1952-53

THE SENATE OF CANADA

PROCEEDINGS
OF THE
STANDING COMMITTEE
ON

PUBLIC HEALTH AND WELFARE

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PUBLIC HEALTH AND WELFARE

To whom was referred the Bill "J", intituled: "An Act respecting Food, Drugs, Cosmetics and Therapeutic Devices".

The Honourable Senator C. J. VENIOT, Chairman

TUESDAY, DECEMBER 2, 1952
THURSDAY, DECEMBER 4, 1952
TUESDAY, DECEMBER 9, 1952
WEDNESDAY, DECEMBER 10, 1952

WITNESSES:

Mr. A. E. Laverty, Q.C., Montreal, Quebec, Secretary Treasurer, Canadian Pharmaceutical Manufacturers Association.
Mr. M. E. Corlett, Solicitor, Ottawa, Ontario, of the Allied Beauty Equipment Manufacturers' & Jobbers' Association.
Mr. A. C. Thompson, Toronto, Ontario, Assistant Manager, Legal Department, Canadian Manufacturers' Association.
Mr. J. J. Connolly, Q.C., Ottawa, Ontario, Ottawa Truss Company of Canada.
Dr. C. A. Morrell, Director of Food & Drug Division, Department of National Health and Welfare.
Mr. R. E. Curran, Q.C., Solicitor, Department of National Health and Welfare.
Dr. Evan Shute, London, Ontario.
Dr. G. D. W. Cameron, Deputy Minister, Department of National Health and Welfare.

REPORT OF THE COMMITTEE

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY,
OTTAWA, 1952

ORDER OF REFERENCE

Extract from the Minutes of Proceedings of the Senate for Wednesday, 26th June, 1952.

"Pursuant to the Order of the Day, the Senate resumed the adjourned debate on the motion for the second reading of the Bill (J), intituled: "An Act respecting Food, Drugs, Cosmetics and Therapeutic Devices".

After further debate, and—

The question being put on the said motion,

It was resolved in the affirmative.

The said Bill was then read the second time, and—

Referred to the Standing Committee on Public Health and Welfare".

L. C. MOYER
Clerk of the Senate.

STANDING COMMITTEE ON PUBLIC HEALTH AND WELFARE

Public Health and Welfare

The Honourable Senators Blais, Bouchard, Burchill, Burke, Comeau, David, Davis, Dupuis, Fallis, Farris, Gershaw, Golding, Grant, *Haig, Hawkins, Howden, Hurtubise, Kinley, Lacasse, McGuire, McIntyre, Pratt, *Robertson, Roebuck, Stambaugh, Veniot and Wilson. (25).

*Ex officio member.

December 2, 1952.

The Standing Committee on Public Health and Welfare beg leave to report as follows:—

1. Your Committee recommend that authority be granted for the printing of 600 copies in English and 200 copies in French of its proceedings on the Bill (J), intituled: "An Act respecting Food, Drugs, Cosmetics and Therapeutic Devices", and that Rule 100 be suspended in relation to the said printing.

All which is respectfully submitted.

C. J. VENIOT,
Chairman.

67715—1½

TUESDAY, December 2, 1952.

Pursuant to adjournment and notice the Standing Committee on Public Health and Welfare met this day at 11.00 a.m.

Present: The Honourable Senators: Veniot, Chairman; Burchill, Davis, Grant, Haig, Hawkins, Lacasse, McGuire, McIntyre, Pratt and Wilson. (12).

The official reporters of the Senate were in attendance.

The consideration of Bill "J", An Act respecting Food, Drugs, Cosmetics and Therapeutic Devices, was resumed.

The Honourable Senator Stambaugh seconded by the Honourable Senator Hawkins, moved that "the Standing Committee on Public Health and Welfare be authorized to print 600 copies in English and 200 copies in French of its day to day proceedings on Bill "J", intituled: "An Act respecting Food, Drugs, Cosmetics and Therapeutic Devices", and that Rule 100 be suspended in relation to the said printing." The said motion carried and it was resolved to report accordingly.

Mr. A. E. Laverty, Q.C., secretary treasurer, Canadian Pharmaceutical Manufacturers Association, of Montreal, Quebec, presented a brief, objecting to certain clauses of the Bill.

Mr. M. E. Corlett, barrister-at-law, Ottawa, Ontario, of the Allied Beauty Equipment Manufacturer's & Jobbers' Association, presented a brief, supporting the Bill.

Mr. A. C. Thompson, Assistant Manager, Legal Department, Canadian Manufacturer's Association, of Toronto, Ontario, presented a brief, objecting to certain clauses of the Bill.

Mr. J. J. Connolly, Q.C., Ottawa, Ontario, representing the Ottawa Truss Company of Canada, was heard with respect to the clauses of the Bill affecting advertising.

Dr. C. A. Morrell, Director of Food & Drug Division, Department of National Health and Welfare, was heard in explanation of the Bill.

The following amendments proposed by the Department of National Health and Welfare were discussed and adopted:—

1. Page 1, line 12. Delete "that may be used in or is" and substitute "manufactured, sold or".

2. Page 1, line 20. Delete "that may be used in or is" and substitute "manufactured, sold or".

3. Page 1, line 21. Delete "(i)".

4. Page 1, line 23. After "animal" delete the "comma" and "or" and substitute a "semicolon".

5. Page 2, lines 1 and 2. Delete paragraph "(ii)".

6. Page 2, line 4. Delete "that may be used for or is" and substitute "manufactured, sold or".

7. Page 2, line 13. Delete "that may be used for" and substitute "manufactured, sold or represented for use as".

8. Page 2, line 14. Delete "by" and substitute "for".

9. Page 2, line 28. Delete "and".

10. Page 2, line 30. Delete "manufacture for sale".

11. Page 2, line 31. Delete the "period" and substitute "semicolon" and add "and"

12. Page 2. Add new paragraph "n", as follows:—

(n) "unsanitary conditions" means such conditions or circumstances as might contaminate a food, drug or cosmetic with dirt or filth or render the same injurious to health.

13. Page 3, line 9. Delete "in any unsanitary place or".

14. Page 3, lines 25 and 26. Delete "in any unsanitary place or".

At 12.30 p.m. the Committee adjourned till Thursday, December 4, 1952, at 10.30 a.m.

Attest.

A. FORTIER,
Clerk of the Committee.

THURSDAY, December 4, 1952.

Pursuant to adjournment and notice the Standing Committee on Public Health and Welfare met this day at 10.30 a.m.

In the absence of the Chairman, the Honourable Senator Gershaw, was elected Chairman.

Present: The Honourable Senators Gershaw, Acting Chairman; Burchill, Comeau, Davis, Fallis, Grant, Haig, Hawkins, McGuire, McIntyre, Pratt, Stambaugh and Wilson—13.

In attendance: Mr. J. F. MacNeill, Q.C., Law Clerk and Parliamentary Counsel.

The official reporters of the Senate were in attendance.

The consideration of Bill "J", An Act respecting Food, Drugs, Cosmetics and Therapeutic Devices, was resumed.

Dr. Evan Shute, of London, Ontario, presented a brief with respect to vitamin "E", and was questioned.

Dr. C. A. Morrell, Director of Food & Drug Division, Department of National Health and Welfare, was heard with respect to the effect of advertising in relation to the present Bill.

Mr. R. E. Curran, Q.C., counsel for the Department of National Health and Welfare, was heard with respect to the clauses of the Bill concerning advertising.

The additional amendment as proposed by the Department of National Health and Welfare was discussed and adopted.

15. Page 3, line 29. Delete "in any unsanitary place or".

At 12.15 p.m. the Committee adjourned till Tuesday, December 9, 1952, at 10.30 a.m.

Attest.

A. FORTIER,
Clerk of the Committee.

TUESDAY, December 9, 1952.

Pursuant to adjournment and notice the Standing Committee on Public Health and Welfare met this day at 10.30 a.m.

Present: The Honourable Senators: Veniot, Chairman; Burchill, Fallis, Farris, Gershaw, Hawkins, Roebuck, Stambaugh and Wilson—9.

The official reporters of the Senate were in attendance.

The consideration of Bill "J", An Act respecting Food, Drugs, Cosmetics and Therapeutic Devices, was resumed.

The Honourable Senators Hayden and Roebuck were heard with respect to certain clauses of the Bill and asked questions to the officials of the Department of National Health and Welfare.

Dr. C. A. Morrell, director, Division of Foods and Drugs, and Mr. R. E. Curran, solicitor, Department of National Health and Welfare, explained the said clauses.

Mr. A. E. Laverty, Q.C., Montreal, Quebec, and Dr. A. Grieve, representing the Canadian Pharmaceutical Manufacturers Association were also heard with respect to certain clauses of the Bill.

The additional amendments as proposed by the department of National Health and Welfare were discussed and adopted:—

16. Page 4, lines 22 and 23. Delete "in any unsanitary place or".

17. Page 4, line 36. After "of" add the words "samples of".

18. Page 5, line 12. Delete "in any unsanitary place or".

19. Page 5, lines 20 and 21. Delete "in any unsanitary place or".

At 12.05 p.m. the Committee adjourned till Wednesday, December 10, 1952, at 11.00 a.m.

Attest.

A. FORTIER,
Clerk of the Committee.

WEDNESDAY, December 10, 1952.

Pursuant to adjournment and notice the Standing Committee on Public Health and Welfare met this day at 11.00 a.m.

Present: The Honourable Senators: Veniot, Chairman; Burchill, Grant, Haig, Hawkins, McIntyre, Stambaugh and Wilson—8.

The official reporters of the Senate were in attendance.

The consideration of Bill "J", An Act respecting Food, Drugs, Cosmetics and Therapeutic Devices, was resumed.

Dr. C. A. Morrell, director, Division of Foods and Drugs, and Mr. R. E. Curran, Q.C., solicitor, Department of National Health and Welfare were further heard in explanation of the Bill.

The additional amendments as proposed by the Department of National Health and Welfare were discussed and adopted:—

20. Page 6, line 6. After the word "any" insert the word "reasonable".

21. Page 6, line 7. Delete paragraph (*a*) of sub-clause (1) and reletter subsequent paragraphs as (*a*), (*b*), (*c*) and (*d*).

22. Page 6, line 10. Delete "(*a*) enter any place where he reasonably believes any", and substitute "(*a*) enter any place where on reasonable grounds he believes any".

23. Page 6, line 12. After the word "stored" insert a "comma" and add the following words "examine any such article and take samples thereof,".

24. Page 6, line 16. Delete "he".

25. Page 6, line 17. Delete "reasonably believes contains any article to which this" and substitute "on reasonable grounds he believes contains any article to which this".

26. Page 6, line 20. After "(*a*)" delete "or (*b*)".

27. Page 6, line 21. Delete "that he reasonably believes contain any information" and substitute "that on reasonable grounds he believes contain any information".

28. Page 6, lines 22 and 23. Delete "with respect to any article to which this Act or the regulations apply and make copies thereof or extracts" and substitute "relevant to the enforcement of this Act with respect to any article to which this Act or the regulations apply and make copies thereof or extracts".

29. Page 6, line 25. After the word "detain" add the following words "for such time as may be necessary".

30. Page 7, line 8. After the word "shall" insert the word "knowingly".

31. Page 7, line 17. After the word "other" insert the word "proper".

32. Page 8, lines 11, 12 and 13. Delete paragraph "(*a*)", of sub-clause (1) and reletter subsequent paragraphs as (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*), (*l*) and (*m*).

33. Page 8, line 16. After the word "substances" add the following words "is present therein or".

34. Page 8, line 28. Delete "with a view to preventing the consumer or purchaser" and substitute "to prevent the consumer or purchaser".

35. Page 8, Lines 30 and 31. After the word "safety" delete "or with a view to protecting the public health or preventing" and substitute "or to prevent".

36. Page 8, lines 41 and 42. After the words "of" insert a "comma" and delete "and for the protection of the public health;" and substitute "or for the prevention of injury to, the health of the consumer or purchaser;".

37. Page 9, lines 29 and 30. After the word "to" delete "or deleting anything from any of the Schedules." and substitute "any of the Schedules, in the interest of, or for the prevention of injury to, the health of the consumer or purchaser, or deleting anything therefrom".

38. Page 10, lines 23 and 24. After the word "accused" delete "is liable upon conviction for the costs of prosecution only." and substitute "shall be acquitted.".

39. Page 11, line 17. After the word "paragraph" delete "(*d*)" and substitute "(*c*)".

At 12.10 p.m. the Committee adjourned to the call of the Chairman.

Attest.

A. FORTIER,
Clerk of the Committee.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Tuesday, December 2, 1952

The Standing Committee on Public Health and Welfare, to whom was referred Bill J, an Act respecting food, drugs, cosmetics and therapeutic devices, met this day at 11 a.m.

Hon. Mr. VENOIT in the Chair.

The CHAIRMAN: Honourable senators, the first item of business at today's meeting is the question whether we should have our proceedings on this bill stenographically reported and printed. Before our last meeting it was thought that this might not be necessary, but in the last few days there has been such a demand from members of the House of Commons and other parties for a printed report of our proceedings that I think the question should be decided now.

Hon. Mr. STAMBAUGH: Mr. Chairman, I think it is very important that we should have a stenographic report printed. I move that our proceedings be reported and that we ask the Senate for authority to have 600 copies in English and 200 copies in French printed.

The motion was seconded by Hon. Mr. Hawkins, and carried.

The CHAIRMAN: We have here today representatives from the Canadian Pharmaceutical Association and other bodies. Mr. Corlett, a barrister, of Ottawa, represents the Allied Beauty Equipment Manufacturers' and Jobbers' Association, and Mr. A. C. Thompson is present from the Legal Department of the Canadian Manufacturers Association. Perhaps we should hear first from the Canadian Pharmaceutical Association. If that is agreeable to the committee, and I will call upon Mr. Frosst.

Mr. E. S. FROSST: Mr. Chairman, Mr. Laverty will speak for us.

The CHAIRMAN: Very well. Mr. Laverty is Secretary-Treasurer of the Canadian Pharmaceutical Association. He has with him Dr. A. Grieve.

Mr. A. E. LAVERTY, Q.C., Secretary-Treasurer of the Canadian Pharmaceutical Association: Honourable senators, the Canadian Pharmaceutical Association is a body composed of manufacturers of the so-called ethical products that are sold on prescription and not advertised to the general public for self-administration. We have sixty-two members, and they represent almost everybody in that business in Canada.

Hon. Mr. LACASSE: Would you name a few of them, for instance?

Mr. LAVERTY: Well, we have here this morning Mr. H. D. Cook, General Manager of Abbott Laboratories, Mr. E. S. Frosst, President of Charles E. Frosst and Company, and Mr. W. S. Leslie, President of Ayerst, McKenna & Harrison Limited. Dr. A. Grieve, to whom the Chairman has already referred, is also a representative of that company.

We have always had the very best relations with the department and, as I told them, if we were sure the present officials would be here for ever we would not have any objections to anything in the bill. But naturally we are legislating for the future, and there may come a time when our relations are not as good as they are now. That is why we would like to have some provisions of the bill amended.

A few days ago we discussed with the department some proposed changes to the bill as originally drafted. I understood that these changes are indicated in the copies that you have. I may say that we have no objection to any of these changes; we have accepted them all. Our first representation concerns section 4(*d*). That section reads:

> 4. No person shall sell an article of food that
> (*d*) is adulterated.

We feel that if the word "adulterated" is going to be left in the Act it should be defined somewhere in the Act. At present it is proposed to define it by regulation, and we claim this would make for uncertainty. It would suit us if the present definition of "adulteration" as it applies to foods, in section 4 of the present Act, were made to apply to drugs also.

I am told that the question of adulteration is not going to be very important any longer, because a drug is either going to be standard or not, under section 10 of the proposed Act, and if it is not standard you cannot sell it. If the word "adulterated" is not going to be important any longer I would suggest that it be taken out. But if it is going to be important, then I think it should be defined in the Act. I have a definition to suggest, which may not be suitable, for I am not a technical man. My proposed definition is this:

> A drug shall be deemed to be adulterated if something has been added to it or omitted therefrom, thereby lessening its therapeutic value or rendering it dangerous to health when used in the approved manner.

Those are our representations concerning adulteration.

Next I would refer the committee to sections 5, 9 and 19. They are all very similar, so I will discuss only section 9. This section begins by providing that no person shall label, package, treat, process, sell or advertise any drug in a manner that is false, misleading or deceptive or is likely to create an erroneous impression regarding its character, value, quantity, composition, merit or safety.

We have no objection to that; we think that should be in the Act. But the second paragraph of the section says that a drug which is not labelled or packaged as required by the regulations, or is labelled or packaged contrary to the regulations, shall be deemed to be labelled or packaged contrary to subsection (1).

I respectfully submit that this enables the Administration to render judgment before we ever get into court. Under this subsection, if the Administration is of the opinion that a certain practice is misleading it can simply pass a regulation forbidding it, and from then on no manufacturer would have the right to use such practice and he would have no way of submitting the question to a court of law for a decision as to whether the regulation was reasonable or not. So we would be beaten before we ever got to first base. I suggest that, in view of the first paragraph of the section, the second paragraph is not necessary and should be deleted. Under the first paragraph, of course, the government has the right to prosecute anyone who is making false or misleading claims.

Now we pass on to section 12. This says that:

> No person shall sell any drug described in Schedule C or D unless the Minister has, in prescribed form and manner, indicated that the premises in which the drug was manufactured and the process and conditions of manufacture therein are suitable to ensure that the drug will not be unsafe for use.

I would say first that this section would seem unconstitutional, because it requires you to go to the Minister to obtain his permission to manufacture

within the provinces. That would appear to be a violation of civil rights. However, we would have no objection to the section if this paragraph were added to it:

> No drug, even if its name or description appears in Schedule C or D, shall be subject to the provisions of this section if there exists for such drug a test which properly demonstrates its potency or safety.

We suggest that additional paragraph because we would not want drugs to be added to the said schedules if there exists a test as to the safety of the drugs. I am told that at present there is no such test, and our submission is that as soon as there is one the drugs should not be restricted as proposed in section 12. Exactly the same representations are made with respect to section 13, and again we suggest a subsection reading:

> No drug, even if its name or description appears in Schedule C or D, shall be subject to the provisions of this section, if there exists therefor an adequate test to demonstrate that it is not unsafe for use.

Now we pass on to subsection (14):

> No person shall distribute or cause to be distributed any drug as a sample, ...

That is quite all right. Subsection (2) reads:

> Subsection (1) does not apply to the distribution of drugs by mail or otherwise to physicians, dentists or veterinary surgeons or to the distribution of drugs, other than those mentioned in Schedule F, to registered pharmacists for individual redistribution to adults only or to a distribution in compliance with individual requests.

Under the section as it now stands it can be interpreted as meaning that you cannot distribute Schedule F drugs to registered pharmacists. I do not think there is any reason why it should be prohibited as long as he does not give them out except under prescription, and I think the Department agreed with me that that was their intention.

We have suggested a wording which reads as follows:

> Subsection (1) does not apply to the distribution of drugs by mail or otherwise to physicians, dentists, veterinary surgeons, or to registered pharmacists. Registered pharmacists may redistribute such samples to adults only, or to a distributor in compliance with individual requests, except samples of drugs mentioned in Schedule F, which may be redistributed only in accordance with the prescribed regulations and laws which apply to the distribution of such drugs.

As to section 21, this gives to inspectors very wide powers of inspection and seizure, and we respectfully submit that some provision of law similar to section 11 of the act presently in force should be retained. Under section 11 as it exists now—briefly—when an inspector took his sample for the purpose of analysis he divided it into three parts, and he sealed one part and left it with the person upon whom the seizure was made, and he kept the other two parts for analysis, so that when the analysis was made and published the person upon whom the seizure was made still had in his hand a third of the drug, which he could have analyzed for purposes of rebutting the evidence that the Crown might bring against him. That is not in the present act; and we believe that that, or some such provision, should be retained.

We pass on to section 23, subsection (2), which reads:

> When an analyst has made an analysis or examination he may issue a certificate or report setting forth the results of his examination or analysis.

We suggest that the provision should be imperative, and that it should read that—

> Where an analyst has made an analysis or examination he shall promptly issue a certificate or report setting forth the results of his examination or analysis and shall remit a copy thereof to the person from whom the article was seized.

A similar provision exists in the present act. Subsection (4) of section 13 of the present act states:

> A copy of such certificate shall be furnished forthwith by the Department to the person from whom the sample was procured.

I think the person on whom the seizure is made is very much interested in getting the results of the seizure, and they should be made available to him.

As to section 24, which gives the power of making regulations, again we urge that the word "adulterated" should not be defined by regulation, but should be in the act. Subsection (1) (*f*) provides that the "Governor-in-Council may make regulations respecting the method of preparation, manufacture, preserving, packing, storing and testing of any food or drug . . . in the interest of and for the prevention of injury to the health of the consumer or purchaser." I think it is highly doubtful whether the Governor-in-Council or the Federal Government can prescribe methods of manufacture within the provinces. It seems to me that as long as we produce a standard article we can use whatever methods we wish; and that is, again, a civil right.

Then again, it would seem against public interests to pass a regulation which may restrict the method of manufacture, because overnight a better method may be found, and if you are restricted to the method laid down by regulations, you cannot give the public the benefit of the new method. It is true that the regulations may be changed, and that in theory they may be changed very quickly, but in practice it takes some time before a regulation is changed.

Now, with respect to section 24, it is our respectful submission that the regulations that are made by the Administration should be subject to review by the courts. It seems to me that the Administration should not have the same final power of legislating as Parliament has; and we suggest that a clause be added reading somewhat as follows:

> A regulation made under this act shall have the force of law and be binding unless it is established that it is unnecessary for the protection of public health or for the purpose of preventing the consumer from being deceived or misled.

