

HEALTH FRAUDS AND QUACKERY

HEARINGS BEFORE THE SUBCOMMITTEE ON FRAUDS AND MISREPRE- SENTATIONS AFFECTING THE ELDERLY OF THE SPECIAL COMMITTEE ON AGING UNITED STATES SENATE EIGHTY-EIGHTH CONGRESS SECOND SESSION

Part 1.—San Francisco, Calif.

JANUARY 13, 1964

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Part 4b }

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MEDICAL QUACKERY AND HEALTH FRAUDS

(Part 1)

MONDAY, JANUARY 13, 1964

SENATE SUBCOMMITTEE ON FRAUDS AND
MISREPRESENTATIONS AFFECTING THE ELDERLY
OF THE U.S. SENATE SPECIAL COMMITTEE ON AGING,
San Francisco, Calif.

The subcommittee met at 9 a.m. in room 1194, State Building Annex, 350 McAllister Street, San Francisco, Calif., Senator Harrison A. Williams, Jr., chairman.

Present: Senator Harrison A. Williams, Jr., and Senator Maurine B. Neuberger.

Also present: William E. Oriol, professional staff; John Guy Miller, professional staff of the minority; and Patricia Slinkard, chief clerk.

Senator WILLIAMS. I think we will bring this hearing to order and get underway. I would like to say that Senator Neuberger and I are very happy indeed to be in this city of San Francisco, so ably administered by our former colleague, Mayor Shelley, who is with us this morning.

We have a long witness list today, and everybody has agreed that they will try to present their material as succinctly as possible.

I know I have a statement that I will put into the record rather than read it completely at this time. I will summarize the points made there.

The Senate Committee on Aging recognizes that quacks and other promoters have made the elderly the major target for unscrupulous selling campaigns, and quackery is certainly the worst of these.

To combat these pitchmen and promoters, we have established this Subcommittee on Frauds and Misrepresentations Affecting the Elderly. The first hearing of this subcommittee is the one here today, and we expect that there will be much to be learned from this hearing. We expect that it will be very useful, because enforcement crackdown by Federal and State agencies have forced quacks to camouflage their operations.

Promoters have become more subtle, and thus they are potentially more dangerous. We believe that this hearing will help us gather information on new methods of staying within or just beyond the letter of inadequate law.

We also want to hear more about State laws on cancer quackery control and the regulation of fraudulent medical devices. It is quite possible that such legislation could encourage Federal and State cooperation for mutual goals.

Our final reason for coming to California is that there is an influx of elderly into the State. We have been told there has been a corresponding increase in some forms of quackery. We want to hear more about this problem and about the efforts of public agencies and private citizens to overcome this problem.

We have divided the hearing roughly into two parts. We will hear about law enforcement programs in the morning and educational programs this afternoon.

Each witness has been told that he may supplement his statement today and supplement his statement within 2 weeks. This afternoon, we hope at 4 o'clock or so to open the meeting to a general town meeting type of discussion.

(The prepared statement of Senator Williams is as follows:)

PREPARED STATEMENT OF SENATOR HARRISON A. WILLIAMS

Our hearing today continues the work begun last year when the Senate Special Committee on Aging began its inquiry into major frauds and misrepresentations that victimize older Americans.

Three full days of preliminary testimony gave us dismaying insight into the special problems facing older consumers today.

We learned that men and women near or past retirement age have become the chief target of schemers who see them simply as a new and growing market for exploitation.

We learned that pitchmen and promoters of all kinds have made greedy inroads into the pension incomes or savings of many older Americans. Frankly, we were shocked that so many Americans—at a time in life when they can least afford to be cheated or endangered by worthless offerings—apparently do not have sufficient protection or information to be safe from salesmen of frauds, sorrow, and loss.

We were most shocked by the information we received about medical quackery and health frauds.

Witnesses told us that quackery of all kinds cost all age groups at least \$1 billion a year. This was an estimate based on information collected a few years ago. As I learn more about the problem, I become more convinced that this estimate is too low.

It seems to me that there are losses that go far beyond the original purchase price for the phoney treatment, the useless gadget, the inappropriate drug or pill. How can we measure the cost in terms of suffering, disappointment, and final despair? Do we really know how many Americans are quietly using therapy or products that give them neither cure nor the hope of cure? Can we be sure that we know the full extent of operations by questionable clinics and neighborhood practitioners?

In hopes of gathering new perspective on quackery and other schemes of direct concern to the elderly, the U.S. Senate Special Committee on Aging followed up its preliminary hearings with the establishment of a subcommittee specifically charged with the responsibility of investigating frauds and misrepresentations affecting the elderly.

The responsibility of that subcommittee is broad and far ranging. We have decided to make medical quackery the first subject of hearings because the quack takes not only money from his victims but often any chance of cure. He is the worst fraud of all.

But it would be dangerous, I think, to regard the quack and other health hoaxers as blatantly obtrusive. It is becoming more and more apparent, in fact, that recent enforcement efforts by some States and Federal agencies have hit hard at most of the more outrageous sellers of useless products or treatments.

As a result, many of these practitioners are restudying the regulations. They're looking for new ways to continue their trade without really offering value to patients.

My own feeling at this moment—and I hope that this hearing will give us more information on the subject—is that this more subtle approach could prove more dangerous. The oldtime medicine man could be easily recognized for what he was, but styles change even in quackery. We're now troubled by those who assume worthy attitudes on some good causes while they continue to pursue lucrative, if questionable, schemes that often have poignant consequences for the elderly. We're also troubled by those who live up to the letter of inadequate laws while pursuing disreputable purposes.

