

*Food and Drugs Act—Narcotic Control Act*

devices. At the same time it amends the Criminal Code by removing from it the long-standing prohibition of such sale or advertising. Having set out something of the history and scope of this omnibus measure I would now like to deal with its specific provisions.

The Criminal Code of Canada has for many years contained a prohibition on the sale or advertisement of any drug or article intended or represented as a method of preventing conception. This prohibition, which is contained in section 150(2) (c) of the Code, has seldom been the subject of prosecution. Moreover, in recent years it has been strongly criticized by many individuals and organizations as being in conflict with contemporary thinking in the field of family planning and thus socially deleterious.

In 1966 no less than four private members' bills were introduced in this connection, and the Standing Committee on Health and Welfare took under consideration the subject matter of those bills. The committee held, in all, some 15 meetings and in the course of its proceedings heard statements and recorded expert evidence from a great many organizations and individuals. These included representatives of church organizations, the medical profession, family planning agencies, the Canadian Welfare Council, the Consumers' Association of Canada and a lengthy and diverse list of others.

Under date of December 5, 1966, the committee presented its report to the house, recommending that the matter of birth control be removed from the Criminal Code and that the subject of distribution and advertising of contraceptives be dealt with under the Food and Drugs Act.

The standing committee also recommended that the Food and Drugs Act be amended in order to make clear that the definition of "device" includes contraceptive devices. Accordingly the present bill specifically defines a contraceptive device and at the same time broadens the definition of "device" in the Food and Drugs Act to include matters which, from a practical point of view, would be regarded as therapeutic devices but which, it might be argued, do not fall within the precise language of the present definition. The purpose of the amendment, therefore, is to put this situation beyond question. Accordingly, the Food and Drugs Act will include contraceptive devices, and authority is given to provide, within the regulations, for the advertising of such devices.

The type of advertising which will be the subject of regulation will be direct advertising by manufacturers and retailers of contraceptive devices. The regulations will be designed to permit advertising by agencies concerned with birth control and family planning.

We are very anxious to free these organizations from the fetters under which they have been obliged to function in the past, when their activities might well have constituted a breach of the Criminal Code and their actions were severely circumscribed by this possibility. Information regarding family planning has had far easier entry into the milieu of the well educated and the well to do than into that of those unreached by the information explosion. The result is evidenced in such statistics as the average number of children in a public assistance family in Canada being almost double that of the Canadian average. When the dissemination of information is impeded it is the least educated and least articulate members of our society that it is least likely to reach.

Therefore the first group of amendments flows from the recommendations of the Standing Committee on Health and Welfare. They comprise clauses 1, 2 and 3 of this bill amending the Food and Drugs Act, and clause 13 amending the Criminal Code. The next few clauses deal with what may be regarded as technical or administrative amendments, and I will cover briefly what is involved in these.

In the administration of the Food and Drugs Act and the Narcotic Control Act certificates of analysis have traditionally been employed. There has, however, been some variation in the language used in the respective sections of the legislation making provision for these certificates. It was therefore thought appropriate that some uniformity be established in this connection, and provision is now being made for this in the Narcotic Control Act and the three areas of the Food and Drugs Act where such certificates of analysis are called for. Complete protection is given to the person against whom the certificate will be produced, and with the leave of the court that person may call the analyst for cross-examination. He can of course, if he wishes, call the analyst as his own witness without leave of the court.

A further amendment of a rather technical kind deals with a provision of the act which, in effect, exempts from it any food or drug that is manufactured for export to another