That would at least give us a chance, if we were prosecuted, to make representations to the court and produce evidence showing that the regulation was unnecessary and therefore would not have the force of law. If that amendment is granted us, then I think that the first paragraph of section 25 should be amended, to read:

> Every person who violates any of the provisions of this act or of the regulations which have the force of law is guilty of an offence and is liable

to the various penalties provided there.

We pass on to section 29, which provides that the certificate of an analyst may be produced in court and makes proof of the contents of the statements contained therein. We believe that, if an expert opinion is offered by the Crown, they should have the expert in court to give his evidence and subject himself to cross-examination. I think it is unheard of that a mere document

produced in court containing an opinion of an expert should make proof itself. The man should come there and should submit to an examination as to his qualifications, as to how he carried on the analysis, and so forth and so on.

Hon. Mr. HAIG: That is the law under a good many of the Code provisions. You can produce a certificate as to the contents of certain things, for instance as to the proof strength of alcohol. It is only prima facie proof.

Mr. LAVERTY: Yes, I know it is.

Hon. Mr. HAIG: Otherwise, in small places it would be impossible to prosecute at all. You could not take witnesses out there: the Government would just have to throw up their hands. And there has been no protest. Let me suggest to you that in my province there has been no protest against these regulations where they do apply under the Code. I have never heard of a single protest about it, and especially in liquor prosecutions, it comes in very often.

Mr. LAVERTY: Of course, in this business there are cases where a very complicated test might be made, and it seems to me—

Hon. Mr. HAIG: It is only prima facie. You can call your men to give evidence.

Mr. LAVERTY: But the burden should be on the Crown to make its case, don't you think?

Hon. Mr. HAIG: No, not in these cases. Right through your bill I will not agree with you on that. Take, for instance, trials for murder: in many cases they send weapons to an expert at Regina to see whether bullets were fired by a certain gun, and they use his certificate. It is only prima facie.

Mr. LAVERTY: Under the present Act the defendant has the right of requiring the attendance of the Dominion analyst. Section 13(3) says:

> The certificate so given shall be received as evidence in any proceedings taken against any person in pursuance of this Act, subject to the right of such person to require the attendance of the Dominion analyst for the purpose of cross-examination.

That is what gave us the idea that this right should be retained in the new Act.

Now I come to my last representation. Section 29(3) of the proposed new Act says:

> In a prosecution for a violation of this Act or the regulations it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not he is identified or has been prosecuted for the offence.

We think the defendant certainly has the right to have the employee or agent identified, because otherwise the defendant would not know whether or not the person in question was his employee or agent. Therefore, we think the words "whether or not he is identified" shall be deleted.

Those are all our representations, Mr. Chairman.

The CHAIRMAN: Does anyone else wish to speak on behalf of the Canadian Pharmaceutical Association? If not, we shall proceed to call representatives of other bodies.

Hon. Mr. HAIG: Mr. Chairman, may I suggest to Mr. Laverty that he and his associates stay here until they hear what answer the government officials have to give?

Mr. LAVERTY: Certainly, sir.

The CHAIRMAN: Then, if the committee is agreed, I will next call upon Mr. M. E. Corlett, to speak on behalf of the Allied Beauty Equipment Manufacturers' and Jobbers' Association.

Mr. M. E. CORLETT, Ottawa Counsel of the Allied Beauty Equipment Manufacturers' and Jobbers' Association: Mr. Chairman and honourable senators, the Allied Beauty Equipment Manufacturers' and Jobbers' Association is the recognized trade association of manufacturers and distributors in Canada of beauty supply products, which largely comprise what is covered by "cosmetics" in the Food and Drugs Act. They differ from the Toilet Goods Association, in that these manufacturers and distributors sell almost exclusively to beauty salons and barber shops. In other words, they put up their products in what they call professional sizes, and I understand that with a few exceptions there would be no selling of their products over the counter to the public.

I do not think I need to detain the commitee very long, because by and large the Association has no objection to what the Government proposes to do in this legislation, in so far as it affects cosmetics. I may say that in the present Food and Drugs Act the word "cosmetic" has never been defined. In fact, until 1939 cosmetics did not come under the jurisdiction of the Food and Drugs Act, but by an amendment of the statute in that year the definition of "drug" was extended to cover cosmetics; and then, strangely enough, that was never proclaimed until May 1, 1949. So it is only since May 1949 that the Food and Drugs Act has been of direct concern to the members of this association.

When this extension of the Act was proclaimed, in 1949, many members of the beauty supply industry were greatly concerned, fearing that their industry would be adversely affected. However, I understand that from a practical point of view the chief restrictions imposed upon the industry have related to labelling, and everything has worked out very nicely. I understand from officers of the association that the members have been getting on harmoniously with the officials of the Food and Drugs administration.

When it became known that a new Food and Drugs Bill was going to be introduced last June, copies of the bill—it was then known as Bill E-11—were distributed to the officers, directors and members of this association for study. During the summer months they have studied the proposed terms, and they now advise me that they have no objection to the bill in so far as it affects cosmetics. However, I might just run over certain of the sections that will directly concern members of this association.

In section 2, the interpretation section, "cosmetics" is defined for the first time. The members are agreed that this is better than having the definition included in the definition of "drug", as it has been up to now.

Section 3, although theoretically applicable to cosmetics, will not in practice affect the beauty supply industry, because none of their products are advertised as a treatment, preventative or cure for any of the diseases set forth in Schedule A.

Sections 15, 16 and 17 deal specifically with cosmetics, and we have no objection to any of these sections. However, we presume that where the Food and Drugs administration in future prescribe a standard for a cosmetic it will, before doing so, consult with the industry. Section 16 says:

> Where a standard has been prescribed for a cosmetic, no person shall label, package, sell or advertise any article in such a manner that it is likely to be mistaken for such cosmetic, unless the article complies with the prescribed standard.

In the past the Food and Drugs administration has always been very co-operative with the trade, and we presume that the administration would consult with the interested industry before establishing a standard, because otherwise a standard might be established which would not be consistent at all with, say, the manufacturing practice at the given time. There is nothing in section 16 which compels the administration to do this, and perhaps that is

contrary to governmental practice under our British system. However, as I say, in the past three years the administration has been very co-operative with the industry.

A similar provision with reference to the establishment of a standard is expressed in other sections. How the matter can be gotten around from the legal point of view, I do not know. The point I raise is that as the proposed new section 16 now stands a standard could be prescribed by the Department of National Health and Welfare without any consultation at all with the industry, and it might be that unless certain officials were up on their toes they would prescribe a standard that would prove to be unworkable.

Section 21 has to do with the powers of government inspectors. This will, of course, affect the beauty supply industry, but we do not consider that such powers are unreasonable.

Section 22 relates to the right of forfeiture. This will provide greater protection to the industry than it now has from arbitrary and unreasonable action on the part of a government administrator, and I do not think anyone in the industry could have any objection to it.

Section 24 sets forth the scope of the regulations that can be made by the Governor in Council. Subsection (1) (c), dealing with labelling and packaging, appears to follow what is set forth in the present regulations. As I have said, the members of the association encountered no difficulty with the present regulations, and we feel that the placing of the regulations in the statute is all to the good.

Paragraph (*g*) of subsection (1) requires persons who sell food, drugs, cosmetics or devices to maintain books and records. I believe that is a new requirement in the Food and Drugs Act, but from a practical point of view we do not feel that it will impose any hardship upon our industry. As honourable senators know, every manufacturing and distributing firm today is required by the Income Tax Act to maintain a satisfactory system of books and records, and every joint stock company is made subject to the same requirement by the appropriate Companies Act.

Section 25 provides for penalties. They are made stiffer, but assuming that the law is complied with no member need fear the penalty sections at all. Putting the matter at its very worst, I suppose one could say that the increased penalties provided for in this bill will act as a deterrent to violation of the Act, and thus indirectly raise the standard of business methods of our members.

Section 26 provides that a summary prosecution must be commenced by the government within twelve months from the time the subject-matter of the prosecution arose. The present time limit is six months, as honourable senators know, under the Criminal Code. The association does not feel that this extension of time is unreasonable.

So that, generally speaking, I am instructed to say on behalf of the members of this association that they have no objection at all to the sections of the proposed bill that affect their industry. I suppose it is a fact that stricter regulatory measures must be enacted with reference to the manufacture of food and drugs than with reference to the manufacture and sale of cosmetics. Food and drugs are consumed by individuals internally, whereas cosmetics, so far as I understand, are applied externally. I think that perhaps the legislative draftsmen have taken that into consideration, because it would appear that there are certain restrictive provisions relating to foods and drugs, and also perhaps to therapeutic devices, that do not apply to cosmetics.

That is the submission on behalf of this association, Mr. Chairman.

The CHAIRMAN: I now call upon Mr. A. C. Thompson, of the Canadian Manufacturers Association.

Mr. A. C. THOMPSON, Assistant Manager, Canadian Manufacturers Association: Mr. Chairman and honourable senators, I have a brief here, but most of our submissions have been taken care of by the amendments which the department has now added. There are, however, a few items to which I wish to speak. While the brief is being distributed I might say that the Canadian Manufacturers Association comprises among its membership manufacturers of products of all kinds, including drugs. As the drug companies were looking at the bill from the special angle of their own products, we did not deal with the sections relating to them. The committee has heard the representations made on behalf of the drug companies. In our brief we do, however, deal with the sections relating to food, cosmetics and therapeutic devices. And, like the Pharmaceutical Association, we discussed with the department certain provisions in the original bill to which we had some objection or about which we required further explanation.

The result of that has been that the changes that they agreed upon you now see in Bill J. It only remains for me to speak to a few other points on which there was, perhaps, not complete agreement.

Dr. G. D. W. CAMERON: May I intervene a moment to clear a point which may be puzzling members of the committee? It is true that we have discussed this with the gentleman who is making his submission, and as I mentioned the other day, we have agreed substantially to the proposals he has made; but the amendments he is referring to are not in this bill; we have not any authority to amend the act. These are proposals which we say in advance we have agreed to.

Mr. THOMPSON: Yes, I should not have expressed myself that way, Mr. Chairman. I meant that we were in agreement, as the other two parties have said, with these proposed changes in Bill J, and that if these are made, 90 per cent of our suggestions are met.

Dr. CAMERON: May I interrupt again? Would it help your committee to have copies of the proposed bill with the proposed amendments marked in them for their consideration? They have not got them now.

Mr. THOMPSON: Oh, I thought they had. I am sorry.

Hon. Mr. HAIG: I do not like to object, but I can see no great advantage to us in discussing things which the Government has accepted. That does not make any difference to us. All I think we want to know is anything that is not in the bill that he thinks ought to be in, or anything that is in it that he thinks ought to be taken out. If his committee has seen the Government, and they have accepted 90 per cent of the amendments, we are not interested in those amendments. We will come to them in the bill.

The CHAIRMAN: What we have here, Senator Haig, is—

Hon. Mr. HAIG: —the June bill and the amendments they made to it. We are not a bit interested in that. What we are interested in is the amendments that are not in the act that he wants to put in it.

The CHAIRMAN: That is what the Clerk is distributing now—the suggested amendments—and that is what Dr. Cameron suggested a few minutes ago, that Bill J is to be submitted to you now with the amendments which are to be suggested to us as a committee.

Hon. Mr. HAIG: Not the ones that have been accepted?

The CHAIRMAN: No, not the ones that have been accepted; the ones that are suggested.

Hon. Mr. HAIG: That is all right.

Hon. Mr. BURCHILL: These have been agreed to?

The CHAIRMAN: Have these amendments been accepted, or are they simply submitted for study by us?

Dr. CAMERON: I would like to explain that, in order to facilitate this, we had prior discussions with the gentleman who is going to present his brief now, and we as officials of the Department have, I think, agreed to most of the proposals; but I know that of course we cannot amend a bill which has been introduced in the Senate. This is simply to facilitate discussion. If your committee accept the proposals made we are simply saying in advance that as far as we are concerned we see no objection to them. But any action to amend the bill must be taken, of course, as I understand it, by your committee.

Hon. Mr. McGUIRE: The representatives are here to make their representations; and I think all we need to hear from the witness is his objection to certain clauses that are in the bill.

Dr. CAMERON: That is what he proposes to do now, sir.

Mr. THOMPSON: Mr. Chairman, and honourable senators, for the record then I will say that I want these written amendments, suggested amendments—

The CHAIRMAN: They will be considered.

Mr. THOMPSON: I mean these inked changes. I am asking that they be made, and then I shall ask for a few other things. The Department are agreeable to these.

Hon. Mr. BURCHILL: Go ahead.

Mr. THOMPSON: In addition to that, I would like to direct your attention to the definition of "advertisement" in section 2(*a*). We think that that should be changed to read:

> 'advertisement' includes any public representation . . .

That ties in with section 3(1) which says:

> No person shall advertise any food, drug

and so on as a treatment of disease. And then there are other provisions relating to advertising.

Hon. Mr. BURCHILL: What did you say?

Mr. THOMPSON: Public representation. We think that if it is desired to stop private representations it should so state; it should not be under the guise of the word "public", which has a public connotation. With this change in there, you could stop people at an exhibition who are advertising foods or drugs improperly. It would not subject an employer to prosecution, nor perhaps a salesman in a private conversation with a customer who perhaps overstepped the mark and said things he should not say. And moreover that addition would bring "advertisement" more in line with the ordinary meaning of "advertisement", which means, I think, public representation.

My next point is regarding the definition of "sell". In paragraph "(*m*)" of section 2 we find the phrase "manufacture for sale". We think that phrase should go out. We do not think that is the natural meaning of the word "sell" at all. You might have goods manufactured and not ready for sale. Just delete those words.

Hon. Mr. DAVIS: Do you not think the definition section should include a definition of "adult"? It may mean various things. What is the legal definition of "adult"? Some parts of the bill apply to adults and, as I said, "adult" is not defined here.

Mr. THOMPSON: You would have to take the dictionary meaning, I suppose.

Hon. Mr. DAVIS: Which dictionary?

Mr. THOMPSON: It depends on the Judge!

Hon. Mr. DAVIS: We should try to avoid going before a judge, I think.

Mr. THOMPSON: My next point is in connection with section 21. Under this clause the Department are suggesting certain changes to enable an inspector to seize and get certain information from books and so on. We have been wondering about the question of the confidential nature of information thus received, and we have been thinking that something should be included to keep this information secret. Certain of the information they receive they have to publicize: they have to say that "such-and-such has been found to be an offence against the act"; and it is quite difficult to suggest what should go in the bill, if anything, to make it quite fair to the manufacturer and to the inspector that this information will be kept confidential. The inspectors, indeed all the officials, take an oath of secrecy, and perhaps that is enough; but we are a bit concerned about the keeping of this information confidential except for purposes of the administration of the act. Whether a section stating that "any information obtained by an inspector shall be kept secret except in the administration of the act" would do, I do not know. At one time we did suggest some such section in the Income Tax Act, but it is not on all fours, because there, there is no reason to give the information to anyone outside, whereas under this act there must sometimes be releases stating that certain drugs, or whatever the article may be, are on the banned list. If honourable senators think well of having something of that kind in the bill, perhaps the Department along with the Department of Justice could suggest a suitable provision. So long as we get the idea there, it does not have to be too strict. But these things must be kept secret as far as they can be, so that the trade secrets of one manufacturer will not be passed on to another, or anything of that nature. We do not suggest that it has been done, but we are afraid that it could be done, and very valuable information might be passed on, and the reward to the passer-on might be considerable and might be very tempting.

That is my submission. Thank you very much.

The CHAIRMAN: Mr. Connolly represents the Ottawa Truss Company of Canada, and he wishes to make some representations with regard to appliances.

Mr. JOHN J. CONNOLLY, Q.C.: Mr. Chairman and honourable senators, as the Chairman has intimated, the company on whose behalf I appear is the Ottawa Truss Company of Canada, which is the largest manufacturer of articles defined by the proposed act as "devices". These devices consist mainly of supports and belts for various parts of the body which may require that kind of treatment—if I can use the word, although it is apparently prescribed by the Act.

I may say that, although the company is the manufacturer of these appliances, these devices, except in their own retail store in Ottawa they do not distribute them. They are sold by some 1,200 or more of the druggists of the country.

The first thing that I would like to refer to is the provision in section 3 which says that—

> (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 . . . (etc.) mentioned in Schedule A.

First of all, the policy of the company is not to advertise its product as a treatment, preventative or cure. I think that perhaps the time will come in the future when a definite line of distinction will be drawn between the kind of advertisements that may be made. If a company says "Here is a truss" or shows a picture of a truss, somebody in the department may rule that "In saying that is a truss, or showing a picture of a truss, you are suggesting an element of treatment there." That I think will be unavoidable, when the word "treatment" or "preventative" is in the Act.

But on behalf of this company I wish to say that it welcomes both these words. The company has never made and never will make extravagant or misleading claims, such as have been made on behalf of certain other manufacturers. The company looks upon the matter in this way. First of all, it feels that these devices, these trusses, belts and so on, are articles that the public apparently require. Secondly, if they are to be made available to the public they must be advertised. The company's relations with departmental officials administering the Act are excellent, and of course it is hoped that the officials in future also will maintain a reasonable point of view, so long as no exaggerated or misleading claims are made for the company's products.

The reason why the company particularly welcomes the proposed legislation is that in some periodicals, and indeed in some of our own newspapers, misleading articles and advertisements appear at various times. This material does not always come from Canadian manufacturers, but often from producers and manufacturers outside the country. These people urge readers to write in for a booklet, and point out that no money is required to be sent along. But of course once a person's name gets on the list of firms like that, certain pressure is gradually applied, and before long one is told that he needs a brace or belt or truss to cure a rupture. And sometimes the definite claim is made that one of these devices will cure a rupture within a certain time. That is the kind of extravagant claim to which objection is taken by the company I represent. I have an advertisement of that kind before me. Control can be exercised over such an advertisement when it originates in Canada, for penalties provided by the Act can be applied against the manufacturer. I suppose, too, that once a manufacturer is caught doing that kind of thing his advertisements can be kept out of Canadian publications quite effectively. But, as we all know, a great many American publications come into this country, and many of them contain advertisements which make extravagant claims for trusses and other devices of the kind. And while the Canadian manufacturer is required to comply with the Act, these outside people go scot-free. Of course, quite properly, the Act does not set forth what the department can do by way of preventing the public from exposure to that kind of advertising. An Act of this kind is not one in which provisions of that kind should be included. No doubt the department has at present some means of dealing with matters like these.

Mr. Chairman, these are the only representations that the Ottawa Truss Company wishes to make to the committee.

The CHAIRMAN: Are there any further representations to be made? Would the representatives of the department care to discuss now the suggestions made by Mr. Laverty?

Hon. Mr. HAIG: Mr. Chairman, instead of having a statement by the department I think we should now take up the bill clause by clause; and as we go along, the departmental officials can give us their views.

The CHAIRMAN: I was wondering, Senator Haig, whether we would not do well to have a statement from Dr. Morrell now.

Hon. Mr. HAIG: Some of the people here have come from out of town and no doubt are desirous of getting home as soon as possible. I think we would make more progress if we took up the bill clause by clause.

The CHAIRMAN: I am, of course, quite willing to do whatever the committee desires. We all have in mind what Mr. Laverty said a few minutes ago, and it occurred to me that this might be an opportune time for Dr. Morrell to reply to his suggestions.

Hon. Mr. HAIG: Mr. Chairman, I move that we take up the bill clause by clause.

The CHAIRMAN: Very well, if that is the wish of the committee. I will ask Dr. Morrell to come here and go over the bill with us.

Dr. C. A. MORRELL, Director, Food and Drug Division, Department of National Health and Welfare: Mr. Chairman and honourable senators, the first objection was, I think, taken to the definition of "advertisement" in section 2, paragraph (*a*). This paragraph begins as follows: " 'advertisement' includes any representation by any means whatever . . ." It has been suggested, I think by the Canadian Manufacturers Association, that the word "public" should be inserted before "representation". I wonder, though, if those words "any public representation" would cover all the field of advertising that it is desirable to cover. Are there not some companies which do only a door-to-door business and advertise in no other way?

Hon. Mr. MCGUIRE: I think we would get into a lot of difficulty by inserting the word "public", because then it would be necessary to decide what is public and what is private advertising. That would increase the difficulty of administering the Act.

Dr. MORRELL: That is just what we felt, senator. We ourselves have difficulty in deciding sometimes what is a public advertisement, and perhaps some magistrates would have difficulty too. Personally I do not feel that the Canadian Manufacturers Association have any real cause for worry from the proposed wording of the definition.

Hon. Mr. BURCHILL: The words "any representation" are very broad, however, as Senator Roebuck pointed out in the Senate recently. They might include representation by speech or conversation, I should think.

Hon. Mr. MCGUIRE: Yes. That is intended to be included.

Dr. MORRELL: We had in mind, senator, the kind of advertising that is done by a barker outside a tent at an exhibition. He talks to the public and recommends the goods that he has for sale. That is advertising.

Hon. Mr. BURCHILL: I agree with that.

The paragraph was agreed to.

The CHAIRMAN: The Clerk of the Committee points out to me that the next paragraph is wrongly numbered (*d*). That should be paragraph (*b*).

The paragraph was agreed to.

On paragraph (*c*), "cosmetic":

Dr. MORRELL: Mr. Chairman, one of the speakers here this morning said that there is no definition of "cosmetic" in the present Act, but there is, and it is practically the same as this proposed new one. In discussion with the Canadian Manufacturers Association a week or two ago they made some suggestions as to a definition, and we felt that this paragraph might be changed to read as follows:

> 'cosmetic' includes any substance or mixture of substances manufactured, sold or represented for use in cleansing, improving or altering the complexion, skin, hair or teeth, and includes deodorants and perfumes.

The only change there is the substitution of the words "manufactured, sold or represented" for the words "that may be used in or is represented". We felt that probably these words went too far, in that a product which was not represented for use as a cosmetic or not manufactured or sold for that purpose might be included within the present definition, and that was not our wish.

Hon. Mr. HAIG: You suggest this change, then?