Thus, we have come to California for this hearing on health frauds and quackery because we expect to hear more about the new forms that quackery may have taken in recent months.

We want to hear more, for example, about the salesmen and manufacturers of fraudulent medical devices. Has the California State law forced them to adopt

new methods, and what can be done on a Federal level to help States that are trying to grapple effectively with this problem?

We would also like more information about the legislation passed by California in 1959 to combat cancer quackery.

This pioneer legislation merits special study by Federal authorities, not only because of its novel approach, but also because it may offer opportunities for Federal-State cooperation. I realize that many questions have been raised about this law. I welcome the opportunity to hear more about it today.

Today's hearing has been divided roughly into two parts. In the morning we will hear about enforcement efforts. In the afternoon we will hear from educators and others concerned about consumer education programs. The elderly, after all, can be regarded as a fairly distinct consumer group with unique needs and unique problems. We have not yet recognized this as fully as we should.

There is no question, for example, that the elderly have become the biggest new market for schemes related to quackery and other health frauds. Our older citizens are being defrauded through the mails, in the treatment rooms of quacks, and by door-to-door salesmen or "lecturers" who prey upon fears and the prayerful yearning for cures or relief from pain.

California is of special interest to the subcommittee because of the influx of elderly who are coming to this State. We're told that 1,700,000 persons here are now over 65 years of age, and that about three-fourths of these citizens have some type of chronic condition, such as heart disease or arthritis. A recent State report also indicates that some forms of quackery are on the increase in this State despite the public and private programs to destroy them.

If California has major problems, it also has great determination and positive programs to overcome those problems. Competent physicians and private citizens are among those who recognize the menace of quackery. But they are also among those who are trying to keep the way clear for adoption of new and effective methods or products. They know that scientific truths cannot be established except by scientific methods and that personal opinions cannot substitute for objective findings.

It is a pleasure to be with you today.

Senator WILLIAMS. Before we get underway, Senator Neuberger, do you have an opening statement for the record?

Senator NEUBERGER. I would like to commend my distinguished colleague, Senator Williams, for the leadership he has given in this field of investigation. I have long been interested in consumer problems, and we found working in the area of the aged, that was the place to begin because in this era of health fads, the aged, especially, are more susceptible to the advances of the quack peddlers.

I want to say how delighted I am that President Johnson has appointed a distinguished woman to head up the consumer department of our Government, and this will affect the whole gamut of quackery and go even beyond it.

Every time I hear somebody criticize the Federal Government, I think of all of the protection and all the concern for the welfare of human beings that comes from your Federal Government.

I hope that this Committee on the Aging with this investigation will show that our Government is interested in you.

Senator WILLIAMS. Thank you. It was just over a year ago that members of this committee were here in San Francisco. We were looking into the problems of elderly people, the problems with which they are faced when they are forced to vacate their homes because of Federal construction programs.

At that time Congressman Shelley spent a full day with us and indicated his concern with the problems of older people. It is in character for him to be back with us today again expressing his concern.

STATEMENT OF HON. JOHN F. SHELLEY, MAYOR, CITY OF SAN FRANCISCO

Mayor SHELLEY. Thank you very much, Mr. Chairman.

Senator Neuberger, Senator Williams, welcome to San Francisco. In my new capacity as mayor, I have a just as keen if not more keen interest in the problems of the aged, particularly as it exists in this city. We are a city where the proportion of elderly citizens is growing all the time. I want to compliment the committee on what it is doing. I hope you follow through on some of the problems we encountered last year in supplying housing for some of these single men. In this community, certain redevelopment projects have eliminated the moderate priced hotels in which they are now living. Of course, as we improve our health facilities, we all recognize that there will be more aged living longer with minor ailments occurring as the years advance.

And the type of thing you are doing now will set a milestone for their protection for the future.

I sincerely hope you do a good job, and you will get the information which will assist you in drafting and enacting the proper kind of legislation.

Thank you.

Senator WILLIAMS. We appreciate that very much, Mayor.

Now we will have a statement from our first witness, Charles A. James, who is an Assistant Attorney General of California. One of his responsibilities is to head up the consumer protection program.

Mr. James.

STATEMENT OF CHARLES A. JAMES, ASSISTANT ATTORNEY GENERAL OF CALIFORNIA

Mr. JAMES. Senator Williams, Madam Senator Neuberger, Mayor Shelley, I am appearing on behalf of the attorney general, Stanley Mosk, who sends his regrets that he cannot attend personally.

He had fully planned to be here, but he had a commitment that could not be changed. General Mosk also extends his warm welcome to you and the appreciation of the people of the State of California for your concern about the problem of misrepresentation and fraud upon our venerable citizens, the elderly.

Today you focus on quackery as it affects the aged, and it is our function to make available to you the information at our disposal.

Most of the schemes to defraud, the nostrums and gadgets that are earmarked for quackery, are not geared especially or restricted to the elderly, but it is fair to say that the aging may oftentimes provide a disproportionate share of the population victimized by the schemes.

As of July 1, 1963, approximately 1,506,000 of California's total population of 17,354,000 were over the age of 65.

This group becomes an ideal market for the peddlers who seek profit in the marketplace of fear, despair, and ill health. We are talking about murder with a fusillade of words fired from a battery of misrepresentation which will maim and kill its victims as surely as a fusillade of lead.

We are talking about the deadly lie that poisons its victims with a false security, finally lulling them into an eternal sleep as surely as carbon monoxide.

