

My reply to the question that has just been put to me is emphatically: no. Only when a product is deemed to be generally injurious to the health and welfare of the people is there any justification for intervention by parliament. With reference to the particular item of food dealt with in the judgment to which I referred, the Privy Council held that there was no such justification.

The headnote continues as follows:

Finally, s 5(a) is not legislation in relation to agriculture within s. 95 of the B.N.A. Act since the connection between its prohibitions and the operations carried on by farmers is too indirect and remote.

Moreover, having regard to the history of the legislation in question and to its present form, it cannot be said that its purpose was to exclude from Canada substances injurious to health.

It has been conclusively established, to the satisfaction of the Privy Council, that margarine cannot be considered as being injurious to health. Therefore, honourable senators, I respectfully submit that the provincial rights, as set out in the British North America Act, are at stake, and it is the unquestionable duty of the Senate not to permit those rights to be invaded and violated, as is attempted to be done in disguise by this bill. In my opinion, this legislation is *ultra vires*; it is obviously and flatly in conflict with the provisions of section 121 of the British North America Act.

This measure is not a piece of liberal legislation. The Dairy Industry Act, s. 5, a, which was declared unconstitutional was not truly liberal legislation. The expression "liberal" is here used not in the partisan but in the democratic sense of the word.

I cannot reach any other conclusion but that this bill, as it now stands, should be rejected.

**Hon. A. C. Hardy:** Honourable senators, I do not intend to deal at length with the subject matter of this bill. The honourable senator who has just laid the constitutional phase of the matter before the house has, I think, touched on a most important point. He has made his views very clear, but I would say that his argument might be carried even further. Some sort of parallel has been drawn between the powers granted in this bill and powers prohibiting the transfer and sale of liquor as between the provinces. I would point out that the law prohibiting the transfer of liquor was a general law, and applied to all provinces. Quite apart from the fact that liquor might be regarded by some misguided people as a dangerous or harmful beverage, we have in this case a

proposal which would be applied to designated provinces. It might be applied to one province and not to another.

I have two chief objections. One, I am sure, the leader opposite will agree with, for as long as I can remember he has been arguing against government by order in council. His stand in this regard has, I think, been justified, especially in the past few years, when our legislation in Canada has consisted to too great an extent of government by order in council. This proposed measure would give to the Governor in Council power to deal with such a very important matter as interprovincial trade. I need not dwell at length on that phase of the argument, because it already has been discussed.

I seconded the motion for the six months' hoist because the bill has only been placed before us on what was supposed to have been the last day of the present session of parliament.

This house spent about two months debating the functions of the Senate and how it could best serve the interests of Canada. This bill—which is not of great importance, except as a matter of principle—gives us a very good opportunity to demonstrate that the Senate is not, as some uninformed people think, a rubber stamp for the administration of the day. This bill provides the Senate with an opportunity to declare itself for the benefit of the people of Canada, and to uphold its own dignity and power.

I do not intend to touch on the question of whether or not the dairy farmer will suffer by reason of the passage of this measure. The senator from Provencher (Hon. Mr. Beaubien) spoke with some feeling on that matter. On the question of who uses the so-called substitute for butter, I took the opportunity while attending a meeting of eight dairy farmers sometime ago to ask them whether or not they used margarine in their homes. With one exception these farmers said that they used margarine. The one who did not use it was a high-salaried man and an officer in several cattle associations, so for those reasons, I suppose, he did not choose to use the product.

As to whether the dairy farming industry is being injured by the use of margarine or not, I may say that I operate a very substantial dairy farm, on which I produce a breed of butter-fat cattle, called Jerseys. In this large-scale operation I have not found the sale of margarine injurious to my business to the extent of one penny.

I do, however, object to this kind of legislation being brought down on the last day of the session. As the honourable senator