

Dr. MORRELL: Well, sir, is it not true that the whole Act is restricted to two or three objectives: The prevention of health hazards, and the prevention of fraud in the sale of foods, drugs or cosmetics?

Hon. Mr. HAYDEN: Yes.

Dr. MORRELL: And anything we do outside of those limits is *ultra vires* of the Act. Is that not true?

Hon. Mr. HAYDEN: No, not in the way you have it worded by section 3. There you say:

3. (1) No person shall advertise any food, drug, cosmetic or device to the general public as a treatment, preventative or cure for any of the diseases, disorders or abnormal physical states mentioned in Schedule A.

(2) No person shall sell any food, drug, cosmetic or device

(a) that is represented by label, or

(b) that he advertises to the general public as a treatment...

It is not a case of the end you have in mind; it is a case that if I do that I have violated that section of the Act, which is an absolute prohibition.

Hon. Mr. STAMBAUGH: It seems to me, Mr. Chairman, and honourable senators, that this Act has contained the word "treatment" and has been in force for a long time, but I think that word is more objectionable than some others. It has now been in force by the Department for about ten years.

Hon. Mr. HAYDEN: Longer than that—since 1934.

Hon. Mr. STAMBAUGH: Yes; for nearly twenty years. We have heard representations before this committee from various manufacturers, druggists and the Ottawa Truss Company, and they seem to have no objections. Further, there seems to have been no difficulty to the Department in the enforcement of the Act. I know of several occasions when the Department has had to prosecute in the Province of Alberta; indeed, I may say they were a little slow in prosecuting.

It seems to me that if the Department has operated as it has over the years we should not now hesitate to give them the provisions for which they ask. If there is any abuse or misuse of the law, the representatives of these various associations who have appeared before us would quickly call these abuses to our attention and we will be able to deal with them. On the other hand, if we do not give the provisions asked for, it may take two, three or four years to catch up with some fakers who are advertising things that should not be advertised. Further, there might be some deaths, and people may be prevented from going to see their doctor. I think we should leave the matter as it stands, and give the Department a chance.

Hon. Mr. HAYDEN: Mr. Chairman, the suggestion that the honourable senator has made is the method of trial and error, which I have heard ever since I came into the Senate; however, I have found that once we pass a bill we lose control of it, as far as amendment is concerned. Certainly when a measure is before us, it cannot become law until we approve of it, and that is the time that any objection which we have should be made. It is much more difficult, I have found, to get an amendment passed afterwards; this is the time when we should consider any objections. The fact that a certain provision has been in the Act for eighteen years does not, in my opinion, give it any sanctity. Either it is right or wrong; and if "treatment" is intended to relate to the exploitation of the public, why should we not say in a separate subsection that "treatment" referred to in this section must amount to the exploitation of the public.

The CHAIRMAN: That was pointed out by Mr. Connolly when he spoke representing the Ottawa Truss Company. He drew the attention of the committee to the fact that the advertising done in the United States is simply