The unfortunate victims of cancer, arthritis, pernicious anemia, and many other crippling and disabling diseases who in desperation grasp at the false hope offered by the quack with his useless but impressive-looking gadgets and his worthless pills and medicine-man harangue, discover too late that the fateful ebb of time has left them stranded on the reef of no recovery, beyond the reach of those who could have helped.

This crime compels urgent attention of those charged with the administration of justice, and those of you who would make the laws so that justice may be administered.

Good health and vitality have no equivalent in money, and the average human being would consider the world's largest personal fortune a small price to pay for good health.

The quack enthusiastically promises good health and vitality in order to accommodate the average person who is willing to give up his worldly possessions for the promise. The quack knows that his gadgets, incantations, and his powders that are less than magic are not only worthless, but deprive the hapless victim of an opportunity to secure sound advice and treatment.

The ingenuity and boldness of the quack challenge the utmost resourcefulness and vigilance on the part of law enforcement and citizenry of the State.

In October 1963 the Federal Food and Drug Administration issued a report on fake medical devices against which it had taken action. This report stated that the Food and Drug Administration had seized 111 different types of worthless or misbranded devices within a 24-month period preceding the issuance of the report.

During this period there were 358 seizure actions involving 7,986 devices. Some of the devices found which were manufactured in California included the following:

(1) Moulinex electric grinder-blender (Live Food Products Co., Burbank, Calif.); which when used was supposed to overcome tension and anxiety; increase strength, endurance, and energy; create a rich, red, powerful bloodstream, and prevent colds.

(2) Abunda Beauty (bust developer). This was a device with water hose attachment and cup. The claims that this device would develop the bust were false. However, the speaker did not personally check this.

(3) Oriental Mystic Magnetic Health Bracelet (Shipper "Chip" Quon, Quon Importing Co., Los Angeles). Claims—fatigue, high and low blood pressure, neuralgia, rheumatism, change of life, retard the aging of women, insomnia, headache, hyperacidity of the stomach.

These demonstrate that the snake oil medicine man has exchanged his stock for food supplements, and has rephrased his pitch in 20th-century language. He has added to his stock electronic devices with curious dials. He can cure and prevent cancer, cardiac conditions, chronic disturbances of the gastrointestinal tract, dermatoses, rheumatism, improper blood pressure, nervousness, and anemia.

As you will learn from other testimony, the California Bureau of Food and Drugs Inspections, under the direction of Mr. Milton Duffy, has been moving vigorously against the phony gadgets and fake cures. State food and drug has uncovered rackets such as the homemade cancer medicine which was in reality a low-frequency sound machine, and of no beneficial use in preventing or curing any

disease; a cancer drug made by grinding livers of unborn rabbits; another so-called cancer cure is estimated to have made \$1,250,000 a year for its four operators until State food and drug moved on them.

Then there was the Gravivonic Life-Ray Table which was held out to be the only cure for cancer. This machine was represented to involve a radio signal with a secret combination tube which altered the sound so that the machine would stimulate cancer germs to death. In actuality, the machine was basically a tape recorder with a shock hazard.

Another was the Brain Wave Synchronizer that was used by a self-styled hypnotist who gave assurances that the machine would cure many ailments. The purveyor of this device represented himself as a psychologist and doctor of philosophy. Actually, he had not finished high school.

There was the magic-wand practitioner who talked to turtles to make a diagnosis.

As dramatic as the gadgets and extreme cures may be with their fatal attractions, we cannot ignore still others who capitalize on human illness, fear, and desperation with offers of false security.

Just today our office is filing a judgment against a so-called health plan which in its prospectus listed, as participants in the plan, doctors and clinics who had never heard of it. It was curious that the monthly premium was the exact amount allocated for health insurance under our old-age assistance program.

There have been health studios which debase the fine objective of physical fitness by deliberately exaggerated claims of miraculous transformation. We have these in California, but they have not gone unnoticed. Recent legislation has curbed such operations and provided tools to be used against those that persist.

There are the dance studios with a studied insight into the loneliness of the aging widow (oftentimes a debilitating disease of the elderly) which callously relieve her of her resources with cruel flattery and calculated cunning.

All of these: the fraudulent medical plans, the phony health studio, the ghoulish dance studios, are engaged in a type of quackery with almost as much devastation as the cancer quack.

California has a myriad of laws that relate to quackery. In 1959 the legislature added chapter 7 to the health and safety code (secs. 1700 through 1721), declaring a public need for knowledge of facilities for diagnosing and the curing of cancer, and recognizing the importance of continued scientific research in this area.

The chapter established a cancer advisory council and provides for the testing of medicines or devices used in the diagnosing and treatment itself of cancer. Violation of this chapter constitutes a misdemeanor.

Excepted from the provisions is the "prayer for healing." Included are sections 1713 and 1714, which prohibit use by a person enjoined under this procedure, of new medicine or device, before submission for investigation and testing, making it a misdemeanor for any person willfully and falsely to represent a device, substance, or treatment as effective to arrest or cure cancer.

There are provisions in the health and safety code prohibiting the dissemination of any false advertisement of a drug or device (secs. 26286 and 26286.5).

California Medical Practice Act (ch. 5, sec. 2000(b)), found in our business and professions code, provide for licensing of medical practitioners, and prohibits unlicensed persons from practicing.

There is established the California State Medical Board, which is authorized to discipline its licensees for violation of the provisions of the act. Of significance here is the board's authority to discipline its licentiate for aiding and abetting persons to practice medicine and the recent addition of section 2378.5, which makes a violation by a licensee of the provisions of the cancer quackery law subject to discipline.

