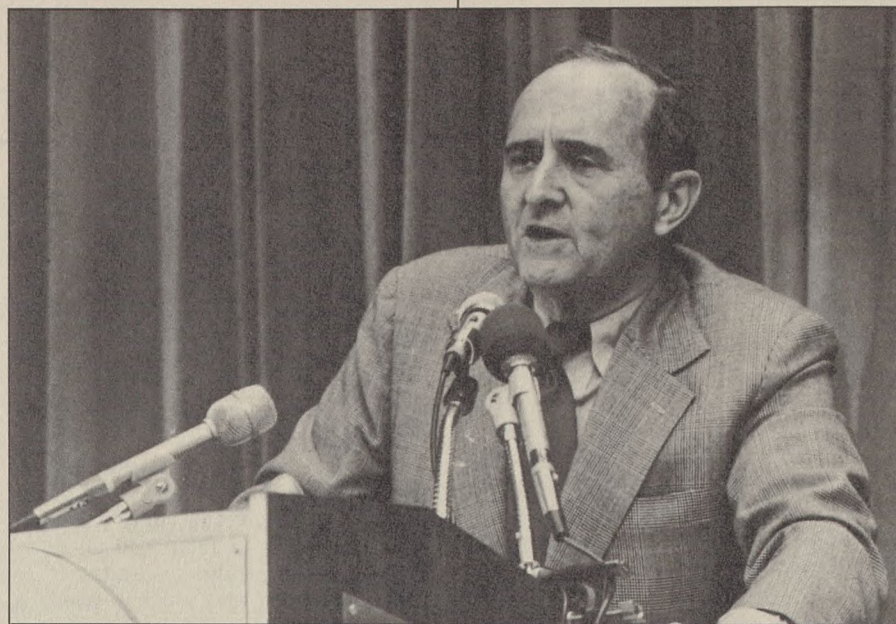
### Harris Polls on Consumerism

The Consumer Movement . . .	1976	1983
—has kept industry and business on their toes	77%	72%
—has helped a great deal to improve the quality and standards of the products and service people buy	69%	76%
—is <i>not</i> a threat to our free enterprise system	60%	72%

**I**would have to conclude that at least as far as the public is concerned there is a strong and even growing mandate that there be a strong, viable, honest, forthright, vigorous consumer movement which can work in their behalf. Make no mistake about it.

But having reported this, let me add this caveat. You will be accepted and will swell your ranks only by your own capacity to select those issues for focus and concentration which are both legitimate and capable of being dealt with in a thoroughly documented and relevant way. For example, on Capitol Hill, which I know quite intimately, I will tell you that shaking fists under the noses of Congressmen and threatening them with political extinction back home will win you little except the sworn wrath and enmity of those you seek to influence. You must be capable of presenting your case thoroughly and soundly, and, above all, well documented. Your rhetoric will be taken less seriously than your facts. Your voices should be harbored on key and critical issues and not spread widely all over the map.

As one who has reported facts to you in good times and bad times for your



CFAnews photo by Anne Averyt

movement, I must say to you that I am being critical of some of your past tactics and even some of your past positions. This is not a judgment on my part. Rather, it is as tough and realistic a judgment as I can make. Fundamentally, you have a tremendous opportunity to realize the promise we found you had back in 1976 and 1977. There is now a counterforce moving inexorably toward giving you a major opportunity again for leadership input into this country and the mainstream. But, I am also saying that this is not a God-given right, nor is it imperishable. You have had some close calls with calamity, which I suspect you know better than I.

So I say to you, now, take this new promise, take this new mantle, take it because literally millions of people want your help in the marketplace. As consumers, they want your help. I am convinced that those businesses which are on the level—and there are some—will welcome your input. But remember, you are no better off than you can deliver today, tomorrow, and next month. You will be no better off than that. So go out and meet that trust that is now being offered you. And do it well. The quality of life your fellow citizens want and demand will accept no less than your best excellence. I think you have it in you to deliver.

## Banking Protections Come Under Assault

Fundamental consumer rights are eroding in a rapidly changing financial environment, panelists told a Consumer Assembly workshop on "Strategies to Combat Higher Interest Rates."

Confusion in the marketplace is being caused by a number of profound changes in our money system, the speakers said. Creative mortgage financing has redefined the risks of home ownership and government action has removed rules that had protected homebuyers from financial devastation. The Annual Percentage Rate (APR), which has allowed consumers to compare loans in a complex market, has been distorted and rendered useless in a market that has grown much more complex. Interstate banking activities are designed to circumvent the consumer protection laws of individual states.

Attempts by Congress and the Administration to preempt state usury laws promise to make any rate of interest legal and may override the credit-related consumer protections now on the books in many states. These changes not only lead to an erosion of consumer protection, the speakers warned, but often also result in higher interest rates by tampering with consumers' ability to know and compare.

The panelists—Mark Lemaster with the National Consumer Law Center, H. Robert Erwin, Jr., Maryland Consumer Protection Division Director and Barbara Alexander, Maine Consumer Credit Protection Bureau chief—said consumers were not without strategies to combat these problems. States can opt out of federal override of variable rate mortgage protections; consumers can and must insist on meaningful truth-in-lending and truth-in-savings disclosures; consumers can organize to defeat federal usury preemption, and federal regulatory agencies must be prodded to enforce compliance with the consumer credit laws still on the books.

The panelists agreed that the assault on consumer protections will continue at both the state and federal levels, with lenders moving to the arena of lesser resistance to get the changes they want.

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21

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