Dr. MORRELL: Yes.

Hon. Mr. HAIG: I move, Mr. Chairman, that the change just sugegsted by Dr. Morrell be agreed to.

The paragraph as amended was agreed to.

Paragraph (*d*) was agreed to.

On paragraph (*e*), "device".

Dr. MORRELL: We suggest, first, that the words "that may be used in or is" be stricken out of this paragraph, as in paragraph (c), and replaced by the words "manufactured, sold or", also as in paragraph (c).

Further, we think that no real purpose would be served by the second subpargraph of this paragraph (c), because all that is necessary is covered in the first subparagraph. Therefore we would suggest that subparagraph (ii) be stricken out. Those are the words "affecting the structure of any function of the body of man or animal".

The paragraph, as amended, was agreed to.

On paragraph (*f*), "drugs":

Dr. MORRELL: In this paragraph also we suggest the same change as was made in paragraph (c), namely, that the words "that may be used for or is" be stricken out and replaced by "manufactured, sold or".

The paragraph as amended, was agreed to.

On paragraph (*g*), "food":

Dr. MORRELL: We suggest a similar change here. The paragraph now gives this definition:

> "food" includes any article that may be used for food or drink by man, chewing gum, and any ingredient that may be mixed with food for any purpose whatsoever.

We suggest that the first part of the paragraph read: " 'food' includes any article manufactured, sold or represented for use as food or drink for man,", etc.

The paragraph, as amended, was agreed to.

Paragraphs (*h*), (*i*), (*j*), (*k*) and (*l*) were agreed to.

On paragraph (*m*), "sell":

Dr. MORRELL: Mr. Chairman, we have agreed with both the Canadian Manufacturers Association and the Canadian Pharmaceutical Manufacturers Association to delete the words "manufacture for sale".

The CHAIRMAN: A paragraph (*n*) is added.

Dr. MORRELL: Paragraph (*n*) is added to that because of changes that we agreed to make in later sections. For example, we have agreed to strike out of section 4, paragraph (*e*) the words "in any unsanitary place or". It will then read:

> No person shall sell an article of food that
> (*e*) was manufactured, prepared, preserved, packaged or stored under sanitary conditions."

Hon. Mr. HAIG: Carried.

The CHAIRMAN: Shall the section carry?

The section as amended was agreed to.

The CHAIRMAN: Section 3, subsection (1).

Hon. Mr. BURCHILL: Under subsection (1) is the point which Mr. Connolly dwelt on. Have you any observations on that, Dr. Morrell?

Dr. MORRELL: Well, the clause as now written is one of the most useful sections in the present act. We have found it very useful indeed in preventing fraud in the treatment of cancer, diabetes, and goodness knows what all.

Hon. Mr. BURCHILL: But I mean the point Mr. Connolly raised about American publications.

Dr. MORRELL: We have one means of dealing with them: we can refuse entry of that article from the United States into Canada, if it comes from the United States, because it cannot be legally sold in Canada because it has been advertised illegally. So we can deal with the article itself.

Hon. Mr. HAIG: And that has been working all right?

Dr. MORRELL: That has been working, and has been used to prevent cancer cures that are being sold in the United States from being sold over here.

Mr. THOMPSON: May I ask a question. I saw an ad. last night: "We manufacture all kinds of articles for obesity." It did not say it would treat or prevent them, but it said "for obesity". Would that be deemed to be treatment? Could that be prevented by this section?

Dr. MORRELL: Yes, I think it would, sir.

Mr. THOMPSON: Well, how are they going to sell these abdominal supports? Just call them "abdominal supports"? Will that be all right?

Dr. MORRELL: Yes.

Mr. THOMPSON: But they should not say "obesity" at all.

Dr. MORRELL: No. There may be other reasons for using an abdominal support than for over-weight.

Mr. THOMPSON: Quite so, but they were appealing to the over-weight people.

Dr. MORRELL: Yes.

Mr. THOMPSON: But you think the use of the words "for obesity" would be an offence against this section?

Dr. MORRELL: Yes, I do.

The section was agreed to.

On section 4: prohibited sales of food:

Hon. Mr. HAIG: There were representations about paragraph (*d*).

Dr. MORRELL: There are, I think, several points to be brought out here. In some cases we will have a standard for food and the food will comply with that standard if it is followed by the name of the food. But there are a great many foods for which we will have no standards. In the past we have had to deal with a large number of foods for which no standard has been required, and they have contained such things as mineral oil, for example. It has been in salad dressings and olive oil; it has been in shortenings. It has no food value; it is not a food; it may have actual harmful effects if consumed in reasonable quantities; in fact, harmful effects have been reported in the American Medical Association Journal from people consuming unwittingly salad dressings with a large proportion of mineral oil in. That would be one example where we would be able to use this section in forbidding the sale of a food which contained mineral oil. We would also use this section for forbidding the sale of products that contained other things that were not harmful but which had no proper place in the product under consideration. They may not be foods at all in the proper sense of the word.

Hon. Mr. HAIG: And you want the clause in?

Dr. MORRELL: Very much so, yes, sir.

There was a change in paragraph (*e*), as I think I mentioned before: the words "in any unsanitary place or" are stricken out.

The section as amended was agreed to.

Section 5 agreed to.

On section 6—where standard prescribed.

Dr. MORRELL: In discussing this, I think Mr. Laverty mentioned that it ought to be prescribed by regulation, but the definition of "prescribed" means just that, I believe:

2 (1) "prescribed" means prescribed by the regulations.

So that I think his objection will be met.

Mr. LAVERTY: Yes, sir.

The section was agreed to.

On section 7: manufacture of food in unsanitary place.

Dr. MORRELL: It is suggested that "in any unsanitary place or" should come out.

Section as amended agreed to.

The CHAIRMAN: Now we come to "drugs". The committee has been asked to hear on Thursday Dr. Shute, of the Shute Foundation, from London, Ontario, in connection with drugs. Would you care to hear him before we proceed with drugs, next Thursday? With that in view we would adjourn today until Thursday. Or would you wish to pass over to another section?

Hon. Mr. HAIG: Adjourn.

The CHAIRMAN: Before we adjourn, gentlemen, I regret I cannot be present on Thursday. Senator Kinley and I have to spend the day in Toronto—which is a nice city to visit—and I would suggest that you be good enough to appoint someone to act as Chairman.

Hon. Mr. HAIG: Senator Burchill?

Hon. Mr. BURCHILL: I propose Dr. Gershaw: we want a doctor.

The CHAIRMAN: It is proposed that Dr. Gershaw be appointed Chairman. Do you agree with that?

Hon. SENATORS: Yes.

The proceedings of the Committee then stood adjourned until Thursday, December 4, 1952, at 10.30 a.m.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Thursday, December 4, 1952

The Standing Committee on Public Health and Welfare, to whom was referred Bill J, an Act respecting food, drugs, cosmetics and therapeutic devices, met this day at 10.30 a.m.

Hon. Mr. GERSHAW in the Chair.

The CHAIRMAN: Honourable senators, at our last meeting we got as far as section 8 on page 3 of Bill J, an Act respecting food, drugs, cosmetics and therapeutic devices. There are some gentlemen here today who wish to make presentations, and if it is agreeable to the committee I should like to call upon Dr. E. V. Shute of London, Ontario.

Dr. E. V. SHUTE, London, Ontario: Mr. Chairman and honourable senators, if I may have twenty uninterrupted minutes of your time to make a presentation with respect to the proposed amendment to the Food and Drugs Act, I will be glad at the end of that time to answer any questions and I will be at your disposal for as long as you require me.

Hon. Mr. HAIG: Whom do you represent?

Dr. SHUTE: I am appearing as a private citizen, but that private citizen in Canada who is perhaps best acquainted with the field of vitamin E, which comes under the terms of this amendment.

Hon. Mr. GRANT: Are you a medical doctor?

Dr. SHUTE: Yes.

The first point I would like to make is that the position of those interested in the field of vitamin E is no different in respect to this amendment than the position of the people interested in the Canadian Arthritis and Rheumatism Society; or the Canadian Cancer Society; or the Ontario Diabetic Association; or the Health League of Canada. To make that clear, if certain constructions are made on the word "advertise" in section 3(1), it would be impossible for the Canadian Arthritis and Rheumatism Society to advertise to the public the use of such "devices" as splints for tuberculous joints. It would be impossible for the Cancer Society to mention to the public the use of the cobalt bomb for cancer. It would be impossible for the Ontario Diabetic Association at its public meetings to mention that insulin is a useful treatment for diabetes. Or that obese people should reduce. And certainly it would be inadvisable for them to put on the book shelves of ordinary book stores for public sale a diabetic manual for patients. In the same way it would be impossible for Dr. Shute to address the Health League of Canada, an address to be reprinted and widely distributed, particularly to members, in which he suggests that the aims of the Diabetic Association are to "provide better education facilities for diabetics in the form of public meetings, pamphlets and a journal." Indeed, perhaps no physician (a "person") could mention any treatment for the 36 diseases listed.

Suggested Change:

A change that I am sure all these Societies and we ourselves would like to see made is the definition of "advertisement" in 2(*a*). Could it be altered to "includes any representation made for gain or made for commercial purposes"? And could 3(1) be altered to read "no person who is not a physician. . ."?

Vitamin E Society of Canada:

Let me go on, if I may, to say something about the Vitamin E Society of Canada. It aims to assist in professional education. You will observe that in notices of public meetings it published in a Toronto and in an Ottawa paper, there was a line saying "physicians especially invited". It aims to educate the public. It aims to sponsor research. It aims to publish such educational pamphlets as those of the Diabetic group and it hopes to provide some discount on vitamin E to its members, as well as to make suitable representations to the federal government on the import duty of special raw materials.

Professional Education:

Now may I speak at further length of its objectives in professional education. Although such a famous journal as the Lancet can carry an advertisement by a reputable pharmaceutical house on the use of vitamin E for cardiovascular-renal disease it seems to be impossible for such advertisements to be inserted in the Canadian Medical Association Journal. Remember that this is one of the few ways in which physicians around the country can learn about vitamin E.

I would estimate, for example, that some 85% of the practising physicians in Canada read only the Canadian Medical Association Journal, or this other little journal, which is really a "give-away", Modern Medicine in Canada. It is very difficult for the physician to learn about vitamin E in the pages of these journals. Our own articles on the use of vitamin E for heart disease were rejected within six hours of being read by the Editor. In the last six and a half years there has been just one clinical article in the Canadian Medical Association Journal on vitamin E. It was written by two Montreal physicians of good repute. We were left out of the bibliography. We once wrote a letter on this subject to Modern Medicine in Canada. Our letter was published, with two paragraphs deleted for some extraordinary reason. These paragraphs contained details of the clinical use and dosage of vitamin E and these remained deleted despite our most emphatic protest. In six and a half years the Canadian Medical Association has forgotten to invite us to discuss our work before the Association. As a matter of fact, it has done more than that. For the last three years it has refused our requests to appear on its programs. This is all the more remarkable since I had twice been invited to appear on that program in the years preceding 1946 (each time mentioning vitamin E) and because we have some standing in the world of Medicine. You may not know now that I am one of the two Canadian members of the British Society of Endocrinology and one of the two Canadian members of the American Society for the Study of Sterility. Indeed, I have been invited to give an address in New York next May at the First World Congress on Fertility and Sterility. I had spoken to county medical societies all over the province on many occasions and had appeared on the program of the Ontario Medical Association and before many American groups and societies on other occasions. It is difficult for the practising physician to learn about vitamin E through the Canadian Medical Association, I conclude.

It is difficult for the practising physician to learn about vitamin E through the Ontario Medical Association. We were invited to address the meeting in Ottawa three years ago and showed coloured photographs of the things we had accomplished in many of the diseases listed in Schedule A. This year we asked for a place on the program for either of two suggested titles. The request was rejected, although Dr. Wilfrid Shute was invited to participate in the discussion of another paper. When he rose to speak, the Chairman tried to cut him off on the plea of inadequate time. However, he spoke.

It is difficult for the practising physician to learn about vitamin E through meetings of the county medical societies. We have appeared before just one, the Lambton County Society meeting in Sarnia. When this Society sent in the usual request for a $10.00 subsidy for visiting speakers to the Ontario Medical Association, its Secretary was told by the Secretary of the Association that they disapproved of the county society hearing the Shutes and that this grant would not be forthcoming. The Secretary of the Lambton County Society asked that this denial be put in writing and intimated that the Shutes would be asked to appear in any case. The grant was promptly forthcoming, but no letter. Strangely enough in the last six and a half years we have been asked by no other county societies to address them and I want to remind you again that in the years preceding 1946 I had addressed many such societies.

The practising physician labours under another difficulty in this regard. As you know, we were invited to discuss our discovery and the way in which it was handled, before the Ontario College of Physicians and Surgeons on November 13, 1947. I have here a copy of the material which was read before that meeting. This happens to be the actual reading copy used. You will notice that the names of the journals where we intended to publish our articles were crossed out. We were afraid that if any present saw the names of those journals, there might be some difficulty about securing publication. I am sure you will think that this was a ridiculous and needless precaution. May I remind you that we had an article accepted for publication by the British Medical Journal in December, 1947, but I was foolish enough to mention this at a small medical meeting in Montreal in 1948 and that article has never been printed. I would once have thought that this was something that could not happen, but I am no longer so naive.

To revert to the Ontario College of Physicians and Surgeons. This is a body whose powers concern conditions of the legal practice of Medicine in this province, and nothing else. It has no scientific standing other than that. It has no machinery for passing upon discoveries. Therefore, it has no right to make any pronouncement about medical discoveries. Nevertheless it proceeded to condemn ours unreservedly in its official Bulletin and in a release to the press and radio. We have long pressed in writing for its official apology for acting in this remarkable way but have never received it to date. We published a comment on this in the British Lancet, pointing out that in its action the College had exceeded its powers. If we had been wrong, don't think for a moment, gentlemen, that the College would have forgotten to remind us of it. Finally, in this respect, may I say that the Canadian Medical Association has no research facilities, cannot properly pass judgment on any discovery, and is purely a group of practitioners organized to hold medical meetings and to represent the Profession before the public, before the government, etc. Its opinion upon any research is no more valuable than that of any individual medical man. In fact, it may not be nearly as good.

This impasse is all the more remarkable in Canada since more than 120 medical papers have now appeared throughout the world supporting our original contentions. These will be presented in abstract form in the next issue of our Medical Journal, the summary copies of which will go to doctors and leading citizens in this country in the next two weeks. One of these supporting articles, for instance, appeared in the Journal of the American Medical Association under the name of Professor Ochsner.

That our articles were rejected by Canadian Journals is even more remarkable in the light of the fact that they have since appeared in the official organ of the American College of Physicians and Surgeons, and in many other of the leading journals in the English language.

Public Education:

The Vitamin E Society holds public meetings at which it discusses the vitamin E treatment of cardiovascular disease. It has been pointed out to the public at such meetings that this is of more concern to Canada now than the atom bomb because heart disease is actually, not just potentially, the greatest killer. It is of enormous interest to the public generally. It is of enormous interest to the gentlemen of this committee because it is safe to predict that in the ordinary way about 60 per cent of the members of this committee will die from cardiovascular disease. And doctors are so powerless to do anything about this. The best way in which I can emphasize that, perhaps, is to read in your hearing this editorial from the Texas Medical Association Journal, published last year, in which the President, Dr. George Parsons, of the Texas Heart Association tells what medical men cannot do in the management of heart disease. Such an admission is a dreadful thing in 1951. The article reads.

> The Challenge of Cardiovascular Disease:
>
> More than 637,000 deaths annually in the United States from cardiovascular disease account for about 44 per cent of all deaths. Approximately 9,000,000 Americans have heart disease; of these 500,000 are elementary and high school children. An estimated 152,100,000 work days are lost each year because of diseases of the heart and blood vessels. This is the challenge of cardiovascular disease.
>
> Equally as challenging is the individual patient. When a physician makes a diagnosis of organic heart disease, he realizes that in the care of the patient he has begun a losing fight. In the earliest stages he offers general advice; 'avoid strenuous activities; live sensibly, watch your weight, don't worry, the heart is a wonderful organ.' Before too long symptoms develop and the doctor braces the patient with digitalis or other drugs, restriction of usual activities, some rest and more encouragement. Again, before long, more urgent symptoms force a retreat. Bedrest, low sodium diet, diuretics, and other well known measures are brought to the front and the line is stabilized. But not for long. All too soon increasing pressure bends the line and retreat begins again. Now, there are left no more reserves—no more in the heart and no more in the hands of the one trying to help the heart. Then only surrender remains. Not infrequently the enemy strikes suddenly with overwhelming power, and surrender occurs before the doctor can mobilize his forces.
>
> This is not to minimize our present efforts. Our forces are better trained and more efficient than they ever have been, and we are able to hold the line longer than ever before. But present day efforts are not enough. Much more education and research will be needed before the course of cardiovascular disease can be reversed or its development prevented. The control of heart disease is a great challenge to every physician and layman.

If the public faced with this situation may not hear about heart disease through the Vitamin E Society, where can it learn? Through what it can learn from the Metropolitan Insurance Company broadcasts in the morning or in the current telecasts from the American Medical Association meeting at Denver being sent all over North America and sponsored by a pharmaceutical house located in Philadelphia and Montreal? Do you think there will be any discussion of heart disease or obesity or diabetes or arteriosclerosis at that session? Can a man learn about heart disease and vitamin E through his doctor, who may not know about vitamin E or may decry its use or may refuse to use it? Has that individual with heart disease no rights? Shall a man die because his doctor

refuses to have anything to do with Vitamin E? You know that if a man is refused treatment by a physician he usually goes to his druggist. It might be that by the terms of this amendment his druggist could not tell him of the values of vitamin E therapy. The Vitamin E Society publishes bulletins periodically which carry articles by medical men, instructions to those taking vitamin E, warnings to them, and excerpts from medical journals. The Society shows photographs of what vitamin E can do at its lectures. It lets the public decide for itself.

You know that Rotary Clubs and Kiwanis Clubs and Lions Clubs across the country hear medical men speak on arthritis, cancer, etc. Is it no longer possible for them to hear lectures on heart disease? Speaking of the Rotary Club reminds one of the difficulty people have in learning about vitamin E and heart disease even by such means. You know, perhaps, that some of the doctors belonging to the Rotary Club in Montreal met with the Executive of that Club when it was known that my brother, Dr. Wilfrid Shute, was going to address the club last May on heart disease and vitamin E. They wanted the invitation cancelled. All that they succeeded in doing was in having his speech taken off the air. All the Rotary Club addresses had been broadcast over a Montreal Station for months or years before this. The Editor of the Montreal *Star* happened to be at the meeting and was so incensed at this action that the speech was published verbatim in the Montreal *Star* next day. I am mentioning this to tell you of the difficulties the public would have in learning about Vitamin E and heart disease were it not for the Vitamin E Society of Canada.

Discount:

The Vitamin E Society strives to get cheaper products for its members. Actually, its members get approximately one-third off the ordinary list price of their medication. How many of us in this room could actually afford to pay 27 to 36c. a day forever for pills to be used for heart disease, especially if our earnings had been reduced or were nil? The society has twice made representations to the Hon. Mr. Abbott, asking for a repeal of a tax on the imported oils from which vitamin E preparations are manufactured. Each time it has failed—but it will repeat the request this year.

What is so dangerous about vitamin E that it cannot be discussed in public?

Some persons have said that by this means people will be led to neglect other forms of treatment and die. But what other help is there for the common types of heart disease? You know that the common advice is "rest, don't worry, don't run, don't shovel snow, don't push a car". It is now generally recognized that rest is no answer at all. As a matter of fact, Dr. Levine in Boston, one of the greatest of all American cardiologists, has published papers recently showing the improved results of getting patients with acute coronary attacks up out of bed and walking around the day after the attack!

Digitalis is occasionally used in heart disease. Digitalis, as you know, is a dangerous poison and its dose is still uncertain 168 years after Dr. Withering described its use. I was present at a meeting of the American Medical Association where the members of a heart panel discussed this matter of dosage of digitalis quite acrimoniously. It may improve disorders of rythm. It does nothing for the cause of that disorder of rythm. Did you know that this dangerous drug can be bought over the counter?

Mercurials are often used. Mercurials are dangerous too. They merely drain the dam but the water still piles up. And you can buy mercurials across the counter.

Dicumarol is a very dangerous drug, so dangerous that controversies about it fill the medical journals. It is controversial whether it is more dangerous to use it or not to use it. You can buy dicumarol across the counter.

Remember that this same complaint could be made of insulin which can also be bought across the counter. Insulin is only half a treatment. Everyone now knows that diabetes is a disease which elevates the blood sugar. It also causes generalized vascular deteriorations. Insulin treats only the elevated blood sugar and the degenerations continue unchecked. Perhaps the best way in which I can make this clear to you is to cite a paper by Dr. Joslin of Boston, the greatest authority in the field, in which he points out that the treatment of diabetes with insulin is poor, and goes on to say: "Even if there was only one with eyes intact I would be encouraged". Would it be truthful to say that the sale of insulin lulls people into a false sense of security regarding diabetes and that while they take it, they neglect other help and deteriorate and die? Did you realize that diabetes still ranks seventh in the list of causes of death, more than thirty years after the discovery of insulin?

It is objected that vitamin E wastes money, which is a curious argument in a country which spends as much as Canada does on tobacco or movies or pleasure driving. At least everyone who uses it is eager to buy it again. These people feel they get something for their money besides a diagnosis and a warning to slow down.

It has been objected that as things now stand self-modification is dangerous. I am afraid this is just another example of a union, this time a medical union, protecting union rights. It is dreadful to think that people may have no recourse against this monopoly. We deprecate self-medication, but we suspect that people have much less to lose by self-medication than they have from no treatment at all.