To date, the board has not had a case involving its licentiate.

There are tools available in our penal code which makes the obtaining of money under false pretenses the crime of theft. Investigative techniques have improved, and the services provided by our bureau of criminal identification and investigation prove an invaluable asset to the enforcement agencies involved.

The department of public health licenses private hospitals. On occasion there have been reports of abuses which have been quickly investigated by that department which has the authority to discipline the licensee. There is concurrent jurisdiction in the local law enforcement, such as the district attorney or public prosecutor.

In our department of justice, our bureau of criminal identification and investigation, our business frauds and consumer frauds are geared to assist local law enforcement in its drive to isolate and eliminate the white-collar or white-coated criminal from our society.

In addition, we are designing this function of the department to assist and coordinate enforcement for efficient detection and prevention.

Although pride in our progress is merited, there is no room for smugness and satisfaction as long as one dollar is procured by fraud and deceit, particularly when it is accompanied by the deadly price of health and life.

Constant review and adaptation of tools and weapons, our laws and enforcement, are necessary just to keep pace with this devious type of crime. To forge ahead in this activity, we must attend to preventive measures. We must provide to the public full information about the devices, schemes, and practices, and we must insure that our programs for the aged will secure them from the attractive blandishments of the purveyors of false hopes.

We would recommend that serious attention be given to expanded programs of Federal and State cooperation, that there be established regular communication among the States and with the Federal agencies that are charged with responsibility in this field.

Hopefully, our enforcement efficiency may be improved. In addition, programs of public information can and should be emphasized and expanded. There should be full exposure of those individuals and groups that scheme to defraud and deceive.

It goes without saying that legislative tools are necessary, accompanied with budgets that are adequate to the responsibilities charged to several agencies in this field.

Today's hearing is in itself a milestone that gives us all renewed energy to pursue the ultimate goal of protecting the public, and particularly our defenseless aged from the thief who steals his money, his health, and oftentimes his life.

Thank you very much.

Senator WILLIAMS. Thank you, Mr. James. You have an appendix supplement to your statement that you want to include in the record?

Mr. JAMES. Yes, I do. This summarizes the various laws that deal with protecting people from misrepresentation and fraud. This relates particularly to the cancer control laws. We have some other laws that are applicable or apt for this hearing, and we will submit those at a later date.

Senator WILLIAMS. I don't recall. Did you give us the effective date of the cancer control law?

Mr. JAMES. Yes; it expires December 31, 1965.

Senator WILLIAMS. When did it start?

Mr. JAMES. This law was enacted in 1959, and has an expiration date which we have noted here.

(See p. 10.)

Senator WILLIAMS. One of your major problems is the adequacy of enforcement of the laws that you now have on the books, is that right?

Mr. JAMES. Yes; there is a major problem in enforcement with the Cancer Control Act with an expiration date. There is hardly time to get your enforcement machinery in gear before you have to consider it again.

I think our legislature in its wisdom would expand and extend such an act if it finds it is adequate for the purpose for which it is designed.

Senator WILLIAMS. Do you have any specific suggestions for new active programs, either administrative or legislative, at the Federal level?

Mr. JAMES. Well, one of the things that I am particularly interested in is the availability of information. Because we feel that all of the aged groups are apparently involved in the consumer protection programs, and that a full availability of information, not only about the problems, but also about the techniques used by various law enforcement agencies throughout the country, including Federal agencies, might be of extreme benefit to everybody. We are hopeful that there will be developed a technique for facilitating the flow of information both ways, both Federal and State, and among the several States.

Senator WILLIAMS. You have in California, it seems to me, a developing way for older people to retire—a full community of retired people. We have seen some of these communities and we hear of a lot more.

I would think that having a great group of older people all gathered in one community makes the market easier to reach for those who would be engaged in questionable activities, including quackery.

Mr. JAMES. I think you are entirely right, Senator, but at the same time I believe that knowing that the market is located in one spot or in one community can also provide us with a little more efficient enforcement when we know that the elderly become the target.

Senator NEUBERGER. I have been fascinated by your report, and it makes me think that California is ahead of many other States in the Union in trying to control this problem. It seems to me there is a gap; though.

You do have adequate laws, and I have not read all of the appendixes, but I have looked at them. Where is the gap that allows all this to flow through the community? Is it enforcement?

Mr. JAMES. Well, we believe that the time lag between the discovery of the fraud as it is being practiced, and the putting of enforcement into actual gear, provides one problem. Many times enforcement agencies do not discover the frauds that are being practiced, and I think part of this is due to the reluctance of the people to disclose the fact that they have been deceived.

Then there may be a time lag in the discovery of the fact of deception.

Senator NEUBERGER. But before the victim can be victimized, how has he been appealed to? In other words, there has to be an advertisement or a radio announcement or the mailing of literature?

Mr. JAMES. There may be mailing of literature, there may be radio announcements, or there may be advertisements, but again there are other techniques such as the telephone solicitation which is directly beamed at the individual, usually with some prior knowledge of his identity, and usually with some come-on where you have won something or have gotten something for nothing, or there is some special consideration being offered you for engaging in a program, and the person at that point does not suspect what is to come in the future, and then he is finally hooked, or there may be some word of mouth transferral.

Senator NEUBERGER. Would you say that the postal laws then are strong enough to be able to go in and crack down on any of this that comes through the mail?

Mr. JAMES. Anything that comes through the mail the postal laws can deal with.

Senator NEUBERGER. And a lot of it is coming through the mail, isn't it?