There are so many ways in which I could show you what vitamin E does for heart disease but there came into my hands a week ago a dramatic example of it and perhaps I should display it here. An importer in Portugal, a man whom we know nothing about, a patient whom we have never seen, wrote us in February of 1952, asking us about the use of vitamin E for his hypertension, aortitis and myocarditis. We replied. We have heard from him about his wonderful improvement on a number of occasions. This man had been a sufferer for twelve years. A week ago he voluntarily sent us his old and recent electrocardiograms and here they are, showing what vitamin E had done to his electrocardiogram in the last six months. It is a truly remarkable exhibit as anyone can see, even someone who is not technically trained.

Perhaps you would like to see the various dangerous coloured photographs that the Vitamin E Society shows at its meetings. I have them with me and you are at perfect liberty to see them if you so desire. Many people have seen them, including the Hon. Mr. Paul Martin who was a classmate of mine at the University of Toronto and who comes from my home town, Windsor.

The Shute Foundation publishes its own medical journal twice a year.

Some 7,000 to 8,000 copies of this journal are sent to physicians all over the world who request it. But school children ask us for this material for essays, and druggists want it and pharmaceutical houses want it. Is it forbidden to distribute it to them from now on?

Book:

Should there ever be a book on this subject written (and there is always that possibility) would it be forbidden to sell this book in ordinary book stores, just as the amendment to the Act might forbid a manual for diabetics being sold from book store shelves?

A week ago Alcoholics Anonymous in our city held a testimonial dinner for one of the most distinguished Canadians belonging to that group, Cannon Warner. In his speech of acknowledgement, the Cannon mentioned that he thanked God and vitamin E for being present at this dinner after his coronary of the preceding summer. Is that sort of thing to be forbidden now? Gentlemen, it is not as if vitamin E were a foolish treatment which should be stopped because it supplanted useful therapies. The truth is that there is no other therapy for all the common forms of heart disease.

And finally, although this is a thing that I should scarcely say, it seems obvious that long ago our research in this field should have been encouraged by grants, the foundation of a Research Institute, even by certain routine honours. It is a lasting shame that Canada should not only officially ignore our work, but that after six years I should feel any compulsion to come before this committee to defend the cause of vitamin E. This is Canada's greatest contribution to the field of medicine, not excluding insulin, and we still must see it dragged through the mire. How long is Canada to be the laughing-stock of the world of science?

The CHAIRMAN: Dr. Shute's remarks will of course appear in our record, but are there any questions which the members of the committee would like him to answer at this time?

Hon. Mrs. FALLIS: Mr. Chairman, this is not a question, but I thought I heard Dr. Shute say that vitamin E was a greater killer today than the atom bomb.

Dr. SHUTE: I did not mean to say that. What I meant was that heart disease is actually a greater killer than the atom bomb, which is a potential killer. I certainly did not mean to say that vitamin E was a killer, if I did say that.

Hon. Mr. HAWKINS: I would like to go a little further, Mr. Chairman, and ascertain what organization Dr. Shute represents here. He said at the outset of his remarks that he was appearing in a personal capacity.

Dr. SHUTE: That is right, I am appearing in my personal capacity because I have not been empowered to represent the Vitamin E Society of Canada, any more than I am empowered to represent the Cancer Society or the Arthritis Society; but as the person probably most familiar with vitamin E in this country, I am speaking about all these things, especially as they bear upon the Vitamin E Society of Canada. This is a group of patients who have organized themselves in a co-operative way. The chairman is Mr. Karl Eyre, the Member of Parliament from Timmins, who is sitting in the rear of this room. The Society endeavours to do several things: Conduct meetings for public education, publish pamphlets for public education, and invite physicians to all meetings. It does work in professional education, and it would like to do further research if it ever receives donations. It hopes to provide vitamin E for its members on a reduced basis. It is a small group of patients organized under the chairmanship of Mr. Karl Eyre.

Hon. Mr. EULER: Are there any doctors in your organization?

Dr. SHUTE: Yes. I am its medical adviser.

Hon. Mr. EULER: I mean outside of yourself.

Dr. SHUTE: I actually do not know, to tell you the truth. It has a Medical Advisory Board. My brother, Dr. Wallace Shute, who practices here in Ottawa —many of you might know him—and a Dr. Coatsunth of Toronto are on that Board. I cannot answer that question fully.

Hon. Mr. STAMBAUGH: Have you had difficulty with the Department of Health and Welfare with regard to advertising your claims?

Dr. SHUTE: No. We are just trying to ward that off. We can see by the terms of this amendment that there are two obvious words in it, one being "person", which is not defined and could include physicians. The other dubious matter is the use of the word "advertisement" in section 2(*a*) of the bill. We would like that altered to "includes any representation made for gain or made for commercial purposes". We would also like to see section 3(1) altered to read "No person who is not a physician . . .". We would like to see such non-profit societies as the Cancer Society and our own freed from a charge of breaking this clause dealing with advertising. As far as I can see you do not say whether by "advertisement" you also intend to include the word "mentioning" and the word "discussing". It is possible here that "mentioning" or "discussing" would be advertising.

Hon. Mr. GRANT: Does your brother in Ottawa use vitamin E in treating patients?

Dr. SHUTE: As an obstetrician, the same as myself.

Hon. Mr. EULER: I am not a member of this committee but I am wondering whether there is anything in this bill that would prevent a person from buying vitamin E in the drugstores. I am wondering whether this should always be done under the instruction of a physician.

Dr. SHUTE: I think he can go in on his own and get it but I think it is undesirable. It should be under the instruction of a physician.

Hon. Mr. EULER: It might be harmful?

Dr. SHUTE: We have always stressed that point. On the other hand, there is this situation. In a certain section in Northern Ontario we know of just one physician who regularly prescribes vitamin E. There may be others but we know of only one. Let us say that a man three hundred miles away in that territory wants vitamin E and he can't get it from his physician. What shall he do? What are his rights? Surely he does not have to come to us for a prescription. Surely he can ask his druggist or his best friend about it. Surely he is not caught up in the knot which this legislature might tie.

Hon. Mr. GRANT: Is it always prescribed in tablet form?

Dr. SHUTE: We have given it to babies in drops. It is also used in capsule form.

Hon. Mr. PRATT: What protection has the public got other than through the medical profession? While you are stressing vitamin E, may this not also include other things that someone very enthusiastically may advocate, and may even advocate correctly?

Dr. SHUTE: That is quite true.

Hon. Mr. PRATT: But the public cannot judge.

Dr. SHUTE: That is quite true.

Hon. Mr. EULER: Could its use be harmful?

Dr. SHUTE: We think so in certain cases. I should like to emphasize that point, and we have emphasized that in the current issue of this bulletin. For instance, if a diabetic—and we mentioned this all across the country to the Canadian Press six years ago and it was published in many newspapers—takes vitamin E almost always his dosage of insulin is reduced. It may be reduced over the ensuing year to the point where he may require none. Within three days the dosage of insulin may be reduced. In other words, suddenly he is going to have an insulin reaction on a dose that he may have been taking for fifteen years.

Hon. Mr. GRANT: What about the taking of insulin with respect to vitamin E?

Dr. SHUTE: Well, the person soon may not need as much insulin as he had before and we warn these people about this fact. We warn them that they should carry candy or something similar in their pockets. That is a potential danger.

Hon. Mr. GRANT: For the use of vitamin E?

Dr. SHUTE: Yes. In a case of a person who had had a goitre operation, in a small proportion of such patients vitamin E may cause some reaction through its thyrotropic function. It may set up activity in that old quiescent thyroid. There are certain small dangers like that which we warn people about. You see, these are such dangers as people face when taking sulpha drugs. They can buy sulpha drugs, and I think they can buy penicillin, and a certain proportion of people are sensitive to these drugs. For instance, some people are sensitive to aspirin.

Hon. Mr. MCGUIRE: When you made this discovery did you offer the knowledge of the use of it to the medical profession? Did you offer it freely?

Dr. SHUTE: Yes, first to the Canadian Medical Association *Journal* where it was rejected. We have written everything we know about it. In order to make sure that we ourselves could never profit by this discovery we formed under Ontario Letters Patent the Shute Foundation, which employs us without contract. I can be dismissed tomorrow without recourse. I am not a member of the Foundation nor is my brother. We are paid employees, just as are our secretaries. We cannot profit by anything. We have no financial interest in vitamin E ourselves, nor does the Shute Foundation. The Shute Foundation does not derive one cent from anybody connected with vitamin E. In fact, by way of lost practice it costs me several thousand dollars a year to work for the Foundation.

Hon Mr. MCGUIRE: Can you give me any idea of the cause of the prejudices existing amongst physicians in respect to this vitamin E?

Dr. SHUTE: You are asking one of the most awful dreadful questions you could ask, and I am frank to give some of the answers but not them all. I think that many men spoke too soon, and speaking too soon they can never retract what they have said. If a great man or group of men makes a pontifical statement it can hardly retract such a statement without losing face.

Hon. Mr. HAIG: Hear, hear. We all know that.

Hon. Mr. EULER: Even politicians.

Some Hon. SENATORS: Oh, oh.

Dr. SHUTE: I can tell you a little story. A very prominent physician of New York City came to visit us a couple of years ago. He saw slides of our treatment with the use of vitamin E and so on, and then walked out to the steps of the Institution and said to me, "Dr. Shute, you have done a remarkable thing." I said, "What have I done, doctor?" He replied, "You are the only person who has ever defied the medical associations and lived." Well, honourable senators, we have not defied them. We have just kept on trying to show our evidence. I have tried to indicate here today how difficult it has been for us to do so. I have enumerated some of these difficulties. We have always found it difficult to secure platforms and to get physicians to look at our cases. I can cite you two cases in point but I do not like to take up your time.

Some Hon. SENATORS: Go ahead.

Hon. Mr. EULER: It is most interesting.

Dr. SHUTE: Twice I have had patients at Victoria Hospital in London who have had extraordinary conditions. I had operated on a woman for cancer and on the day she was going home she developed thrombosis in the

thigh. I recognized this newly-developed condition in the morning and I posted a sign on the medical notice-board saying, "Mr. So and So of Ward 5 has consented to permit any physician in the city who might wish to do so to watch the progress of her case. She developed a phlebitis in the right thigh this morning and she is getting nothing except vitamin E". I was sticking my neck out, but in any case two doctors of the one hundred and fifty or so in the city came to see her in the course of the five days it took to clear up her condition. On the second or third day, I just forget which, I added a postscript to the note I had already posted. It said, "Anybody who wants to see this patient should see her immediately because it is now difficult to recognize that she ever had thrombosis". On the fourth or fifth day I put up a new note saying, "I am sending this patient home today clinically cured". Now, I realize that everybody in this room knows that phlebitis ordinarily cannot be cured like that. We think it is interesting because a clot in a vessel here (indicating the right thigh) must be the same as a clot here (indicating the area of the heart). And, honourable senators, that is what is going to kill so many of us, a clot in the vessel in the area of the heart.

Some three months ago a patient, Mrs. Reinholtz, came to us from Detroit. She had had her left leg amputated. She had had hardening of the arteries and gangrene and she came to us with a patch of black gangrene on her heel. Everyone knows how difficult it is to heal such a condition, and she came to us as a last resort. Amputation had been advised again. We gave her vitamin E and she began to do better. I had a notice posted on the hospital notice-board asking the doctors to come and see her. In the three-month period which she has been with us four doctors, two of whom I had to bring in by the hand, visited her. We took coloured photographs of her progress, and she ultimately lost the gangrene in the heel. I should like to stress the fact that it is difficult to get the profession to look at one's results, especially if they are revolutionary and simple. People will say how can a vitamin that is used for cases of miscarriage and sterility possibly beneficially influence heart disease? I know that on the face of it it is foolish. I know that on the face of it it seems foolish that anybody from a backwoods town such as London, Ontario, could bring forward some important discovery such as this, and I know that 999 times out of a thousand one would be right in thinking so. The fortunate thing is that we sneaked through on that thousandth chance.

Hon. Mr. GERSHAW: Honourable senators, our main concern is to get the best legislation we can. If it is agreeable I should like to ask Dr. Morrell, Director of the Food and Drug Division, to speak at this time, and to explain this amendment.

DR. C. A. MORELL, Director of the Food and Drug Administration: Mr. Chairman, and honourable senators, a great deal of what Dr. Shute has had to say concerns medical practice, and that is not our concern. We have no official interest in it, and this Act is not designed or intended to control or direct medical practice. You can buy vitamin E today over the counter without a prescription—there is no restriction on it.

I think we should go back to the wording of the section under discussion: subsection 1 of section 3, which reads:

> 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.

And heart disease is mentioned in Schedule A along with cancer, diabetes and so on.

Hon. MR. HAIG: Before you leave that, may I ask you why we could not accept the suggestion of the words "no person except a medical practitioner"?

DR. MORRELL: I was about to say that we have no objection to medical doctors talking about vitamin E or talking about diabetes. If Dr. Best wants to talk about it, he does. We have no particular interest in that.

You will see from the definition of advertisement, that we are limited to taking action against anyone,

> (*a*) 'advertisement' includes any representation by any means whatever for the purpose of promoting directly or indirectly the sale or disposal of any food, drug, cosmetic or device.

We are not interested in medical people advocating any treatment. I think Dr. Shute would include in his treatment the medical advice and diagnosis that goes with it. This to my belief will not interfere with Dr. Shute's activities in promoting the sale of, or advertising vitamin E to be used by the general public. If Dr. Shute is head of a company which manufactures vitamin E, and he is interested directly, or financially, in the sale of the product, then it will apply otherwise. It will not apply to any doctor who advocates treatment of vitamin E or any other drug—

Hon. Mr. MCGUIRE: That means that the company manufacturing vitamin E is prohibited in offering it for sale?

DR. MORRELL: No—in advertising it is for sale.

Hon. MR. MCGUIRE: In advertising it, yes, but why?

DR. MORRELL: For the treatment of heart disease.

Hon. Mr. MCGUIRE: If it is something that is lawful to make, why is he prohibited in putting it before the public ?

DR. MORRELL: We are not prohibiting him from putting it before the public.

Hon. MR. MCGUIRE: On your own statement, the section under advertisement means that, if it means anything.

DR. MORRELL: They can put it on the market and they do put it on the market. There is vitamin E on the market.

Hon. MR. EULER: What do you mean by "putting it on the market"? It must have some other purpose?

DR. MORRELL: Any other purpose...

Hon. MR. MCGUIRE: How could it be put on the market without letting the people know something about it?

DR. MORRELL: The doctors know about it.

Hon. MR. HAIG: But under this legislation, the doctors can't tell.

DR. MORRELL: Yes, they can.

Hon. MR. HAIG: But I say they cannot. This section provides "no person shall..."

Hon. Mr. MCGUIRE: And the druggist can't tell.

DR. MORRELL: The druggist is not supposed to tell.

Hon. MR. MCGUIRE: The druggist is not supposed to tell?

DR.. MORRELL: Not to the public.

Hon. MR. MCGUIRE: Then how is the public going to learn, and who from?

DR.. MORRELL: Their doctor.

Hon. MR. MCGUIRE: But supposing the doctors have a prejudice against a particular thing, and speak against it rather than for it?

DR. MORRELL: We can't stop them from speaking against it. That is a matter of medical practice, and if a doctor wants to prescribe vitamin E and discusses it with his patient—

Hon. MR. MCGUIRE: We are not putting through this act for the benefit of doctors or physicians but for the population.

Hon. MR. GRANT: For the safety of the public.

DR. MORRELL: Yes.

Hon. MR. HAIG: Are you a member of the medical profession of Ontario?

DR. MORRELL: No, I am not.

Hon. MR. HAIG: Well, in my profession we are limited to a certain kind of advertising and if we get beyond it we are struck off the roll.

Hon. MR. MCGUIRE: Yes, for advertising yourself.

Hon. MR. HAIG: Then why shouldn't the doctor be dealt with by his own profession? If he is improperly advertising, his own profession will meet the problem and handle it in the same manner as the legal profession.

DR. MORRELL: The doctor is able to advocate—

Hon. MR. MCGUIRE: You say "no person" and that covers the doctor, if my understanding of the law is correct.

DR. MORRELL: It depends on what position the doctor is taking. If he is the President of the Vitamin E Corporation, and goes out and talks about the product of vitamin E he may be talking about it to promote its sale, and that is the objection. It may not be a doctor—it might be a businessman.

Hon. Mr. HAIG: But "person" covers businessmen.

DR. MORRELL: Yes.

Hon. MR. HAIG: I do not see what objection you have to doctors advertising something.

Hon. MR. HAWKINS: You wouldn't have any check regarding a businessman.

DR. MORRELL: But he is in business then.

Hon. MR. HAWKINS: If it is wrong for the businessman to advertise vitamin E for heart disease, then it should be wrong for the doctor too.

Dr. MORRELL: If he is acting in his capacity as a medical man only he can say what he pleases, but if he is acting as general manager of a vitamin corporation, or whatever it might be, he is then a businessman.

Hon. Mrs. FALLIS: Mr. Chairman, any person reading this section and seeing the words "no person" would not know of all these fine distinctions. Supposing some member of the general public read in the section the words "no person shall advertise any food, drug..." and then Dr. Shute advertised vitamin E from the platform, he would be violating this prohibition under the Act.

Dr. MORRELL: He is not advertising vitamin E, as I understand it.

Hon. Mr. HAIG: Of course he is.

Dr. MORRELL: He is advertising a treatment for heart disease, in which he is qualified to give the treatment.

Hon. Mr. MCGUIRE: As a doctor.

Hon. Mr. HAIG: You will certainly have trouble making the magistrates appreciate all these fine distinctions.

Dr. MORRELL: We have never taken any action against medical advertisements, and there are medical advertisements—

Hon. Mr. MCGUIRE: You are proposing to pass a prohibition against the medical profession and everybody else telling what they know.

Dr. MORRELL: No, it is certainly not that.

Hon. Mr. MCGUIRE: That is the wording here.

Hon. Mr. DAVIS: Dr. Morrell, do the words "no person shall advertise any food" include such items as corn flakes and Coca-Cola?

Dr. MORRELL: Supposing I thought I could sell corn flakes for the treatment of cancer—

Hon. Mr. DAVIS: Not cancer...

Dr. MORRELL: That is what this is intended for: We are concentrating on vitamin E, but there are many, many things apart from heart disease treatment.

Hon. Mr. BURCHILL: What would be the objection to adding the words "except by a duly authorized medical practitioner"?

Hon. Mr. STAMBAUGH: It would give him an advantage that he shouldn't have.

Hon. Mr. PRATT: It would take him out of his profession and put him into business.

Hon. Mr. HAIG: His profession will look after any wrong advertising, make no mistake about that.

Dr. MORRELL: This is quite apart from the medical practice. If his own profession got after him, that is another thing. We have no authority over the medical practice, and we do not want to regulate it.

Hon. Mrs. WILSON: According to my reading of this section, Dr. Best could be prohibited from advertising insulin, but I do not interpret it that way.

Dr. MORRELL: For the purpose of promoting or selling insulin—Dr. Best is not promoting and selling.

Hon. Mrs. WILSON: That does not prohibit Dr. Shute from talking about vitamin E, as I read it.

Hon. Mr. HAIG: Perhaps the doctor does not realize this: One or two of our witnesses have told us that the present organization of the Health Department is very satisfactory to them. That may be absolutely so; I don't know. But supposing that in five or ten years, while this bill is still the law—and we must legislate with that in mind—the people who get into that department do not have the fine ideals that present personnel have, where would we be? I think we should pass the type of law that cannot be abused. I still think that the wording "except by a duly qualified medical practitioner" should be allowed; and the medical association will deal with their own men, if they go outside proper medical practices.

The CHAIRMAN: Ladies and gentlemen, will you listen to our legal adviser, Mr. MacNeill.

JOHN F. MACNEILL, Q.C., Parliamentary Counsel:

Mr. Chairman, I have just come into the room and have not heard the earlier discussion. However, what impresses me about the definition of "advertisement" is that it includes—and that means whatever the word in its ordinary sense means and also it includes something else—

> advertisement includes any representation by any means whatever for the purpose of promoting directly or indirectly the sale or disposal of any food, drug, cosmetic or device

One might argue that if Dr. Shute got up on the platform and discussed the merits of vitamn E, that by doing so he was indirectly promoting the sale of that product.

Dr. MORRELL: I would be prepared to strike out the word "indirect".

Mr. MACNEILL: I would like to hear Mr. Curran's opinion on that. He is the legal adviser of your department and I am sure he must have considered

this point. But if you say that no representations can be made indirectly which might result in the sale or the promotion of a product, you are going a long way.

Dr. MORRELL: Yes.

Mr. MACNEILL: Because if, for instance, after a speech by a doctor on vitamin A, or any other product, the sale of that product suddenly increases, would that not be evidence of the fact that his indirect statement had promoted the sale of the product?

Dr. MORRELL: Yes.

Hon. Mr. EULER: The direct statement of Dr. Shute this morning could be interpreted in that way?

Mr. MACNEILL: Yes. He may be making that statement only to show that this particular drug is useful in the treatment of a certain disease, but by making that statement he may certainly directly or indirectly increase or promote the sale of that product.

Hon. Mr. HAIG: He is bound to.

Mr. MACNEILL: Yes, probably so if he has any reputation.

Hon. Mr. MCGUIRE: Under this Act, if a person goes into a drug store and asks for a certain type of product the druggist will not be allowed to give his opinion on what the customer should use.

Mr. MACNEILL: Of course, there is also the danger that if you take this out some chap who might not be strictly ethical may take advantage in order to do the very thing you want to prohibit. The only recourse there, if this person were a doctor, would be by any disciplinary action the medical profession might take.

Hon. Mr. HAIG: And the medical profession will take such disciplinary action.

Mr. MACNEILL: But by giving a doctor this right you may be allowing somebody else to come in and do the thing you want to prohibit.