Mr. JAMES. Yes; a lot of it is often referred to our office, and usually it is referred directly to the postal inspector, if it involves this type of thing.

Senator NEUBERGER. So this is one area where the Federal Government may be useful?

Mr. JAMES. Very definitely.

I think the postal laws and postal inspectors are doing a fine job here in California.

Senator NEUBERGER. You said some of the snake oil magic unfortunately was manufactured in California. Is there anything that can be done at the source? Do you have to let them go ahead and manufacture it and wait until they start to disseminate it before you can do anything about it?

Mr. JAMES. I think perhaps the manufacture, per se, is probably not against the law, any law that I can think of. Presumably an individual can manufacture all sorts of devices and keep them in his basement and play with them, but the minute he begins to utilize these devices to secure money or attract an individual or represent that he is practicing some kind of specialized medicine for any consideration whatsoever, then he has broken the law, but presumably he can manufacture them. I think probably at the time they manufacture a device for consideration is the appropriate time to strike.

Senator NEUBERGER. Of course, it is against the law for him to grow poppies and make opium and develop marijuana.

Mr. JAMES. It is, indeed.

Senator NEUBERGER. And we have gone that far, and I was wondering about this, too.

Mr. JAMES. Certainly the law could be extended to prohibit the manufacture of any device, and I am not so sure that some of our laws don't do this.

Senator NEUBERGER. It would probably be hard to enforce, because he could evade it, I suppose.

Mr. JAMES. The manufacture with the intent to use it, that is where we can get him, but, of course, the difficulty is in proving the intent.

Senator WILLIAMS. Thank you.

(The appendix referred to follows:)

APPENDIX A

"By a statute enacted in 1959, the legislature finds that misleading representations have been made to the public regarding purported cancer remedies and that these have resulted in needless cancer deaths, as well as financial victimization. Accordingly, a cancer advisory council is created in the public health department, and the department itself is authorized to investigate and test purported cancer remedies and to hold hearings thereon before the council. Persons representing themselves as engaged in the diagnosis or treatment of cancer are required, on written request by the department, to furnish the necessary samples and information for such investigation and testing. Failure to do so gives rise to a conclusive presumption that the remedy is of no value. Following an investigation or testing, and after hearing, the department on recommendation of the council may issue a cease and desist order and, if this is not obeyed, may bring injunction proceedings in superior court. The department may also publish reports based on its investigation and testing and, when a majority of the council are of the opinion that a purported cancer remedy is an imminent danger to health or a gross deception of the public may publicize such opinion. It is a misdemeanor for a person representing himself as engaged in the diagnosis or treatment of cancer to fail to comply with the statute or with any department order validly issued under the statute. And it is likewise a misdemeanor wilfully and falsely to represent a device, substance, or treatment as effective to arrest or cure cancer. A third or subsequent violation is a felony. The statute expires December 31, 1965."

§ 1700. Legislative findings.

The effective diagnosis, care, treatment, or cure of persons suffering from cancer is of paramount public importance. Vital statistics indicate that approximately 16 percent of the total deaths in the United States annually result from one or another of the forms of cancer. It is established that accurate and early diagnosis of many forms of cancer, followed by prompt application of methods of treatment which are scientifically proven, either materially reduces the likelihood of death from cancer or may materially prolong the useful life of individuals suffering therefrom.

Despite intensive campaigns of public education, there is a lack of adequate and accurate information among the public with respect to presently proven methods for the diagnosis, treatment and cure of cancer. Various persons in this State have represented and continue to represent themselves as possessing medicines, methods, techniques, skills, or devices for the effective diagnosis treatment, or cure of cancer, which representations are misleading to the public, with the result that large numbers of the public, relying on such representations, needlessly die of cancer, and substantial amounts of the savings of individuals and families relying on such representations are needlessly wasted.

It is, therefore, in the public interest that the public be afforded full and accurate knowledge as to the facilities and methods for the diagnosis, treatment, and cure of cancer available in this State and that to that end there be provided means for testing and investigating the value or lack thereof of alleged cancer remedies, devices, drugs, or compounds, and informing the public of the facts found, and protecting the public from misrepresentations in such matters.

The importance of continuing scientific research to determine the cause or cure of cancer is recognized, and the department shall administer this chapter with due regard for the importance of bona fide scientific research and the clinical testing in hospitals, clinics, or similar institutions of new drugs or compounds. (Added Stats. 1959, c. 789, p. 2799, § 2.)

§ 1701. Cancer advisory council; membership; appointment; terms.

There is in the State Department of Public Health a Cancer Advisory Council composed of nine physicians and surgeons licensed to practice medicine in, and residing in, this State, three persons who are not physicians and surgeons, two persons representing nonprofit cancer research institutes recognized by the National Cancer Institute, and the director of the department, who shall be an ex officio member. The members of the council shall be appointed by the Governor to serve for terms of four years. The Governor shall make the first appointments hereunder for terms expiring, respectively, on the fifteenth day of January, as follows: three in the year 1960, three in the year 1961, four in the year 1962, and four in the year 1963. The Governor, in appointing the first members, shall appoint at least one member from the faculty of each of the schools teaching medicine and surgery and located in this State that are approved by the State Board of Medical Examiners and the State Board of Osteopathic Examiners, or either of them. The Governor shall endeavor to maintain one member from the faculty of each school in making subsequent appointments. (Added Stats. 1959, c. 789, p. 2799, § 2.)

§ 1702. Compensation; traveling expenses.

The members of the council, other than the director of the department, shall receive no compensation for their services, but shall be allowed their actual necessary traveling expenses incurred in the discharge of their duties. (Added Stats. 1959, c. 789, p. 2800, § 2.)

§ 1703. Chairman; meetings.

The council shall annually elect one of its members to serve as chairman. The council shall meet at least twice each year, and as often in addition as necessary, for the purpose of carrying out its duties. (Added Stats. 1959, c. 789, p. 2800, § 2.)

§ 1704. Powers and duties of department of public health.

The department shall:

(a) Prescribe reasonable rules and regulations with respect to the administration of this chapter.

(b) Investigate violations of the provisions of this chapter, and report such violations to the appropriate enforcement authority.

(c) Secure the investigation and testing of the content, method of preparation, efficacy, or use of drugs, medicines, compounds, or devices proposed to be used, or used, by any individual, person, firm, association, or other entity in the State for the diagnosis, treatment, or cure of cancer, prescribe reasonable regulations with respect to such investigation and testing, and make findings of fact and recommendations upon completion of any such investigation and testing.

(d) Hold hearings in respect to those matters involving compliance with the provisions of this chapter and subpoena witnesses and documents. Any or all such hearings may be held before the Cancer Advisory Council. Any administrative action to be taken by the department as a result of such hearings shall be taken only after receipt of the recommendations of the council. Prior to issuance of a cease and desist order under Section 1711, a hearing shall be held. The person furnishing a sample under Section 1707 shall be given due notice of such hearing and an opportunity to be heard.

(e) Contract with independent scientific consultants for specialized services and advice.

In the exercise of the powers granted by this section, the department shall consult with the Cancer Advisory Council. (Added Stats. 1959, c. 789, p. 2800, § 2.)

§ 1705. Cancer defined.

For the purposes of this chapter "cancer" means all malignant neoplasms regardless of the tissue of origin, including malignant lymphoma and leukemia. (Added Stats. 1959, c. 789, p. 2800, § 2.)

§ 1706. Necessity of license for treatment of cancer by use of drugs, surgery, or radiation.

No person may undertake to treat or alleviate cancer by use of drugs, surgery, or radiation unless such person holds a license issued under a law of this State expressly authorizing the diagnosis and treatment of disease by use of drugs, surgery, or radiation. (Added Stats. 1959, c. 789, p. 2801, § 2.)

§1707. Furnishing of samples and information to department; presumption on failure to furnish.

On written request by the department, delivered personally or by mail, any individual, person, firm, association, or other entity engaged, or representing himself, or itself, as engaged, in the diagnosis, treatment, alleviation, or cure of cancer shall furnish the department with such sample as the department may deem necessary for adequate testing of any drug, medicine, compound, or device used or prescribed by such individual, person, firm, association, or other entity in the diagnosis, treatment, alleviation, or cure of cancer, and shall specify the formula of any drug or compound and name all ingredients by their common or usual names, and shall, upon like request by the department, furnish such further necessary information as it may request as to the composition and method of preparation of and the use to which any such drug, compound, or device is being put by such individual, person, firm, association, or other entity. This section shall apply to any individual, person, firm, association, or other entity that renders health care or services to individuals who have or believe they have cancer. This section also applies to any individual, person, firm, association, or other entity that by implication causes individuals to believe they have cancer.

The failure to either provide the sample, disclose the formula, or name the ingredients as required by this section shall be conclusively presumed that the drug, medicine, compound, or device which is the subject of the department's request has no value in the diagnosis, treatment, alleviation, or cure of cancer. (Added Stats. 1959, c. 789, p. 2801, § 2.)

§1708. Exemptions from chapter.

This chapter shall not apply to the use of any drug, medicine, compound, or device intended solely for legitimate and bona fide investigational purposes by experts qualified by scientific training and experience to investigate the safety and therapeutic value thereof unless the department shall find that such drug, medicine, compound, or device is being used in diagnosis or treatment for compensation and profit. (Added Stats. 1959, c. 789, p. 2801, § 2.)

§1709. Failure to comply with chapter as misdemeanor; applicability to faith healing.

The failure of any individual, person, firm, association, or other entity representing himself, or itself, as engaged in the diagnosis, treatment, alleviation, or cure of cancer to comply with any of the provisions of this chapter, or with any order of the department validly issued under this chapter, is a misdemeanor.

The provisions of this chapter shall not apply to any person who depends exclusively upon prayer for healing in accordance with the teachings of a bona fide religious sect, denomination, or organization, nor practitioner thereof. (Added Stats. 1959, c. 789, p. 2801, § 2.)

§1710. Effect of investigation or testing of products.

The investigation or testing of any product shall not be deemed to imply or indicate any endorsement of the qualifications or value of any such product. No person shall make any representation that investigation or testing hereunder constitutes any approval or endorsement of his, or its, activities by the Cancer Advisory Council or the department. The investigation or testing of any product shall not be deemed to imply or indicate that such product is useless or harmful and during testing no person shall make any representation, except to the department or Cancer Advisory Council, that the product under test is discredited or that it has been found useless or harmful. (Added Stats. 1959, c. 789, p. 2801, §2.)

§1711. Cease and desist orders; investigation and testing; findings.

Following an investigation or testing of the content or composition of any drug, medicine, compound, or device used by any individual, person, firm, association, or other entity in the diagnosis, treatment, alleviation, or cure of cancer, and after hearing as provided in Section 1704, the department, upon recommendation of the Cancer Advisory Council, may direct that any such individual, person, firm, association, or other entity shall cease and desist any further prescribing, recommending, or use of any such drug, medicine, compound, or device, or any substantially similar drug, medicine, compound, or device, in the diagnosis or treatment of cancer.