Mr. CURRAN: Mr. Chairman and honourable senators, we should distinguish very carefully between the purpose of the definition of an advertisement and the prohibition which is contained in section 3. There is nothing to prevent a doctor or anybody else representing a drug to the general public unless such drug is for the treatment of a condition which comes within schedule A. Schedule A covers the kind of things for which it is considered improper that a person should treat on his own diagnosis with drugs that he purchases across a counter.

Hon. Mr. HAIG: Give us a case that does not come under Schedule A.

Mr. CURRAN: The common cold. There would be nothing to prevent any person representing vitamin E for treating a common cold, but when you come into heart conditions you are dealing with something that comes under schedule A. In other words, it is a scheduled disease and it is considered improper that people should take vitamin E for any use except on the advice of a physician. Dr. Shute himself said this morning that no one should take vitamin E except under medical supervision.

Hon. Mr. HAIG: Supposing I should advertise in this way: "Buy vitamin E to cure heart disease, but before using it get your doctor's advice". Is that good or bad?

Mr. CURRAN: The Department of Justice has given an opinion on that very point. They have said that that in effect constitutes a representation to the general public. You cannot advertise this so that everyone can read it.

Hon. Mr. McGUIRE: Senator Haig's idea is to tell the public that they should consider using this drug on their physician's advice.

Mr. CURRAN: There is nothing in the definition of "advertisement" which would prevent any scientific lecture or paper from discussing the merit or otherwise of a particular form of treatment. It is only when its purpose is to promote the sale of a product that it becomes an advertisement under the Act.

Hon. Mr. McGUIRE: It is the business of a druggist to sell his products.

Mr. CURRAN: There will be nothing to prevent a druggist from making a representation unless it happens to be for one of the conditions contained in schedule A of the bill.

Hon. Mr. McGUIRE: Let us suppose a man walks into a drugstore and says, "I am bothered with a heart disease. What do you think I ought to do about it?". Couldn't the druggist say, "Well, I advise vitamin E but you will have to consult your physician as to whether you should take it or not".

Mr. CURRAN: He can, but he should really say, "You had better see your doctor".

Hon. Mr. HAIG: What cases have come about to cause the putting forth of this legislation? What experience have you had in connection with this proposed legislation?

Mr. CURRAN: If you will look at schedule A which is set forth on page 13 of the bill you will see the conditions that are in there, and if you will cast your minds back some thirty-five years you will remember all the advertisements that appeared in the various publications. They advertised treatment for cancer, diabetes and so on. That was the type of thing that caused the bringing about of this legislation: To prevent the representation to the general public for over-the-counter purchases of drugs for self-administration for diseases and conditions which should only be treated under medical supervision.

Hon. Mr. KING: Under schedule A we find Bright's Disease. There are all kinds of pills sold by druggists for the treatment of this disease.

Mr. CURRAN: They are not represented as being for the treatment of Bright's Disease.

Hon. Mr. HAIG: I think so.

Hon. Mr. KING: It comes pretty close to it.

Mr. CURRAN: I appreciate that there are many devices employed which are exceedingly difficult to detect, but the purpose of the legislation is to limit it to legitimate advertising and to professional groups, including retail druggists and members of the medical profession. There is nothing in the legislation to prevent any advertisement appearing in the Canadian Medical *Journal* advertising the use of vitamin E for the treatment of heart conditions. That would not be an advertisement to the general public but would be considered a legitimate field for advertising vitamin E for heart conditions.

Mr. MACNEILL: The reason for that being that it was not the purpose of that article to advocate the sale of that product?

Mr. CURRAN: That is right. It is a representation to the medical profession. It could have been published for the purpose of selling a product, but it is not a representation to the general public.

Hon. Mr. GRANT: Does it specify in this legislation that you can advertise these things in the Medical *Journal*?

Mr. CURRAN: It does not directly. It does in a negative way because it says, "No person shall advertise to the general public". Now, if an advertisement is not to the general public then it does not come within the prohibition of section 3. It is only an advertisement to the general public of a drug for the treatment of one of these conditions which is prohibited by this legislation.

Hon. Mr. HAIG: Well, I can acquire a copy of the Medical *Journal* and read all about it. I can see it advertised there and it could have the same effect as though I had read it in a newspaper. As a matter of fact, it would have greater effect if I read it in the Medical *Journal.*

Mr. CURRAN: Not many people read the Medical *Journal* as a source of pleasure. The circulation of that *Journal* does not take in the general public.

Hon. Mr. EULER: Can a doctor, if he wishes to, advertise vitamin E?

Mr. CURRAN: He can advertise vitamin E in the Canadian Medical *Journal.*

Hon. Mr. HAIG: He would probably be disciplined within his own profession, but can he himself advertise the use of vitamin E?

Mr. CURRAN: There is nothing in the legislation to prevent a doctor from advertising in the Canadian Medical *Journal* the use of vitamin E as a treatment for heart conditions.

Hon. Mr. GRANT: What about advertising over the radio? What about all those cure alls we hear advertised over the radio?

Mr. CURRAN: Those are not for any of the conditions coming within schedule A. There is no prohibition on the advertising over the radio to the general public unless it is for the treatment of one of these conditions contained in schedule A.

Hon. Mr. GRANT: Why is the radio permitted to advertise drugs for the treatment of arthritis or rheumatism?

Mr. CURRAN: Those do not come under schedule A.

Hon. Mr. HAIG: Arthritis is bad enough too.

Dr. MORRELL: I do not think they advertise a cure.

Hon. Mr. HAIG: What about the product of Dr. Templeton?

Mr. CURRAN: That is for the relief of rheumatic pain. It is quite proper to advertise things for the relief of pain, but they are not represented as being treatments.

Hon. Mr. BURCHILL: I know a prominent Canadian who has represented to a group of his friends that they take vitamin E for their hearts, and I know a lot take vitamin E regularly every day. Now, has that gentleman acted in an illegal way?

Mr. CURRAN: I do not think he made that representation for the purpose of promoting the sale of the drug, did he?

Hon. Mr. BURCHILL: No, but the sale resulted.

Mr. CURRAN: That may be an indirect consequence, but was the purpose of making the representation that of promoting the sale of vitamin E? If not, there is nothing illegal about it. If he made a representation for the purpose of promoting the sale of vitamin E for a heart condition, then it would definitely come within the definition of an advertisement as contained in this bill.

Hon. Mr. HAIG: Why do you object to us putting in the words "medical practitioner" in section 3?

Mr. CURRAN: Would it be proposed that a medical practitioner could advertise to the public?

Hon. Mr. HAIG: He can do what he likes, but I know it wouldn't get by his profession.

Mr. CURRAN: I am not entirely clear whether the suggestion would be to permit a physician to advertise to the general public, or whether it would be to restrict the physician to advertising in what I regard as unethical and legitimate sources. If it is the latter, then there is nothing in the legislation to prevent that. It is only when it is a representation to the general public that it is prohibited.

Hon. Mr. McGUIRE: We are acting here for the general public and not for the physicians or any other select group. We must pass our laws for the benefit of the general public. They are the people we have in mind. If there is certain information they should have then we do not want to stop it.

Hon. Mr. KING: This is a protective measure.

Hon. Mr. McGUIRE: The wording is "no person . . . ". It includes the clerk in the drug store and everybody else.

Mr. CURRAN: I think you have to qualify that in all uses with the words "to the general public".

Hon. Mr. McGUIRE: Well, it is the general public we want to serve. We want to give them everything they should have.

Hon. Mr. STAMBAUGH: We have to protect them as well.

Mr. CURRAN: Is not the general public adequately protected in being able to obtain treatment for these conditions from legitimate medical sources?

Hon. Mr. McGUIRE: I do not know that they are. I have seen physicians who could not tell people what they had and others who would not tell them.

Mr. CURRAN: That would seem to be a matter for the medical profession to handle rather than for legislation.

Hon. Mr. McGUIRE: The legislation is for everybody.

Hon. Mr. HAIG: I have tried to get this gentleman to give me a single case where he has had reason for introducing this legislation, and he has not yet given me one.

Dr. MORRELL: May I give you some of those? I can give you several. We will start off with a man in Alberta—I don't know what his background was but he was a layman—who was advocating a cure for cancer locally within that province at least. We took him to court and secured a conviction under the law which is very similar to this.

We had a case of another layman—I don't recall whether he was a shoemaker or what he was—but he would sell you a handkerchief which he had blessed or prayed over, or something of that sort, as treatment for high blood pressure.

We had a man in the province of Quebec who manufactured an apparatus consisting of a steel cylinder, which contained another steel cylinder in which there was some substance, and from the outer cylinder there were two leads or wires attached to it; and these you wrapped around your body somewhere and it was supposed to be good for arthritis; also, a number of other diseases covered in Schedule A. We took him to court last year and secured a conviction under the present section 6(*a*) for advertising drugs to the general public.

There are innumerable cases in the United States, where there is no such law as ours and where there is much more difficulty. You have to prove to the court that the article in question was not adequate for the purpose, or that the labelling of the drug was inaccurate, before any action can be taken.

Hon. Mr. HAIG: But none of these cases prove to me that the legislation you now have is not sufficient for your purposes. You spoke of the conviction in Alberta and the conviction in Quebec, and you accomplished them under present legislation. Why do you want more legislation?

Dr. Morrell: This isn't the recent—

Mr. CURRAN: This is in the present Act.

Hon. Mr. HAIG: Then why don't you re-enact again?

Dr. MORRELL: I think it is one of the most important clauses in the Food and Drug Act, and it protects the public against exploitation by ignorant people

and by people who are trying to get a dishonest dollar from someone who is suffering from cancer or some other serious disease. I am quite sure the medical profession by and large would support this.

Hon. Mr. KING: We know what has been done in the past by way of taking many of these articles off the grocery store shelves.

Hon. Mr. STAMBAUGH: We have no instance before us wherein the department has abused the authority they have under this Act. They have used it with discretion.

Hon. Mr. HAWKINS: Is this clause under question, in the Act?

Dr. MORRELL: It is essentially there, in section A of the present act.

Hon. Mr. STAMBAUGH: There are plenty of cases in the United States: I am thinking of Dr. Blinkley who for ten years offered foolish advertising for treatment for heart disease, and finally when they caught up with him it was learned that hundreds of people had died as a result of this fake. I think this legislation is necessary, and that we should pass it as it is.

Mr. CURRAN: Mr. Chairman, Senator Haig asked if we could give the instances of the demand for this type of legislation. It might be interesting to mention that in the most recent addition to the schedule, which I think was added some three years ago, there appeared in the schedule "disorders of menstrual flow". There was a demand for a prohibition of certain advertising which we found to be very popular in rural newspapers, in the personal column, in which we would find that under thinly disguised words there was no question but that certain drugs were being represented as a treatment or an abortifacient. There was very considerable demand that some action be taken to prevent advertisement to the general public indicating that a credulous woman could send five dollars and obtain in plain wrapping something which would relieve pregnancy.

We considered it ourselves, and heard representations from the medical profession as well, and the retail pharmacy as to what the desirable steps should be to halt such publicity. The words which are used in the schedule were worked out in consultation with the medical profession, so that they would not in any way affect or impede legitimate advertising to the public, but would restrict these thinly veiled advertisements for improper purposes.

The CHAIRMAN: Honourable members, we have already passed this section to which we reverted. We will now go to section 8.

On section 8—Prohibited sales of drugs.

Hon. Mr. HAIG: We have already amended that section.

Dr. MORRELL: It has been recommended to us by the Manufacturers' Association, and I think it is now recommended to this committee that the words "in any unsanitary place or" be struck out. We are in agreement with that suggestion.

The section, as amended, was agreed to.

On section 9—Deception.

The CHAIRMAN: Shall section 9 pass?

The section was agreed to.

On section 10—Where standard prescribed.

The CHAIRMAN: Shall section 10 pass?

The section was agreed to.

Hon. Mr. HAIG: I move that we adjourn until Tuesday.

The committee adjourned until Tuesday, December 9, 1952.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Tuesday, December 9, 1952.

The Standing Committee on Public Health and Welfare, to whom was referred Bill J, an Act respecting Food, Drugs, Cosmetics and Therapeutic Devices, met this day at 10.30 a.m.

Hon. Mr. VENIOT in the Chair.

The CHAIRMAN: Honourable senators, we have a quorum now. We should proceed with our work in the study of this bill. At the last meeting we reached page 4, clause 11. We were, I understand, through with clause 10. I understand that Senator Hayden, who is not a member of this committee, had some representations to make regarding some of the clauses which we have checked off already. Would it be the desire of the committee to have Senator Hayden make the remarks he wishes on the section which we have already considered?

Hon. Mr. GERSHAW: Carried.

Hon. Mr. HAYDEN: There were not any "representations" in that sense. There were some questions I want to ask someone in authority from the Department.

The CHAIRMAN: What is your particular point, Senator Hayden?

Hon. Mr. HAYDEN: Well, I was concerned about "advertising" generally under section 3 of the bill. Do I understand that the representatives of the Canadian Manufacturers' Association have indicated their approval of section 3 in the form in which it now stands?

The CLERK OF THE COMMITTEE: Mr. Thompson was here and presented a brief. I do not know what particular objection, if any, he had. We have the report of his evidence.

The CHAIRMAN: Perhaps Dr. Morrell will be able to answer that. Would Dr. Morrell please come forward? Or is it Mr. Curran who could answer that?

Hon. Mr. HAYDEN: Both, maybe.

The CHAIRMAN: Will you reply to Senator Hayden's question regarding any objection or any representations made concerning that clause 3?

Dr. MORRELL: Mr. Chairman, the only representation that was made so far as I know, with respect to clause 3 really goes back to clause 2 (*a*), as to which they requested that the definition of "advertisement" read as follows: "'advertisement' includes any public representation". The addition of the word "public" was suggested in that connection.

Hon. Mr. HAYDEN: I am thinking a little deeper than that. What is the significance of the combination of those words "treatment, preventative or cure": that just covers the whole field of possible promotion of any product, does it not?

Dr. MORRELL: To the public, for those particular diseases,—I think it does.

Hon. Mr. HAYDEN: And the schedule you have is not a closed schedule. It can be added to at any time.

Dr. MORRELL: That is correct.

Hon. Mr. HAYDEN: So that as fast as anything may come out that is designed or advertised for a purpose that is not included in your list, you can add to the list?

Dr. MORRELL: Well, that is not the intention, of course, but that could be done.

Hon. Mr. HAYDEN: It could be done. But how is it possible to market any food, drug or cosmetic and advertise it without infringing on one or other of those words, "treatment, preventative or cure"?

Dr. MORRELL: A great deal of it is done now.

Hon. Mr. HAYDEN: Give me an illustration.

Dr. MORRELL: Let us say aspirin. A lot of aspirin is advertised over the radio.

Hon. Mr. HAYDEN: It is advertised for the relief of pain.

Dr. MORRELL: Well, I think it might go further than that.

Hon. Mr. HAYDEN: But let us take it that that is one of the things that they do say—relief of pain. Would not that come within the description, "treatment, preventative or cure"?

Dr. MORRELL: No.

Hon. Mr. ROEBUCK: It is a treatment.

Hon. Mr. HAYDEN: It is a treatment, is it not?

Dr. MORRELL: Yes, it is a treatment for—

Mr. CURRAN: You are talking now about Schedule A? You are not talking about diseases in general?

Hon. Mr. HAYDEN: No, I am only dealing with those that are on the schedule. Should I advertise any food, drug, cosmetic or device to the public that it will relieve in relation to any of the diseases that are listed, that would be a violation of this act.

Dr. MORRELL: Yes, although we do allow the advertising of salicylates for the relief of rheumatic pains. Rheumatism is not on; arthritis is.

Mr. CURRAN: No, arthritis is not a scheduled disease.

Dr. MORRELL: That is right.

Hon. Mr. ROEBUCK: If it is for the relief of pain—and I suppose all these diseases on your list involve pain—threfore it is a treatment of these diseases, and why is it not banned?

Dr. MORRELL: It is not a treatment of a disease, sir.

Hon. Mr. HAYDEN: If I say that this product, this drug or this food will relieve pains resulting from—and then I mention one of the diseases in Schedule A, then I will promptly be checked by Dr. Morrell and Mr. Curran, individually or collectively, and be told that I have violated the statute. Now is not that right?

Dr. MORRELL: Yes, that is right.

Hon. Mr. HAYDEN: If I say in the abstract, relief of pain, I am all right?

Hon. Mr. ROEBUCK: If you add "relief of all diseases", you are "in the jug" again.

Hon. Mr. HAYDEN: You would have to say "relief of pain other than the diseases contained in Schedule A"?

Dr. MORRELL: I think you could do better than that.

Hon. Mr. HAYDEN: That is getting to a bit of an absurdity, is it not?

Dr. MORRELL: It has not worked out that way, I don't think.

Hon. Mr. HAYDEN: What is the comparable section at the present time, in the present act?

Dr. MORRELL: 6 A:

Hon. Mr. HAYDEN: Section 6 A in the present act reads:

> No person shall import, offer for sale, or sell any food or drug represented by label or by advertisement to the general public as a treatment for any of the diseases, disorders, or abnormal physical states named or included in Schedule A (2) to this act or in any amendment to such schedule.

Now, you only use there the word "treatment". So your present bill is broader in its provisions?

Dr. MORRELL: Yes.

Hon. Mr. HAYDEN: If you told me, for instance, that "relief" was permitted, then I could understand the scope of this section, but to bar advertising something as a relief for these diseases, or for the pains consequent upon these diseases,—I have difficulty in accepting such an absolute prohibition.

Dr. MORRELL: The word "treatment" is in both section 6A and Section 3, and the only additions are "preventative or cure". I do not think that prevents the relief that you are speaking of.

Hon. Mr. HAYDEN: I beg your pardon?

Dr. MORRELL: I do not think that bars the things you are speaking of.

Hon. Mr. HAYDEN: Which? Section 3?

Dr. MORRELL: Yes.

Hon. Mr. HAYDEN: I was going on what you told me. I asked if I would be in trouble if I advertised a certain product as providing relief from pain produced by or consequent upon a disease enumerated in Schedule A.

Dr. MORRELL: Cancer, as an example.

Hon. Mr. HAYDEN: And you told me you would object to that.

Dr. MORRELL: We would object to that, yes.

Hon. Mr. HAYDEN: So "relief" is covered by section 3. You think it is included in the word "treatment".

Dr. MORRELL: Yes, and it has always been, I think.

Mr. CURRAN: Would it not depend on the particular representations made? It might be possible to represent something as a treatment which might not be a preventative or cure, but in other cases it might be impossible to differentiate the relief of pain from some form of treatment. I think it would have to depend on the representation.

Hon. Mr. FARRIS: It is pretty wide.

Hon. Mr. HAYDEN: Of course they have added "preventative or cure". I can understand putting the word "cure" in there, because you can build up too many false hopes in people who are sick, and they think there is some magic in what you are producing, and it is not fair, it is not right, to play on their gullibility. But not to be able to advertise something as a relief without running into a conflict with the Department, which may mean either a lawsuit or a prosecution if you do not reach an agreement, is another matter.

Mr. CURRAN: May I ask Senator Hayden a question. By the word "relief" do you mean relief only of pain, or relief of the symptoms of the disease?

Hon. Mr. HAYDEN: Both. I mean relief of pain; I mean relief of symptoms.

Mr. CURRAN: Then, when you talk about the "relief" of cancer, would not that include treatment or cure,—if you advertise a drug for the relief of cancer?

Hon. Mr. HAYDEN: No. For relief. Take, for instance,—

Hon. Mr. FARRIS: Influenza, for example.

Hon. Mr. HAYDEN: Some diseases like influenza, for instance, or—what other things have you got here?

Hon. Mr. ROEBUCK: Well, obesity is mentioned.

Hon. Mr. HAYDEN: Suppose I advertise that something will relieve symptoms. That means that it will relieve some of the manifestations of a disease—not that it will cure a disease, though it may make it more bearable.

Hon. Mr. STAMBAUGH: That might also cause people to delay going to see a doctor until it was too late.

Hon. Mr. HAYDEN: What does that prove?

Hon. Mr. STAMBAUGH: It proves that, if they had cancer, they would die because of having taken quack remedies. If you advertise something as a preventative, then some people might use that and not go to a doctor.

Hon. Mr. HAYDEN: But what I am talking about is exactly the opposite. I was talking about advertising something for either the relief of pain or the relief of symptons of a certain disease.

Hon. Mr. STAMBAUGH: If you have cancer and the symptoms are relieved, you won't go and get a medical examination.

Hon. Mr. HAYDEN: The person who would not go and get an examination in those circumstances would not go in any event.

Hon. Mr. STAMBAUGH: Oh, yes, he would. If a person gets a lot of pain he will go for an examination.

Hon. Mr. HAYDEN: I prefer to take my own opinion on that.

Hon. Mr. STAMBAUGH: I think that anyone who advertises something for the relief of cancer should be prosecuted.

Hon. Mr. HAYDEN: I am not talking about anything for the relief of cancer.

Hon. Mr. ROEBUCK: Take one of the most ordinary diseases listed in Schedule A, ruptures. If you cannot advertise a device for the relief of rupture, then all the trusses and other devices that are used for that purpose cannot be advertised?

Dr. MORRELL: They are advertised today.

Mr. CURRAN: But they are not advertised for the relief of rupture. If you look at the advertisements you will see there is a pictorial representation of the device, but they make no claim for it in relation to a rupture.

Hon. Mr. ROEBUCK: That is, it might be just something to hang around a person's neck?

Mr. CURRAN: Mr. Connolly, who spoke here the other day on behalf of the Ottawa Truss Company, said that the company was perfectly satisfied with this wording, and that if an individual had a rupture he should obtain medical advice before using a truss.

Hon. Mr. HAYDEN: That is putting it on the basis that we had in the days of prohibition, that to get the thing you would have to obtain first a doctor's prescription?

Mr. CURRAN: No. There is nothing to prevent a company from selling all the trusses they can sell, but they cannot advertise them for the treatment or cure of rupture.

Hon. Mr. HAYDEN: That is utterly ridiculous.

Hon. Mr. ROEBUCK: I think so. A truss is a harmless thing and it relieves the rupture. Whether it is advocated by a doctor or not, if it is comfortable to the wearer he is benefited.

The CHAIRMAN: It could be advertised for that purpose?

Mr. CURRAN: Yes, but it could not be advertised for treatment.

Hon. Mr. HAYDEN: A company could advertise its name and say that it sells trusses of such and such a size?

Mr. CURRAN: Yes.

Hon. Mr. ROEBUCK: Why can it not say that a truss will relieve the condition of rupture?

Mr. CURRAN: No, it cannot advertise that.

Hon. Mr. ROEBUCK: Can it not use the word "rupture"?

Mr. CURRAN: No.

Hon. Mr. BURCHILL: In last night's Montreal *Star* there was an advertisement of a device for rupture. I wish I had cut it out, because I am not entirely sure of just what it said, but I think it used the word "support". On reading it you certainly would get the idea that if you had a rupture you could be helped by one of those devices. I gather that under this new law the company could be prosecuted for publishing that advertisement.

Dr. MORRELL: It would be the general impression we got from the advertisement, I think, that would decide what we would do about it.

Hon. Mr. ROEBUCK: Will you explain that? Do you mean if you did not like the people or the way they were carrying on business, or something of that kind, you would prosecute?

Dr. MORRELL: No.

Hon. Mr. HAYDEN: Just what do you mean by the words "the general impression we got from the advertisement"?

Dr. MORRELL: Well, we would have no objection to the company advertising it as an abdominal support, for example.

Hon. Mr. ROEBUCK: But that would be a misstatement. A truss is not an abdominal support. The purpose of a truss is to reduce a rupture, and what you are proposing to do is to allow a misrepresentation of a truss.

Dr. MORRELL: If someone advertised "These trusses are excellent for the treatment or cure of rupture," we probably would object to it.

The CHAIRMAN: Would you object to someone advertising that trusses are a relief for rupture?

Hon. Mr. ROEBUCK: A truss certainly does relieve a rupture.

The CHAIRMAN: There is no objection to advertising that a truss may be used for the relief of rupture, is there?

Hon. Mr. HAYDEN: It seems to me it would be an offence.

The CHAIRMAN: I do not think so. I think that the offence consists in advertising it as a "treatment, preventative or cure".

Hon. Mr. HAYDEN: I asked both Dr. Morrell and Mr. Curran if I advertised something as a relief for any condition listed in Schedule A would I or would I not be offending against section 3, and they told me I would.

Mr. CURRAN: I think I qualified that a few seconds afterwards, senator, by saying that we were of the opinion that it would be necessary to relate that to the particular representation as well as the particular condition before you could say whether it infringed the section or not.

Hon. Mr. FARRIS: The trouble with that is that it makes the enforcement depend more upon the opinion of the department than on what the section itself says.

Hon. Mr. ROEBUCK: That is right.

Dr. MORRELL: Coming back to the question of a truss, there is nothing in the section to prevent the sale of a truss to anyone who wants one. Presumably the individual who wants a truss has obtained medical evidence that he has a rupture, a condition from which he needs some relief through a device of that kind. He could go into an appliance store or a drug store, and the proprietor could sell the appliance and represent all its fine qualities, tell about the qualities of the elastic in it, and so on, but he could not represent the truss as a treatment for rupture.

The CHAIRMAN: That is, he could not make that representation to the general public?

Mr. CURRAN: To the general public.

Hon. Mr. ROEBUCK: Is there any definition of "treatment"?

Mr. CURRAN: Just the dictionary's definition.

Hon. Mr. ROEBUCK: If you use a truss to reduce a rupture, that is surely using it as a treatment according to the dictionary?

Mr. CURRAN: But, Senator Roebuck, it is only the representation to the general public that the truss is a treatment for a rupture, which would come within the section.

Hon. Mr. FARRIS: When you advertise a truss for sale you are impliedly stating that you are selling something for treatment of rupture, because everybody knows that a truss is used for the treatment of rupture.

Mr. CURRAN: Yes.

Hon. Mr. FRASER: So you are just quibbling when you make that distinction. If you advertise the sale of trusses, that conveys to everybody's mind the same thing as if you said that the trusses were for the treatment of rupture.

Hon. Mr. ROEBUCK: Except to some few people who are not at all informed—and there are a few like that—and should be informed. There are people who get a bulge, do not know what it is, and go on in that condition for considerable time, when they should have a truss.

Dr. MORRELL: Are you sure it would be a truss, Senator Roebuck?

Hon. Mr. ROEBUCK: Pretty sure, doctor. It is either a case for an operation and the usual sewing-up that they do, or a case for the use of a truss. It is a matter for the patient himself to judge whether he prefers the inconvenience of a truss to the risks and expenses of an operation.

Hon. Mr. HAYDEN: People in general know the purpose of certain appliances or products that are sold. We have been talking about trusses. I agree with Senator Roebuck that the purpose of a truss is fairly general knowledge. Well, why should a person who desires to advertise a truss be precluded from saying, for instance, that it is for reducing and controlling a rupture? Yet, if anyone says that he would be violating the law, according to Mr. Curran. On the other hand, if someone simply advertises that he sells trusses, there is no violation, although the public know the purpose for which the truss is intended. I think if you start out on that basis you could prosecute a person for simply advertising a truss, although he did not refer to it as a treatment at all, because everyone who reads the advertisement will know the only thing that a truss can be used for.

Hon. Mr. ROEBUCK: And if you advertised "Anyone who has a bulge in the groin should see a doctor or get a truss," you could be prosecuted.

Dr. MORRELL: Mr. Chairman, the whole purpose of the section is really to precent the public from being exploited. These diseases listed in Schedule A are serious ones, which are generally regarded as requiring medical advice, diagnosis and treatment. The two parts of section 3 are merely intended to

prevent anyone from exploiting the general public in connection with these serious diseases, because if anyone is exploited and as a result of that does not get medical advice the consequences could be very serious.

Hon. Mr. HAYDEN: That may be the most commendable purpose in the world, and I am not quarrelling with it. What I am questioning at the moment is the particular method that you are trying to take to achieve that purpose. After all, you do not bring in an elephant to swat a fly, and I am suggesting that you do not need all the power and scope of language that you are asking for here. The question of whether or not to prosecute would depend upon the general impression that somebody in the administration would get as to whether the advertisement was proper or not, as to whether the advertisement implies that a treatment is being advertised. That is not a proper state in which to leave the law.

Dr. MORRELL: Well, from our experiences, sir, we feel that we do need the wording that is here in order to reach the objective which I think we all agree is desirable and necessary.

Hon. Mr. ROEBUCK: The gentlemen before us should realize that they are specialists in the field and that they are really assuming the right to form judgments. We are not specialists—at least some of us like Senator Hayden and myself are not specialists—and we are looking at it as an ordinary person, from the public standpoint. Naturally we are taking a different attitude to that of these gentlemen. Specialists become enthusiastic in their particular field, and in this instance I feel that this measure goes a little too far. I recognize the necessity for some of this legislation; but at the same time I continually regret the complacency with which the public will permit interference with its common law liberties and freedom. Freedom, as you know, takes a little bit of courage, but it pays off. The people who will submit to being pushed around and bossed, will get an awful lot of it; and that has been the trend for a long time. There seems to be more and more restrictive legislation passed. This is true the world over; the classic example today is South Africa. Many of us here are anxious to hold back restrictive measures of this kind, to regard advertising as a common law right, and in instances where there is an attempt to interfere with it, we ask that you show us the absolute necessity for it. That is the principle of law involved here when there is a proposal to interfere with a common law right. If you have a right to go to the court to sustain your position, it will support you at far as it can.

Hon. Mr. FARRIS: It seems to me that the new words added are the least objectionable.

Hon. Mr. HAYDEN: Correct.

Hon. Mr. FARRIS: The only word of which there might be any criticism is the word "treatment". How long has that been in the Act?

Mr. CURRAN: Since 1934.

Hon. Mr. FARRIS: I think it is very proper that advertising with regard to these diseases outlined should not be allowed, that is, advertising to prevent or cure them.

Hon. Mr. ROEBUCK: You started with "cure" did you not?

Mr. CURRAN: No; "treatment" has been in the legislation since 1934.

Hon. Mr. ROEBUCK: Prior to that it was "cure".

Mr. CURRAN: No. prior to that—

Hon. Mr. ROEBUCK: You started off with cancer, and legislated against advertising of cures for cancer.

Mr. CURRAN: In 1934 section 6A which is in the present Act, was added; at that time there was established Schedule A, which contained the diseases which are now shown in Schedule A, although there have since been some modifications.

Hon. Mr. ROEBUCK: There have been additions to it.

Mr. CURRAN: Yes, there have been two or three additions since 1934. Cancer was selected as an illustration of the type of thing that the section was intended to take care of. It may be that some of the other diseases which have been added, or which have been in there for many years have somewhat changed with relation to other things, but nevertheless those diseases have found their way into Schedule A because of the necessity at the time of protecting the public against some form of exploitation. It was not with a view to preventing legitimate advertising, except that it was felt that there would be no need for advertising with relation to these things: in other words, these are things which ought to be under medical supervision. There is nothing to prevent a person from obtaining something for relief, but he ought to be under a doctor's care at the time, if he has any of these conditions. A man with a rupture, for instance, ought to have medical services. Once he knows he has a rupture, and his doctor has told him a truss is indicated, there is nothing to prevent him from buying a truss, and there is nothing to prevent the advertising of trusses except the implied treatment. We do not regard it as treatment, to describe the merits of the truss.

Hon. Mr. FARRIS: Anyway it would not be any particular inducement.

Mr. CURRAN: No, the man with the rupture, for which he has obtained medical advice, could then go and buy a truss for himself. There is no prescription for a truss.

Hon. Mr. FARRIS: In the old Act the only word is "treatment".

Mr. CURRAN: Treatment.

Hon. Mr. HAYDEN: I was about to suggest to Dr. Morrell that "treatment" requires, I think, some qualification. There is no quarrel about the words "prevention or cure". I do not know how any person could advertise anything as a cure or a preventative.

Hon. Mr. ROEBUCK: What about preventatives for colds?

Hon. Mr. HAYDEN: I am very doubtful of that; I think they advertise relief for the common colds. But that is not one of the prohibited items, so I am not concerned with it.

Hon. Mr. ROEBUCK: That is right.

Hon. Mr. HAYDEN: But the kind of treatment you are thinking about is coupled with something that amounts to exploitation of the public?

Mr. CURRAN: Yes.

Hon. Mr. HAYDEN: If the thing you are prohibiting is treatment that amounts to exploitation of the public in relation to a particular product, then I could understand it, and I think the public would understand it too; but just to put a blanket word in there—and to say that it has been there since 1934 does not, in my opinion, give it any sanctity.

Dr. MORRELL: Senator Hayden, could you suggest a better word than "treatment"?

Hon. Mr. HAYDEN: I could not suggest a better word than treatment, but I think that word should be qualified in some way as having to do with what you are trying to prevent, namely the exploitation of the public.

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

horrid. Very often it has as its objective the exploitation of the public. He had with him samples of advertisements to show us what was being done on the other side of the border. The misrepresentations they make give false hopes to people suffering with afflictions of that kind.

Hon. Mr. HAYDEN: Why should we not say that? Why should we not say that advertising of treatment that is prohibited is advertising that amounts to a fraud and/or the exploitation of the public.

Mr. CURRAN: How would you prove that?

Hon. Mr. HAYDEN: It would not be difficult at all.

Hon. Mrs. WILSON: The Frosst people had no objection to make the other day, and the Canadian Manufacturers' Association's representative had no objection.

The CHAIRMAN: I would point out for the benefit of those who were not at previous meetings that those most interested in making representations in objecting to this clause appeared before us. I would refer to the Canadian Pharmaceutical Association, the Canadian Pharmaceutical Manufacturers Association, the President of the Canadian Association of Consumers, and the Manager of the Canadian Manufacturers' Association. If any objections were to be raised to that word "treatment" or to the words in this clause, you would expect that they would have been made by those representatives I have just named. They were most interested in having this clarified to the greatest degree possible.

Hon. Mr. ROEBUCK: I came up here intending to pass a compliment as to what this committee has done. I was sorry that I had not been able to be here. Senators Hayden and Farris and myself have had our heads down in the Criminal Code Bill, and it has been a big and important job. I was concerned, as I said in the house, with regard to vitamin E because I had some personal experience in connection with it. There was a case of heart attack in my own family, and two people independent entirely told me that their doctors had told them to use vitamin E but not tell anybody that a medical person had advised it. That was an illustration of the row in the medical profession over vitamin E. Well, vitamin E was used in my house and I saw a marked and an immediate response to it, and the individual I have in mind, as a result of it, has been working for the last year. He is coming over here at Christmas to take a holiday that he could not take last year. I find here the treatment of heart disease, and this pointed directly at vitamin E.

The CHAIRMAN: Pardon me for interrupting, but for your benefit you may not know that Dr. Shute, who is the sponsor of this treatment, was here himself last Thursday and discussed the question fully with the committee and with the members of the department.

Hon. Mr. ROEBUCK: And Dr. Shute wrote me a letter which I intend now to lay before the committee.

The CHAIRMAN: My information is that a satisfactory conclusion was arrived at at the last meeting, that the sponsoring of vitamin E as a treatment would not be interfered with in any way.

Hon. Mr. HAYDEN: Do you mean by that that Dr. Shute's method of sponsoring this treatment would not be interfered with?

The CHAIRMAN: Perhaps I may be using the wrong words. Dr. Shute is recommending vitamin E as treatment for a certain disease, and he is a medical man and has a perfect right to do that. My understanding is that nothing in this Act may prevent a doctor from advocating the use of a certain drug for the treatment of a disease.

Hon. Mr. HAYDEN: Yes, but Dr. Shute himself does not make all the vitamin E pills that are being sold in Canada today.

The CHAIRMAN: No.

Hon. Mr. HAYDEN: So that would mean then that only those pills which would have been made by Dr. Shute could be sold.

The CHAIRMAN: Oh, not necessarily.

Hon. Mr. HAYDEN: Well, then, they could not put on them, "This is a treatment recommended by Dr. Shute for heart condition".

Hon. Mrs. WILSON: Dr. Shute himself said he would not recommend its use without medical advice.

Mr. CURRAN: Yes, he said no one should take vitamin E except under medical direction and supervision, and the section is only aimed at preventing the advertisement to the general public of vitamin E for the treatment of heart conditions. There is nothing to prevent a doctor from prescribing vitamin E or a patient from buying vitamin E for a heart condition, but it may not be represented as a preventative treatment or cure for a heart disease.

Hon. Mr. ROEBUCK: Let me complete. I was interrupted. I was just about to quote Dr. Shute, because I want it on the record. Dr. Shute wrote me: "I had the most courteous and patient hearing for about an hour and fifteen minutes and it has left me with the firm conviction that the Senate of this country is a very democratic institution and vital to our liberties". I was delighted to receive that letter from him. He also said: "The word 'person' and the word 'advertise' in that amendment were too inclusive and needed definition. I think we achieved a clear definition of what the Act intended and what the department intended in the discussion before the committee on Thursday". He has not told me what the understanding was, and I do not know whether you have amended or not. My colleague to my left (Hon. Mrs. Fallis) points out that when the bill says "No person shall..." it would not include a medical person. Now, I do not like this idea of a doctor being able to advertise and someone else not being able to advertise.

Hon. Mrs. FALLIS: At the last sitting I brought up the point with respect to paragraph 3 of the bill dealing with "No person shall advertise..." and I thought a person would be a person—

Hon. Mr. ROEBUCK: Even a woman is a person.

Hon. Mrs. FALLIS: Reluctantly, yes, but I was told that a doctor was not included under that wording "No person shall...". How is the general public going to know that?

Mr. CURRAN: It depends on the advertisement. If he wants to put an advertisement in a newspaper directly representing a food or drug for a treatment or a preventative cure for a certain disease—I have nothing to say about his ethics—that would not be possible under the legislation. He can advertise, however, in a medical journal because that is not an advertisement to the general public.

Hon. Mr. HAYDEN: Or he can give an interview?

Mr. CURRAN: Yes.

Hon. Mr. FARRIS: Advertising really carries the implication that it is a commercial thing.

Mr. CURRAN: It is for the purpose of promoting directly or indirectly the sale of an article.

Hon. Mr. ROEBUCK: Can he speak over the radio?

Mr. CURRAN: Yes, and he has done that.

Hon. Mr. FARRIS: He does not purport to have a supply of this stuff that he is selling himself.

Hon. Mr. ROEBUCK: He may own stock in a company that is selling it.

The CHAIRMAN: Honourable senators, we have had a lengthy and illuminating discussion on this particular clause and I think the two senators who wished to express their views have done so in a very clear way. What is your desire at the present time with respect to this clause? Do you wish to accept it as it was—

Hon. Mr. HAWKINS: It has been accepted.

The CHAIRMAN: Do you wish to confirm, rather?

Hon. Mr. STAMBAUGH: I think so.

Hon. Mr. HAYDEN: I am not going to move an amendment.

Hon. Mr. FARRIS: For my part, if this word "treatment" were being considered today for the first time I would be a little reluctant to support it. On the other hand, I do not agree with my colleague, Senator Hayden, that time is no factor. If this has been tried for eighteen years and there has been no abuse of it, I would leave sleeping dogs lie.

The CHAIRMAN: Does the committee so desire to confirm this clause as accepted?

Some Hon. SENATORS: Yes.

Hon. Mr. HAYDEN: There is one other item that we want to speak about, and I refer to section 24. I should like to make a representation with respect to that.

The CHAIRMAN: I do not know whether we can reach section 24 today or not. Would it be the desire of the committee to take up section 24 now?

Hon. Mr. BURCHILL: Yes, let these lawyers finish. They are doing a big job with the Criminal Code Bill.

Hon. Mr. HAYDEN: The point I want to make in connection with section 24 is this, that in the present act you have a definition by statute as to adulteration. Now what this proposes to do is that the Governor in Council can make definition by regulation of what constitutes adulteration, and he can vary it from time to time. Now, to me, the definition of "adulteration" is something that is basic and fundamental, and I think a broad outline of it, at least, should be in the statute; there should be a statutory definition. The present act has worked all right. If I may use my friend Senator Farris' argument, it has been in force for a long time. You have a definition of "adulteration" in the act, by statute, and then, by regulation, the standards of quality are provided and the degrees of variability. Now, what it is proposed to do here is to remove the defining of "adulteration" from the scope of Parliament and put it in the hands of the Governor in Council. We lose the effective control over what shall constitute a basic and fundamental definition. I think that is inherently wrong. I think Parliament should write the definition, and I think the Department by regulation can provide standards arising out of that definition and they can provide degrees of variability. But to give them the full control of what the definition shall be,—I am not prepared to do that.

Dr. MORRELL: I would like to ask Mr. Curran to speak to it, but I might say that the definition of "adulteration" in the present act does apply only to foods, and we think we should have some authority to control adulteration in drugs, as well as cosmetics.

Hon. Mr. HAYDEN: I am not objecting to a definition that you may put in the act, when I can see what it is and what is the extent of it. I am not suggesting

it should be confined to foods. If the scope of the act covers foods and drugs and cosmetics, the definition should. But the basic definition of what constitutes adulteration should, I think, be in the act.

Dr. MORRELL: Well, sir, most things are taken care of on pages 3, 4, 5, 6, and 7.

Hon. Mr. HAYDEN: Which are you looking at? The bill?

Dr. MORRELL: At the bill, yes, sir. We have the exclusion of such things as harmful or poisonous substances, under 4(*a*); the exclusion of food that is unfit for human consumption, under 4(*b*); and the exclusion of food that is disgusting, rotten and so on; also the exclusion of food that is prepared under unsanitary conditions. Then we have the right to set up standards of quality for food, such as we have in the present act. What is left seems to me to be adulteration in a particular sense, because all of these would be considered adulterated foods—the ones I have mentioned, in general. But the things we have in mind that were left over after the food complied with section 4(*a*), (*b*), (*c*), and (*d*), and perhaps complied with the standard, were such things as non-food substances; perhaps, mineral oil in a food. We might say that a food shall be regarded as adulterated that contains mineral oil.

Hon. Mr. HAYDEN: You have prescribed for that in the present act.

Dr. MORRELL: We have it already, yes. But a special section of the regulations takes care of that, and that would be the way it would be handled, I presume, under the revised regulations under this new bill. Then we would perhaps want to exclude some things as preservatives, and we would say that food that contained these would be adulterated.

Hon. Mr. HAYDEN: You say that now in your regulations.

Dr. MORRELL: Yes, we do. In other words, I think the way the bill as worded is much more suitable from the standpoint of adulteration, if you like, than the old bill.

Hon. Mr. HAYDEN: Let us look at it and see if it is. If you look at section 24, subsection 1(*a*), you find that—

> The Governor in Council may make regulations for carrying the purposes and provisions of this act into effect, and in particular, but not so as to restrict the generality of the foregoing, may make regulations (*a*) defining either generally or with respect to any particular food or drug or class of food or drugs the expression "adulterated" for the purposes of this Act.

Dr. MORRELL: Yes.

Hon. Mr. HAYDEN: That is the broadest way you could write a fundamental definition of adulteration in relation to food and drugs, under that subsection.

Dr. MORRELL: Yes. We might say "any food containing mineral oil is adulterated."

Hon. Mr. HAYDEN: Yes.

Dr. MORRELL: Or "any drug which contains solid particles of glass or lint is adulaterated".

Hon. Mr. HAYDEN: But you can say the same thing if you have the particular definition which is in the present act, by enacting standards and degrees of variability.

Mr. CURRAN: If I can, perhaps, speak to that: if you look at section 4 of the present act—

Hon. Mr. HAYDEN: That is what I am looking at.