In the investigation or testing required by this chapter to determine the value or lack thereof of any drug, medicine, compound, or device in the diagnosis, treatment, or cure of cancer, the department shall, as it deems necessary or advisable, utilize the facilities and findings of its own laboratories or other appropriate laboratories, clinics, hospitals, and nonprofit cancer research institutes recognized

by the National Cancer Institute, within this State or the facilities and findings of the Federal Government, including the National Cancer Institute. Upon a recommendation by the Cancer Advisory Council, the department shall arrange, by contract, for investigation by and submission to it of findings, conclusions, or opinions of trained scientists in the appropriate departments of universities, medical schools, clinics, hospitals, and nonprofit cancer research institutes recognized by the National Cancer Institute, and the submission to it of findings, conclusions, or opinions of other qualified scientists. Prior to the issuance of a cease and desist order under this section, the Cancer Advisory Council, by the affirmative vote of at least 11 of its members, at least one of whom shall not be a physician and surgeon, shall make a written finding of fact based on such investigation that the drug, medicine, compound, or device so investigated has been found to be either definitely harmful or of no value in the diagnosis, treatment, alleviation, or cure of cancer and the department must be satisfied beyond a reasonable doubt that the written findings of the fact are true. (Added Stats. 1959, c. 789, p. 2802, §2.)

§1712. Injunction or other restraining order.

If an individual, person, firm, association, or other entity, after service upon him or it, of a cease and desist order issued by the department under Section 1711, persists in prescribing, recommending, or using the drug, medicine, compound, or device described in said cease and desist order, or a substantially similar drug, medicine, compound, or device, the superior court in any county, on application of the department, and when satisfied by a preponderance of the evidence that the written findings of fact required of the Cancer Advisory Council by Section 1711 are true, may issue an order to show cause why there should not be issued an injunction or other appropriate order restraining such individual, person, firm, association, or other entity from prescribing, recommending, or using such drug, medicine, compound, or device, or any substantially similar drug, medicine, compound, or device. After a hearing on such order to show cause, an injunction or other appropriate restraining order may be issued.

Proceedings under this section shall be governed by Chapter 3 (commencing at Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, excepting that no undertaking shall be required in any action commenced by the department under this section. (Added Stats. 1959, c. 789, p. 2802, §2.)

§1713. Submission by person against whom injunction issued of new or untested drugs, compounds or devices for investigation and testing.

Any person against whom an injunction has been issued, under Section 1712, may not undertake to use in the diagnosis, treatment, or cure of cancer any new, experimental, untested, or secret drug, medicine, compound, or device without first submitting it to the department for investigation and testing. (Added Stats. 1959, c. 789, p. 2803, §2.)

§1714. Representing device, substance, or treatment as effective to arrest or cure cancer; misdemeanor.

It is a misdemeanor for any person willfully and falsely to represent a device, substance, or treatment as effective to arrest or cure cancer. Nothing in this section shall abridge the existent rights of the press. (Added Stats. 1959, c. 789, p. 2803, §2.)

§1715. Third violation as felony.

A third violation, and subsequent violations, of this chapter is a felony. (Added Stats. 1959, c. 789, p. 2803, §2.)

§1716. Investigation of possible violations; report to authorities.

The director shall investigate possible violations of this chapter and report violations to the appropriate enforcement authority. (Added Stats. 1959, c. 789, p. 2803, §2.)

§1717. Cooperation of enforcement officers.

County health officers, district attorneys, and the Attorney General shall cooperate with the director in the enforcement of this chapter. (Added Stats. 1959, c. 789, p. 2803, §2.)

§1718. Reports on investigation and testing; publicizing dangerous or deceptive drugs, medicines, compounds, or devices.

The department, upon recommendation of the Cancer Advisory Council may from time to time publish reports based on its investigation or testing of any drug, medicine, compound, or device prescribed, recommended, or used by any individ-

ual, person, firm, association, or other entity, and when, in the opinion of a majority of the members of the Cancer Advisory Council, the use of any drug, medicine, compound, or device in the diagnosis, treatment, or cure of cancer constitutes an imminent danger to health or a gross deception of the public, the department may take appropriate steps to publicize the same. (Added Stats. 1959, C. 789, p. 2803, §2.)

§1719. Annual report.

The department shall submit to the Governor, for submission to the Legislature in January of each year, a report of its activities under this chapter during the preceding 12 months. (Added Stats. 1959, c. 789, p. 2803, §2.)

§1720. Conduct of hearings.

All hearings authorized by this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code. (Added Stats. 1959, C. 789, p. 2804, §2.)

§1721. Duration of chapter.

The provisions of this chapter shall expire on December 31, 1965. (Added Stats. 1959, C. 789, p. 2804, §2.)

Senator WILLIAMS. Our next witnesses come to us from the State department of public health. Dr. Pulley is assistant director, State department of public health. With him is Mr. Bottini, program supervisor for the State bureau of food and drug inspections, and also here is Dr. Kenneth Ernst, head of the State cancer diagnosis and therapy evaluation unit.

Will you identify yourself, gentlemen?

Dr. PULLEY. I am Dr. Hamlet C. Pulley, and I will introduce these other gentlemen when I get through, Mr. Bottini and Dr. Ernst, if that is satisfactory.

Senator WILLIAMS. That will be fine.