Mr. CURRAN: —you will find that the whole of the section, with the exception of paragraph (*g*), is substantially taken care of in section 4 of the bill. I am talking about foods only now. When you come to paragraph (*g*), that relates to standards prescribed by regulation, and it says that if an article differs from the standard, it is adulterated. Originally the concept of adulteration meant some debasement or cheapening of the article by substituting an inferior ingredient to increase its bulk and weight. With modern methods of manufacturing foods that concept has undergone a very substantial change.

Hon. Mr. ROEBUCK: Excuse me a minute. I have heard adulteration defined as something which decreases the effectiveness of the substance for the purpose for which it was intended.

Mr. CURRAN: That is substantially the Encyclopaedia Britannica definition.

Hon. Mr. ROEBUCK: I did not look it up, but it was lurking in my mind.

Mr. CURRAN: The Encyclopaedia Britannica definition is substantially of that kind. The point is this, that there are departures from the standard which are not necessarily for the purpose of depreciating the food, and manufacturers did not like the word "adulterated" to be used for some deviation from the prescribed standard. We felt that it was more realistic to deal with standard foods on their own merits, to deal with things that inherently debase a food—filth and injurious substances—by direct prohibition. But there does remain a fringe area which may not be clearly covered by one of these direct prohibitions, and it is in relation to that type of thing, that, as Dr. Morrell points out, there would be a definition of adulteration, but we did not consider it feasible to define adulteration particularly without creating more problems than would be solved.

Hon. Mr. HAYDEN: You are creating a lot of problems if you take complete power in the Governor in Council to define generally or in relation to a particular food or drug what shall constitute adulteration. You are just taking away from us any authority to say what we think about your definitions.

Hon. Mr. ROEBUCK: The first thing you know, you would banish pumpkin pie from our tables, because it is all made of squash, sometimes with a little apple to give it a tang.

Mr. CURRAN: That would be dealt with by prescribing a standard.

Hon. Mr. HAYDEN: I am not attempting to interfere. What I am asking is, why we should abrogate, in favour of the Governor in Council, the right to write a statutory definition of "adulteration". You go ahead and provide all the standards you require by regulating all the degrees of variability. You have been doing it in the present act, and it has worked all right.

Mr. CURRAN: Well, if I may respectfully differ with Senator Hayden, I would suggest that it has not worked all right, because objection was taken to the arbitrary designation of a food as being adulterated merely because it failed to comply with the designated standard.

Hon. Mr. HAYDEN: You want to do the same sort of thing by definition, even more arbitrarily, and parliament will not have any say in it at all.

Mr. CURRAN: That would be so if "adulteration" were defined in a completely unrealistic way, but in that event the definition could be challenged in the courts.

Hon. Mr. HAYDEN: How could a definition be challenged in the courts if we gave you power to make the definition?

Mr. CURRAN: Section 24 authorizes regulations only for carrying the purposes and provisions of this Act into effect. Now, if we made a regulation which was not related at all to the purposes of the Act, it could be challenged,

and I do not think there is any question that the courts would throw out a regulation of that kind. It seems to me that a regulation which was completely unrelated to the question of health or fraud could be challenged successfully.

Hon. Mr. HAYDEN: That goes without saying; but that does not answer my point that it is a question of whether we are going to have some knowledge of what the definition is or whether the definition is to be made by the Governor in Council. My choice would be for a statutory definition.

Hon. Mr. ROEBUCK: You have not got a definition to suggest, have you?

Hon. Mr. HAYDEN: No. I am satisfied with the present Act.

Hon. Mr. ROEBUCK: What does the present Act say about this?

Hon. Mr. HAYDEN: Section 4 of the present Act says:

> Food shall be deemed to be adulterated within the meaning of this Act
>
> (*a*) if any substance has been mixed with it so as to reduce or lower or injuriously affect its quality or strength.

Hon. Mr. ROEBUCK: What is the matter with that?

Hon. Mr. HAYDEN: I do not see anything the matter with that. I object on principle to delegating our powers to the Governor in Council.

Dr. MORRELL: Do you think that butter which contains 5 per cent less than the prescribed quantity of fat is adulterated?

Hon. Mr. FARRIS: I would ask my friend Senator Hayden if there are no precedents for delegating our powers to the Governor in Council.

Hon. Mr. HAYDEN: Oh, yes, there are, but I have protested against the delegation every time I had an opportunity, and on occasions you have protested even more forcibly than I.

Mr. CURRAN: This is not a very realistic definition of "adulteration" in terms of modern manufacturing practice.

Hon. Mr. HAYDEN: That is your idea, Mr. Curran, and you no doubt sincerely believe that; but once this statute is passed it will endure for some time and we do not know who will be writing the definitions in future.

Hon. Mr. ROEBUCK: I will read section 4 of the present Act again:

> Food shall be deemed to be adulterated within the meaning of this Act
>
> (*a*) if any substance has been mixed with it so as to reduce or lower or injuriously affect its quality or strength.

I think I could improve on that a little. However, what is it that you consider might be adulteration, besides the mixing with the food of some substance which reduces or lowers or injuriously affects its quality or strength?

Dr. MORRELL: Well, I will give as an illustration something that has happened. Someone takes nutmegs and extracts the oil from them and sells the residue as nutmegs. I think they are adulterated.

Hon. Mr. ROEBUCK: That instance would be covered by this definition.

Mr. CURRAN: That would not come under paragraph (*a*) of section 4, but it might come under paragraph (*b*):

> if any inferior or cheaper substance has been substituted wholly or in part for the article.

Hon. Mrs. WILSON: Would it not come under paragraph (*c*)?

Mr. CURRAN: Yes. That reads:

> if any valuable constituent of the article has been wholly or in part abstracted.

Hon. Mr. ROEBUCK: The remaining three paragraphs of section 4 read this way:

(*e*) if it is obtained from a diseased animal, or from an animal fed upon unwholesome food;

(*f*) If it contains any added poisonous ingredient, or any ingredient which may render it injurious to the health of the person consuming it, whether added with intent or otherwise; or

(*g*) If its strength or purity falls below the standard, or its constituents are present in quantity not within the limits of variability fixed by the Governor in Council as hereinafter provided.

Why have you dropped all that from the proposed new Act?

Dr. MORRELL: We have not dropped it at all, sir. I think that a lot of it is now written into section 4 of the bill, but it is not in the bill under the term "adulteration", because we felt it was not appropriate to refer to adulteration in those terms.

Hon. Mr. HAYDEN: Well, if food is treated in any way of the ways referred to there, what is it if it is not adulterated?

Hon. Mr. ROEBUCK: "Adulteration", in common parlance, means the adding of something.

Mr. CURRAN: Or taking something away.

Hon. Mr. ROEBUCK: I think that in common parlance it means the adding of something.

The CHAIRMAN: Not necessarily.

Hon. Mr. FARRIS: Where is the definition of "adulteration" in the bill?

Hon. Mr. HAYDEN: There is none. My point is that I think the definition should be provided by statute.

Dr. MORRELL: If butter is rancid, is it adulterated?

Hon. Mr. ROEBUCK: I would say it is not. Under this definition it might be considered to be adulterated, but rancid butter, in ordinary parlance, is not adulterated.

Dr. MORRELL: Meat that is rotten is not adulterated.

Hon. Mr. ROEBUCK: No.

Mr. CURRAN: We thought that the word "adulterated", used in a generic sense, was mis-descriptive of that kind of thing. The very essence of adulteration is the fraudulent addition of something or perhaps the fraudulent abstraction of something.

Hon. Mr. HAYDEN: Let us take that as being 100 per cent correct. But because "adulteration" is mis-descriptive of some of the practices prohibited in section 4 of the present Act, you want the Governor in Council to be empowered to write the definition in his own terms. How does one argument flow from the other?

Mr. CURRAN: I do not want to seem disrespectful, senator, but the purpose of delegating to the Governor in Council the authority to define "adulteration" by regulation is that we recognize the difficulty of coining at the present time a definition which would be all-inclusive, which would cover exactly what we intended to be regarded as "adulteration" in relation to a particular food or class of foods, without doing violence to the term in relation to something else. The object was to give the flexibility which we thing is desirable if we are going to make "adulteration" apply to those foods which are regarded as adulterated.

Hon. Mr. ROEBUCK: That is, according to the departmental view?

Mr. CURRAN: I can only express the departmental view, sir.

Hon. Mr. ROEBUCK: Of course, and it is quite proper that you should do so. But there is another viewpoint, and it is that the general public should be able to read in the statute what is prohibited and what is not prohibited, and that this matter should not be decided in little pieces behind closed doors. I think that is the substance of Senator Hayden's objection, that parliament should determine what is meant by "adulteration", rather than that the question should be left in flux from time to time as you gentlemen of the department come to the conclusion that you should take another step forward or backward.

Hon. Mr. STAMBAUGH: Does not paragraph (*g*) of section 4 of the present Act give the department all the authority they are asking for in section 24 of the bill?

Hon. Mr. HAYDEN: It gives them all the authority they need, yes.

Mr. CURRAN: Yes, paragraph (*g*) substantially does that, sir.

Hon. Mr. STAMBAUGH: Why should we not leave this in?

Mr. CURRAN: Of course, I am not going to discuss the actual language of paragraph (*g*), which is unfortunate, it is not well put together; but in our view a food for which a standard has been made, and which does not wholly conform to that standard, is not necessarily adulterated.

Hon. Mr. HAYDEN: The statute says it is adulterated.

Mr. CURRAN: The statue says it is. But no matter whether the departure is to improve the food, it is still adulterated. We think "adulterated" is not the proper word to use.

Hon. Mr. HAYDEN: But Mr. Curran, since you can provide the standard by regulations, if you think that a departure would adulterate the quality of the food, all you have to do is sit down and amend your regulations.

Mr. CURRAN: Yes.

Hon. Mr. HAYDEN: Standards are things that you can remedy, but this is not.

Dr. MORRELL: There are more foods for which we do not have a standard than for which we have.

Hon. Mr. HAYDEN: And the reason you have not got a standard is, I assume, that you do not feel that a standard is necessary at the present time.

Hon. Mr. FARRIS: What I do not like about section 24 (*g*) is that you can pick out some particular food, identify it, and go to the Governor in Council and get it declared—

Hon. Mr. ROEBUCK: And goodbye to oleomargarine! By calling it adulterated, out it goes.

Hon. Mr. FARRIS: I do not like the fact that you are not laying down a general principle and requiring the public to conform to it. You can pick out something without giving a man a chance to test in court as to whether he is under the definition or not, and you say "Here is something that ought to be put on the spot." In other words, you designate the food, and that is the end of it.

Mr. CURRAN: Perhaps it would be appropriate to say that the use of the word "adulteration" is going to be extremely limited under the proposed bill. There seems to me to be a feeling that perhaps under the guise of using the authority we make regulations, and get the word "adulteration" into areas where is has not been. Actually, the feeling of the administration is that there would be little use for "adulteration" except as to certain practices which do exist and do not squarely come within the other provisions of the bill. For

example, Dr. Morrell has referred to the use of mineral oil in salad dressing. That would be a prescribed substance, the use of which would be deemed to result in adulterated food.

Hon. Mr. HAYDEN: But we cannot speculate on what the Department intends or does not intend to do; we have to deal with this legislation on some solid basis, and you can go on from there.

Mr. CURRAN: I understand that.

Hon. Mr. BURCHILL: Have you run into any particular difficulty in the prosecutions you have taken under the present Act, which would make this proposed change necessary?

Hon. Mr. HAYDEN: I think the Department has been successful in 99 per cent of its prosecutions.

Mr. CURRAN: Except when we have been fortunate enough, or perhaps unfortunate, to have had you on the other side, Senator Hayden.

Hon. Mr. ROEBUCK: If what you say is true, Mr. Curran, that you do not intend to go very far in this matter of defining, it would be easier to give us a definition of what to put in the Act.

Dr. MORRELL: Well, sir, I would not want to limit the standards of foods—as I pointed out there are relatively few, and we can take care of the so-called adulterations of the standard foods. But it must be remembered that the majority of foods are not standardized under the Food and Drugs Act. Somebody, for instance, might want to paint potatoes red so as to make them look like Irish cobblers when in fact they were some other variety. I would consider that to be an example of adulteration.

Hon. Mr. ROEBUCK: That is misrepresentation.

Hon. Mr. HAYDEN: That is fraud on the public.

Hon. Mr. ROEBUCK: It may not affect the purpose for which they are used; they may be just as good potatoes, though they are coloured.

Dr. MORRELL: They might even be better potatoes, but they are trying to sell them for something which they are not.

Hon. Mr. ROEBUCK: Yes, if they were trying to sell them as bananas, of course that would be misrepresentation.

Hon. Mr. HAYDEN: Or false advertising.

Hon. Mr. ROEBUCK: I think that would be covered in some section of the bill.

Mr. CURRAN: I think that would be covered squarely by section 5: It would be a matter of misrepresentation.

Hon. Mr. ROEBUCK: Do you not think, Mr. Chairman, that we could leave this to be considered by the Department to see if they could bring us a definition so that we would know what we are doing?

Hon. Mr. STAMBAUGH: We will be coming back to this later again anyawy.

The CHAIRMAN: Is it the pleasure of the meeting to accept Senator Roebuck's suggestion?

Some Hon. SENATORS: Carried.

The CHAIRMAN: Shall we now revert to clause 11?

Hon. Mr. ROEBUCK: Thank you, Mr. Chairman, for your courtesy. Both Senator Hayden and I are sorry that we are not able to stay here and that we have not been here in the past.

On section 11—Manufacture of drug in unsanitary place.

Section 11, as amended, was agreed to.

On section 12—Sale of certain drugs prohibited unless safe for use.

The CHAIRMAN: Shall section 12 carry?

Mr. LAVERTY: Mr. Chairman, I represent the pharmaceutical manufacturers, and with respect to section 12 we have no objection except we think that the right of the Department to add to Schedules C and D should be limited. When I made my representations to this body I suggested that another paragraph should be added, reading:

> No drug, even if its name or description appears in Schedule C or D, shall be subject to the provisions of this section if there exists for such drug a test which properly demonstrates its potency or safety.

I am making that submission now.

Dr. MORRELL: Mr. Chairman, if there is an adequate test for its potency or safety, I presume you mean something that can be carried out in the laboratory?

Mr. LAVERTY: Like any other drug.

Dr. MORRELL: Yes. I would like to point out here that we are dealing with a peculiar class of drug.

Mr. LAVERTY: I quite realize that. That is why I have no objection to it.

Dr. MORRELL: I want to point out to Mr. Laverty that that would exclude diphtheria toxoid from the list.

Mr. LAVERTY: Perhaps it should not be in.

Dr. MORRELL. I don't think you want to do that particularly.

Mr. LAVERTY: But I say, perhaps it should not be in.

Dr. MORRELL: You can test diphtheria toxoid for its potency and for its safety, but still it is made from dangerous material, pathogenic bacteria. You suggest there may be a danger in the processing, but I do not think we would like to exclude that because we have a test. Suppose, for instance, John Jones wants to start up a plant for the manufacture of biologics in his basement, which is a filthy place. He need know nothing, or very little about the subject, and he can put his product on the market. The result is actually that we would have to test every ampule that he put out, to be sure that the public got a safe product. We could not, as we do now, go around every once in a while and spot check what is on the market. We can do that now because we know the equipment, the personnel, the records of the manufacturers who are engaged in this business are sound. If we leave it only to the final test I think we would be in a very dangerous position. We would not be able to say to an individual, "You have not the equipment; "You have not the qualifications; you have not the knowledge which would permit you to manufacture these products with safety to the public."

Mr. LAVERTY: But what would you say to the people about any drug?

Dr. MORRELL: Those are peculiar to themselves.

Mr. LAVERTY: Well, where do you draw the line?

Dr. MORRELL: I think we draw the line with this list.

Mr. LAVERTY: Yes, but new drugs may be discovered which should be on that list later on. There should be some test to enable us to say, "Well, we can put that under Schedule C or D or we cannot." As it is now you can put any drug there.

Dr. A. GRIEVE, Canadian Pharmaceutical Manufacturers Association: I am also representing the Canadian Pharmaceutical Manufacturers Association. Perhaps I can amplify a little bit what Mr. Laverty has said. What we are endeavouring to work out is some clarification of the contents of Schedules C

and D, and perhaps to some extent Schedule E, so that some principle shall underly what shall and what shall not be included in those three schedules, and particularly Schedules C and D. I agree with Dr. Morrell that the establishment of the criterion whether an assay is available which is useful to determine the potency and toxicity is not the whole answer. I quite agree with him that there are serums and vaccines that are covered by Schedule C, for exemple, on which I think he and I quite agree. There are tests both for potency and for safety, so that although I hope to frame that subhission of Mr. Laverty I am still not entirely satisfied with it, nor with the fact that it achieves what we are trying to do. It may be that if we cannot agree on some modification of that as an addition to section 12 and the corresponding section 13 as it relates to Schedule E, then there may be some other means by which we can set up some general principle as to when substances should be included in those three schedules; and also to set up some principles by means of which a decision can be reached as to when substances should be removed. I would point out that it is a two-way process, the adding to the schedules of things that are needed, and the taking away when the technical background of the subject has reached the stage where the purposes served by Schedules C, D and E have been achieved and are no longer necessary. There are various ways of achieving that purpose, and Mr. Laverty has suggested one. I think he and I can agree it is not necessarily the best one, but it is one and if it is not in its best form perhaps it could be reworded; if not, some special means should be arrived at to set up what has not been done so far, and that is to establish a guiding principle as to what ought and what ought not to be on these three schedules.

Dr. MORRELL: I would be prepared to give that some further consideration, but I cannot see the answer at the moment.

Mr. CURRAN: If I might make a suggestion I think the appropriate place to deal with the point made by Mr. Laverty and Dr. Grieve would be when we come to section 24, which authorizes by regulation the addition to or the deletion of anything from any of the schedules. That would seem to me to be the place where the principle you have in mind should be laid down.

Dr. GRIEVE: Perhaps some general statement of principle for the whole section 24 could be made as to what shall and shall not be covered by the making of regulations.

The CHAIRMAN: Shall section 12 carry with these suggestions?

Hon. Mr. STAMBAUGH: I should like to ask Dr. Morrell if he is perfectly satisfied with section 12 as it is? You have given this considerable thought. When we get to section 24 could we get the objections at that time and give the matter some further consideration?

Dr. G. D. W. CAMERON, Deputy Minister of National Health and Welfare: As the speakers have just indicated, this part of the bill is to deal with a particular class of substances which are made in one schedule very dangerous products. It is potentially possible for those products to reach the public in a state which is dangerous and which cannot in all cases be spotted by tests. The other section deals with substances, which it will be noticed, are given by injection. Now, then, if you are going to give people things by hypodermic needle the great overriding essential requirement is sterility and safety, and in the United Kingdom and the United States they have special legislation to deal with this type of thing—not exactly the same classes of substances but essentially the same idea. Senator Stambaugh has asked if we are satisfied with section 12. We think that is a workable section, and that the scheme is a workable one, and for my part I feel we would not be rendering the service to the public that is expected under this Food and Drug Bill unless it was possible to bring quickly under this type of control some

new substance which may come on the market which is going to be injected into people possibly fairly soon after it is released by the manufacturers. The most recent case we have had of unfortunate results was the death of a person in Toronto by the injection of a mixture which was infected. The tests carried by the manufacturer did not reveal this. That is something which may happen. We do admit that there has to be power for this kind of thing vested in the government over and beyond what we would consider reasonable for food and the ordinary drugs, and so on. I am sure Mr. Laverty understands this, and also these gentlemen behind me here. I am making this plea because I have had personal experience with the manufacturer of this kind of substance, and I believe firmly there must be special strength placed in this part of the bill.

Mr. LAVERTY: Mr. Chairman, I quite agree but the point I am trying to make is that there should be some limitation as to what drugs we are going to put in these schedules.

Hon. Mr. STAMBAUGH: I move that section 12 carry.

The section was agreed to.

On section 13—idem.

Mr. LAVERTY: As to section 13, we have the same representation to make.

The CHAIRMAN: Does section 13 carry?

The section was agreed to.

On section 14—Distribution of samples prohibited. Exception.

Mr. LAVERTY: I have a suggested amendment which I made the other day to section 14. The way the clause is drafted now you could not distribute to druggists, to registered pharmacists, drugs in Schedule F. I do not think that was the intention of the department at all. We have suggested this amendment: that subsection (2) read as follows:

> (2) Subsection (1) does not apply to the distribution of drugs by mail or otherwise to physicians, dentists, veterinary surgeons or to registered pharmacists. Registered pharmacists may redistribute such samples to adults only or to a distributor in compliance with individual requests, except samples of drugs mentioned in Schedule F which may be redistributed only in accordance with the prescribed regulations and laws which apply to the distribution of such drugs.

The CHAIRMAN: Do you wish to speak to that?

Dr. MORRELL: We mean what Mr. Laverty says in his amendment, and if the present wording is not clear we are prepared to accept the principle, and if Mr. Laverty will give us his wording we will see if it is acceptable to Justice and ourselves: if not, we will work out something which will mean something in the long run.

Mr. LAVERTY: That is all right.

The CHAIRMAN: Section 14 stands for further suggestions.

Section 15 as amended agreed to.

Section 16 agreed to.

Section 17 as modified agreed to.

Sections 18 to 20 inclusive agreed to.

The CHAIRMAN: It is now 12 o'clock, and perhaps we can adjourn at this time.

Hon. Mr. FARRIS: Could I say a word about section 21? I am afraid I cannot get back.

The CHAIRMAN: Certainly.

Hon. Mr. FARRIS: I think that paragraph (*a*) of subsection (1) of section 21 is very badly drawn, and makes possibilities for abuse which the Department never intended.

> (1) An inspector may at any reasonable time—
>
> (*a*) enter any place where on reasonable grounds he believes there is an article to which this Act or the Regulations apply and examine any such article and take samples thereof.

Now, the articles included there are articles that are in every home,—food, even chewing gum; and an inspector who wished to abuse his privileges could walk into your home or my home and insist on examining the bread, or anything else. The only reasonable ground he would have for entering would be to believe that such articles were in my home. Is that right?

Dr. MORRELL: That certainly is not intended.

Hon. Mr. FARRIS: But there it is. The thing is written. No policeman can do that.

Dr. MORRELL: If it is not for sale—

Hon. Mr. FARRIS: This does not say anything about "sale".

Dr. MORRELL: Does this apply to articles that are not for sale?

Hon. Mr. FARRIS: This article says "enter any place where he... believes there is any article to which this act or the regulations apply". If you turn to the definitions you will find, in the same section:

> For the purposes of subsection (1), the expression "article to which this act or the regulations apply" includes
>
> (*a*) any food, drug, cosmetic or device.

Dr. MORRELL: I remember discussing that with the legal people when we were drafting this, and pointing this out.

Hon. Mr. FARRIS: I am surprised the "legal people" would give their approval to that.

Dr. MORRELL: And I was told it applied to what was sold.

Hon. Mr. FARRIS: "Reasonable belief" is at the wrong end. Of course there is flour, chewing gum, all these things in your home and mine. That is not the point. There should be reasonable belief that the articles there were kept or sold in violation of the law.

Dr. MORRELL: Then if they were sold in violation of the law I would not want them coming in my house, I do not think that was the intention.

Hon. Mr. FARRIS: Oh, no. You know the place that is paved with good resolutions. I am thinking about the possibilities of someone abusing this power. And they could not do a thing to him. He says "I knew that that man had bread, or chewing gum, or something else packed at a certain place, and I wanted to find out how they handle "the thing", so he walks in, and you can't do a thing to him.

Hon. Mr. STAMBAUGH: Have you some amendment that would cover this?

Hon. Mr. FARRIS: I have no objection to an inspector going into a commercial place, although even then he should not do it unless he has reasonable grounds for believing there is a violation of the law. But no man should be allowed to get in my home unless he comes in under a warrant, the same as a policeman has to get.

Mr. CURRAN: I agree. We are in a full agreement on that principle. Actually we raised this very point ourselves at the time the legislation was drafted. The answer was that its purpose was limited to things that were being manufactured or offered for sale.

Hon. Mr. FARRIS: Well, you have not ensured it in any way.

Mr. CURRAN: We are in agreement on the principle, and we would be very glad to have a look at that and see if any words can be added to make that clear.

Hon. Mr. FARRIS: Well, if they are not added you will have trouble in the house.

Mr. CURRAN: We intend to have them added.

The CHAIRMAN: Just a few more days are left before the adjournment for the Christmas recess, and I think the Government would like to have this bill presented before we adjourn. At the rate we have been proceeding today and last Thursday we are making very slow progress, so would it be agreeable to have a meeting tomorrow, at the same time?

Accordingly the proceedings were adjourned until Wednesday, the 10th day of December, at 10.30 o'clock in the forenoon.

MINUTES OF EVIDENCE

THE SENATE

OTTAWA, Wednesday, December 10, 1952.

The Standing Committee on Public Health and Welfare, to whom was referred Bill J, an Act respecting Food, Drugs, Cosmetics and Therapeutic Devices, met this day at 11 a.m.

Hon. Mr. VENIOT in the Chair.

The CHAIRMAN: Honourable senators, we have a quorum now and we will proceed with our business. The first order of business will be to revert to section 14. Would Dr. Morrell and Mr. Curran please come forward.

Dr. MORRELL: Mr. Chairman, since yesterday's meeting representatives of the Department have met with representatives of the Canadian Pharmaceutical Manufacturers Association and agreement has been reached in a number of items. Section 14 is one of them. The Manufacturers Association asks for a revision of this section and we have agreed that section 14 (2) should read as follows:

(2) Subsection (1) does not apply to the distribution of samples of drugs. . .

The words "samples of" have been inserted after the words "distribution of".

The CHAIRMAN: Shall section 14(2) as amended carry?

Section 14 (2) as amended was agreed to.

The CHAIRMAN: Shall the whole section 14 carry?

Section 14 as amended was agreed to.

The CHAIRMAN: We come now to Part II, Administration and Enforcement.

Hon. Mr. HAWKINS: Was section 20 carried yesterday?

The CHAIRMAN: Yes. We come to section 21—Powers of Inspectors. Here again some changes are made.

Dr. MORRELL: Yes, here again I think essential agreement was reached and we would be happy to accept the following changes:

21 (1) An inspector may at any reasonable time. . .

And strike out paragraph (*a*) entirely. Thus paragraph (*b*) becomes paragraph (*a*) and so on. The new paragraph (*a*)—which was the old paragraph (*b*)—now reads as follows:

(b) enter any place where on reasonable grounds he believes any article to which this Act or the regulations apply is manufactured, prepared, preserved, packaged or stored, examine any such article, take samples thereof and examine anything that he reasonably believes is used or is capable of being used for such manufacture, preparation, preservation, packaging or storing.

I believe that the manufacturers would be satisfied with that change, and we would be also. I think that would probably meet some of the objections raised by other groups.

Mr. CURRAN: The point raised by Senator Farris yesterday was that the section should make it clear that this did not purport to authorize an inspector

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to go into a private place and look into an ice box and examine articles in that ice box. So the change which is made makes it abundantly clear that it is related only to places where things are commercially held.

Hon. Mr. STAMBAUGH: I agree with that.

The CHAIRMAN: Shall this subsection as amended carry?

The subsection as amended was agreed to.

Dr. MORRELL: Paragraph (*d*), which is now paragraph (c), will require a consequential amendment.

> examine any books, documents or other records found in any place mentioned in paragraph (*a*).

This will be paragraph (c).

Mr. CURRAN: There is a change in paragraph (*b*)—old paragraph (c). The words "he reasonably" come out and you substitute for those words "on reasonable grounds he". The change is already recorded in the copies of the bill the others have.

The CHAIRMAN: Shall the section as amended carry?

The section was agreed to.

Dr. MORRELL: The same goes in paragraph (c). The words "he reasonably" are crossed out and the words "unreasonable grounds he" replace it.

Mr. CURRAN: The words "or (*b*)" go out.

Dr. MORRELL: Following the words "or (*b*)" is inserted "that on reasonable grounds he believes contain any information relevant to the enforcement of this Act . . . ."

The manufacturers have suggested a change in the new paragraph (*d*) to which we have agreed, namely after the words "seize and detain" add the words "for such time as may be necessary".

On subsection 2—"Definition".

The subsection was agreed to.

On subsection 3—"Inspector to show certificate of appointment".

The subsection was agreed to.

Subsections 4 and 5 were agreed to.

On subsection 6—"False Statements".

Dr. MORRELL: Subsection 6 is amended by adding the word "knowingly" after the words "No person shall". It now reads "No person shall knowingly make any false or misleading statement . . . ."

Subsection 6, as amended, was agreed to.

Subsection 7 was agreed to.

Subsection 8, as amended, was agreed to.

On Section 22—"Forfeiture—Release of seized articles."

The section was agreed to.

On Section 23—"Analysis"

Subsection 1 was agreed to.

On subsection 2—"Report".

Mr. LAVERTY: May it please you, Mr. Chairman, I would suggest that section 2 should read "When an analyst has made an analysis or examination he shall issue . . . ." instead of "he may issue". The person upon whom the seizure is made is very much interested in getting a certificate.

Dr. MORRELL: I should point out that if an analysis or an examination indicates that the material is satisfactory we do not always issue a certificate, because there is no action being taken. If we examine a sample, and it takes a long time, and the thing turns out all right, there is a question of delay in the interval for issuing a certificate. In those circumstances nothing is really accomplished, because no action is to be taken. When action is to be taken on any product or labelling, the certificate is always issued. We thought it would simplify the matter and shorten the time if we did not have to issue a certificate each time.

Mr. LAVERTY: Under the present Act you are forced to issue a certificate, are you not? The present Act says "a copy of such certificate shall be furnished forthwith by the Department to the person from whom the sample was procured."

Dr. MORRELL: In the present Act we have the official sample and provision to examine specimens as you know. In this bill the distinction is not made; and in connection with the specimen we do not have to issue a certificate. If after examining the specimen we find something wrong, we then take an official sample. If the specimen is all right, the manufacturer never hears about it.

Mr. CURRAN: Mr. Chairman, under the present Act it is only when samples appear adulterated or misbranded that a certificate is required.

Section 23 was agreed to.

On section 24—"Regulations".

Dr. MORRELL: We have agreed to the deletion of paragraph (*a*) of subsection 1. In the new paragraph (*a*) a change has been agreed to. Following the words "declaring that any food or drug or class of food or drugs is adulterated if any prescribed substance or class of substances . . . ." there has been added the additional words "is present therein or."

Paragraph (*a*) was agreed to.

Dr. MORRELL: In the new paragraph (*b*) a change has been made, and sub-paragraph (iv) now reads as follows:

> (iv) the use of any substance as an ingredient in any food, drug, cosmetic or device, to prevent the consumer or purchaser thereof from being deceived or misled as to its quantity, character, value, composition, merit or safety or to prevent injury to the health of the consumer or purchaser.

Paragraphs (*a*), (*b*), (*c*) and (*d*) were relettered and agreed to.

Dr. MORRELL: There is a small amendment in the new paragraph (*e*). Following the words "cosmetic or device in the interest of" a comma is placed and the balance of the paragraph reads "or for the prevention of injury to, the health of the consumer or purchaser."

Paragraphs (*e*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*) and (*l*) were agreed to.

The new paragraph (*m*) reads: "Adding anything to any of the said schedules, in the interest of or prevention of injury to the health of the consumer or purchaser, or deleting anything therefrom."

Paragraph (*m*) was agreed to.

Subsection 2 was agreed to.

Section 25—"Penalties" was agreed to.

Section 26 "Time-Limit" was agreed to.

Section 27—"Venue" was agreed to.

Section 28—"Want of knowledge" (1) (*a*) was agreed to.

On paragraph (*b*):

Dr. MORRELL: In paragraph (*b*) we are striking out the words: "is liable upon conviction for the costs of prosecution only" and we are substituting the words "shall be acquitted".

The CHAIRMAN: Shall the paragraph as amended carry?

The paragraph as amended was agreed to.

The CHAIRMAN: Shall subsection (2) carry?

Subsection (2) was agreed to.

The CHAIRMAN: Shall section 28 carry?

Section 28 was agreed to.

On section 29: Evidence—Certificates of Analysis.

Subsection (1) was agreed to.

Subsection (2) was agreed to.

The CHAIRMAN: Shall subsection (3) carry?

Mr. LAVERTY: Pardon me. As to subsection (3) I would suggest that the words "is identified or" be stricken out. I say this because we would not be able to tell whether he is our employee or agent unless he is identified. I think he should be identified.

Mr. CURRAN: May I speak to that? The purpose of that is to cover the situation where an inspector goes into a store which has a large number of employees and he makes a purchase from one of the employees in the store. The section contemplates that he has to prove that he made the purchase from an employee, but he may not know the name of the individual and it may not be possible for him to know which employee of the store he did buy the goods from, but he still has to prove it was an employee of the store who sold the goods. He does not have to identify him by name. He merely has to prove that he was an employee of that store.

The CHAIRMAN: Shall subsection (3) carry?

Subsection (3) was agreed to.

The CHAIRMAN: Shall subsection (4) carry?

Mr. CURRAN: There is a small change here in that the (*d*) which is in brackets will be changed to (*c*). This results from having moved the paragraphs up respectively after having dropped paragraph (*a*).

The CHAIRMAN: Shall subsection (4) carry?

Subsection (4) was agreed to.

The CHAIRMAN: Shall subsection (5) (*a*) carry?

Subsection (5) (*a*) was agreed to.

The CHAIRMAN: Shall subsection (5) (*b*) carry?

Subsection (5) (*b*) was agreed to.

The CHAIRMAN: Shall section 29 carry?

Section 29 was agreed to.

On section 30—Exports.

The section was agreed to.

On section 31—Coming into Force and Repeal.

The section was agreed to.

The preamble was agreed to.

The title was agreed to.

The CHAIRMAN: Shall I report the bill as amended?

Some Hon. SENATORS: Carried.

Mr. CURRAN: Before you report the bill as amended I should like to get it on the record that we have given consideration to a point raised at a previous hearing by Mr. Thompson of the Canadian Manufacturers Association. We said we would look into the matter further. He proposed that there should be some sort of secrecy clause added to the bill. I think it would be proper in Mr. Thompson's absence to have the record show that we have given most careful consideration to the possibility of a secrecy clause, but it was rejected because it was impracticable without induly restricting the operation of the Act. Every employee in the government service is required to take an oath of secrecy on taking his office. The penalties consequent on violation of that oath are left to the administrative action in the department concerned and it can mean dismissal of the employee. We feel that this is the proper way to safeguard the interests of the manufacturer rather than by providing a penalty provision for disclosure of information. Unlike the Income Tax Act and other legislation where there is no necessity to discuss without side agencies information obtained, we do on very frequent occasions find it necessary to discuss with, for example, the Canadian Medical Association and the National Research Council, and other agencies, some information respecting a new drug or the use of a drug or something of that kind. We think it would be unfair to an individual in such a department if each time he found it necessary to discuss something of that kind he would have to weigh against that discussion, in the interests of the Act, the consequences of a penalty. We think the secrecy oath which he takes as an employee of the government service should be a sufficient safeguard. I want that to go on record so that Mr. Thompson will not feel that the matter has been overlooked by the department.

Hon. Mrs. WILSON: May I ask a question here? I believe the Pharmaceutical Association representatives raised a point questioning an analysis.

Mr. CURRAN: May I speak to that. This section is comparable to sections contained in other statutes such as the Excise Act and the Opium and Narcotic Drug Act, where a certificate of analysis is accepted as *prima facie* evidence of the contents of the certificate. That does not mean, however, that the defence cannot produce evidence to challenge the value of the certificate. If they do that then, of course, the court can reject the certificate completely because it is only *prima facie* proof, and that would mean that the analyst who made the certificate would lose the value of his certificate completely unless he himself appeared in court and was able to substantiate the facts he put in the certificate. It does not preclude the defence from offering evidence to challenge the certificate or otherwise question it.

Hon. Mrs. WILSON: They have it under the present Act, have they not?

Mr. CURRAN: Yes. In the present Act there is a provision which is rather curious. I would quote section 13(3):

> The certificate so given shall be received as evidence in any proceedings taken against any person in pursuance of this Act, subject to the right of such person to require the attendance of the Dominion analyst for the purpose of cross-examination.

That has had a very curious history and has been worked out in a peculiar way because you will see that the section itself contemplates a certificate being taken as evidence of the facts therein stated, even though the man who made the certificate can be called to be cross-examined. There is nothing in

the section which says that if he is cross-examined the magistrate can reject the certificate, and we felt that was unfair to the accused. It would be much better if the certificate itself, be only *prima facie* evidence, leaving it to the accused to challenge the certificate and perhaps have it rejected completely.

Hon. Mr. BURCHILL: The newer section is more fair to the accused than the old one.

Mr. CURRAN: Yes, we think it is more fair to the accused.

Hon. Mrs. WILSON: They are satisfied with that, are they?

Mr. LAVERTY: I would not say that. I do not know about foods but when it comes to drugs very much depends on how the analysis was made, and if the certificate does not show how the analysis was made I am informed that it is nearly worthless. That is why we made representations that we should have the right to have him there if we wanted.

Hon. Mr. HAWKINS: There is a means of getting him there now.

The CHAIRMAN: Shall I report the bill as amended?

Some Hon. SENATORS: Carried.

Hon. Mr. STAMBAUGH: Mr. Chairman, if it is in order I should like to express our appreciation to the members of the department who have appeared before us. I would congratulate them on the very thorough and informative way in which they have gone into this matter, and speaking personally it has been a great education to me. I think the departmental representatives have been very fair and careful in listening to the various representations made by the different associations that have appeared before us, and where necessary they have answered most creditably. Is that statement in order, Mr. Chairman?

The CHAIRMAN: Absolutely. Thank you very much I would thank the members of the committee for the serious consideration they have given to this bill.

Dr. G. D. W. CAMERON, Deputy Minister of National Health and Welfare: Mr. Chairman and honourable senators, I should like to thank Senator Stambaugh for his kind remarks respecting the officers of this department who have appeared before the committee.

I should also like to express our appreciation to the members of this committee for the careful and sympathetic consideration which they have given to the legislation that is now to be reported to the Senate.

The bill reflects social legislation of very great significance and it has been the desire of the department that it should make the most adequate and effective provision to safeguard the health and interests of the people of Canada.

That the measure which has been under consideration can be reported following some four meetings at which the views and representations of the trade groups concerned could not only have been considered, but substantially met, is, I think, a tribute to the co-operation which the department has received from those groups at all times.

It is such co-operation that makes for happy and effective administration and this perhaps reflects a significant aspect of our social progress in the three quarters of a century since the first Food and Drugs Act came into force in Canada.

The CLERK OF THE COMMITTEE: Gentlemen, Dr. Morrell has asked that there be included in the record as part of his presentation the following paragraph:

My department assures the Canadian Pharmaceutical Manufacturers Association that the subject of sampling of foods and drugs for the purposes of the Act will be dealt with by regulation, and that before recommending such a regulation to the Honourable the Minister of National Health and Welfare we will consult with their Association on this matter with a view to obtaining their concurrence in the wording of the regulation.

The Committee thereupon adjourned.

REPORT OF THE COMMITTEE

The Standing Committee on Public Health and Welfare to whon was referred the Bill "J", intituled: "An Act respecting Food, Drugs, Cosmetics and Therapeutic Devices", have in obedience to the order of reference of 26th November, 1952, examined the said Bill and now beg leave to report the same with the following amendments:—

1. Page 1, line 12. Delete "that may be used in or is" and substitute "manufactured, sold or".

2. Page 1, line 20. Delete "that may be used in or is" and substitute "manufactured, sold or".

3. Page 1, line 21. Delete "(i)".

4. Page 1, line 23. After "animal" delete the "comma" and "or" and substitute a "semicolon".

5. Page 2, lines 1 and 2. Delete paragraph "(ii)".

6. Page 2, line 4. Delete "that may be used for or is" and substitute "manufactured, sold or".

7. Page 2, line 13. Delete "that may be used for" and substitute "manufactured, sold or represented for use as".

8. Page 2, line 14. Delete "by" and substitute "for".

9. Page 2, line 28. Delete "and".

10. Page 2, line 30. Delete "manufacture for sale".

11. Page 2, line 31. Delete the "period" and substitute a "semicolon" and add the word "and".

12. Page 2. Add new paragraph "(*n*)", as follows:—

(*n*) "unsanitary conditions" means such conditions or circumstances as might contaminate a food, drug or cosmetic with dirt or filth or render the same injurious to health.

13. Page 3, line 9. Delete "in any unsanitary place or".

14. Page 3, lines 25 and 26. Delete "in any unsanitary place or".

15. Page 3, line 29. Delete "in any unsanitary place or".

16. Page 4, lines 22 and 23. Delete "in any unsanitary place or".

17. Page 4, line 36. After the word "of" add the following words "samples of".

18. Page 5, line 12. Delete "in my unsanitary place or".

19. Page 5, lines 20 and 21. Delete "in any unsanitary place or".

20. Page 6, line 6. After the word "any" insert the word "reasonable".

21. Page 6, line 7. Delete paragraph (*a*) of sub-clause (1) and reletter subsequent paragraphs as (*a*), (*b*), (*c*) and (*d*).

22. Page 6, line 10. Delete "(*a*) enter any place where he reasonably believes any". and substitute "(*a*) enter any place where on reasonable grounds he believes any".

23. Page 6, line 12. After the word "stored" insert a "comma" and add the following words "examine any such article and take samples thereof,".

24. Page 6, line 16. Delete "he".

25. Page 6, line 17. Delete "reasonably believes contains any article to which this" and substitute "on reasonable grounds he believes contains any article to which this".

26. Page 6, line 20. After "(*a*)" delete "or (*b*)".

27. Page 6, line 21. Delete "that he reasonably believes contain any information" and substitute "that on reasonable grounds he believes contain any information".

28. Page 6, lines 22 and 23. Delete "with respect to any article to which this Act or the regulations apply and make copies thereof or extracts" and substitute "relevant to the enforcement of this Act with respect to any article to which this Act or the regulations apply and make copies thereof or extracts".

29. Page 6, line 25. After the word "detain" add the following "for such time as may be necessary".

30. Page 7, line 8. After the word "shall" insert the word "knowingly".

31. Page 7, line 17. After the word "other" insert the word "proper".

32. Page 8, lines 11, 12 and 13. Delete paragraph "(*a*)", of sub-clause (1) and reletter subsequent paragraphs as (*a*), (*b*), (*c*), (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*), (*l*) and (*m*).

33. Page 8, line 16. After the word "substances" add the following words "is present therein or".

34. Page 8, line 28. Delete "with a view to preventing the consumer or purchaser" and substitute "to prevent the consumer or purchaser".

35. Page 8, lines 30 and 31. After the word "safety" delete "or with a view to protecting the public health or preventing" and substitute "or to prevent".

36. Page 8, lines 41 and 42. After the word "of" insert a "comma" and delete "and for the protection of the public health;" and substitute "or for the prevention of injury to, the health of the consumer or purchaser;".

37. Page 9, lines 29 and 30. After the word "to" delete "or deleting anything from any of the Schedules." and substitute "Any of the Schedules, in the interest of, or for the prevention of injury to, the health of the consumer or purchaser, or deleting anything therefrom".

38. Page 10, lines 23 and 24. After the word "accused" delete "is liable upon conviction for the costs of prosecution only", and substitute "shall be acquitted.".

39. Page 11, line 17. After the word "paragraph" delete "(*d*)" and substitute "(*c*)".

All which is respectfully submitted.

C. J. VENIOT,
Chairman.