STATEMENT BY DR. HAMLET C. PULLEY, ASSISTANT DIRECTOR, STATE DEPARTMENT OF PUBLIC HEALTH

Dr. PULLEY. Senator Williams, Senator Neuberger, I appreciate this opportunity to appear before you to discuss the problem of medical frauds and quackery. I am appearing here on behalf of the public health department.

In California we have long been aware that quackery interferes seriously with the delivery of good medical care to some of those who need it most.

We believe that anyone who deliberately or fraudulently makes a false or misleading health claim for any food, drug, or device is a quack and is guilty of medical fraud. There are two principal evils of quackery, one being the monetary loss for worthless treatment, and the second being interference with the application of effective therapy at the time it would do the most good.

The enactment of the State Pure Foods and Drug Act in 1907 began the challenge. These laws, though they do not define quackery, prohibit any claim for a food, drug, or device which is false or misleading in any particular. This includes verbal representations, claims made by labeling, or through advertising by any means.

For years the bureau of food and drug inspections has devoted considerable effort toward the suppression of quackery. In 1957 a summary of its activities since 1948 was presented to the State senate interim committee on public health. It contains a compilation of 66 court cases which lists the most obvious and flagrant abuses.

This is a copy of that record, and I would like to introduce it in evidence. It gives the specifics on 66 cases.

Senator WILLIAMS. Thank you.

(The information referred to follows:)

A REPORT COMPILED BY THE BUREAU OF FOOD AND DRUG INSPECTIONS FROM THE FILES AND RECORDS ON THE SUPPRESSION OF QUACKERY

(By Milton P. Duffy, Chief, Bureau of Food and Drug Inspections)

In compliance with your request, Dr. Malcolm H. Merrill, Director, State Department of Public Health, has instructed me to present to your committee the facts concerning the fraudulent, dangerous, unscientific, or deceptive practices in the treatment of diseases encountered in California by the Bureau of Food and Drug Inspections. The problem presented by charlatans, quacks, unscrupulous promoters, or plain misinformed fanatics is a complex one from the enforcement point of view. The activities of this group is seriously undermining public confidence in the legitimate healing arts and drug advertisers. These promoters make misleading claims for so-called treatments which are usually worthless and frequently are dangerous, or are potentially so.

A serious consequence of this activity—aside from sheer monetary loss—is that delay in obtaining expert scientific treatment may hurt—or even kill—those entrusting their health to incompetent quack healers.

Despite our best efforts—in conjunction with those of various boards in the department of professional and vocational standards and Federal agencies—quackeries and frauds are on the increase.

In 1948 the Bureau prosecuted three individuals in San Francisco on a charge of conspiracy to violate provisions of the Pure Drugs Act. This involved the sale of turnip juice at \$25 per vial for the treatment of cancer. Since then there has been a constant rise in the number of investigations and trials, amounting to a ten-fold increase during the past decade. A factor in this increase has been the steady rise in population and the fact that California attracts the elderly, who are more susceptible to chronic diseases and prone to be easy prey to quacks.

As you may know, the chief function of the bureau is to prevent the sale or distribution of foods, drugs, or devices which are adulterated, mislabeled, or falsely advertised. This constitutes a formidable task, and to meet these responsibilities the bureau employs a total force of 30.

Moreover, the clandestine nature of these quack operations requires especially trained personnel for conducting successful investigations. Many of these cases require prolonged attention—in the Calozone case, for instance, at least 2 man-years were required before its completion. The bureau is seriously handicapped in affording adequate public health protection in this field while simultaneously carrying out its other duties and responsibilities. This handicap can be attributed to lack of availability of:

- (1) Expert and scientific resources.
- (2) Manpower.
- (3) Funds.

Currently, the bureau endeavors to concentrate on suppression of the more obvious or flagrant abuses. These may be called to our attention through various sources—bureau inspections, service clubs, business bureaus, health organizations, local health departments, schools, police departments, or victimized individuals.

The latter have become increasingly aware of the problem and anxious to achieve correction. This awareness, in some measure, is probably a result of educational efforts which includes our present exhibit, radio and television appearances by personnel, and educational efforts of health and professional organizations.

In order to present a concise view of our activities in this field, I have here briefly summarized prosecutions that the bureau has undertaken since 1948. This summary of 66 cases is contained in the attached exhibit I. It is my belief that these prosecutions represent merely a small percentage of the actual violations which have existed or exist in this field for the above stated reasons.

With your permission, I should like to review the more important, highly involved or typical cases encountered by the bureau. My purpose is to bring to your attention the wide variety of worthless remedies and devices distributed in California. All are illustrated by the exhibits on display here.

OZONE GENERATORS

One group which gained considerable popularity involved generators that created ozone. The Calozone Ozone Generator, also known as Vitozone, Purozone, Orozone, Nevozone, and Airozone, was the most widely distributed phony device ever investigated by the bureau.

There were over a hundred agents and subagents selling the device in California as well as 20 other agents in 12 other States.

In a 3-year period over 3,000 of these worthless machines were sold in California alone at \$150 each. Touted as "God's gift to humanity" it was recommended for use in 47 diseases and conditions ranging from abscesses to whooping cough, including cancer, tuberculosis, diabetes, heart disease, and polio.

Competent medical authorities testified that it was not only worthless as a therapeutic instrument but could be dangerous because of its output of up to 30 parts per million of ozone, 3 inches above the tubes. It was demonstrated in the laboratory that it would kill mice in a matter of hours. The threshold limit value for ozone is 1 p.p.m. compared to 100 p.p.m. for carbon monoxide and 10 p.p.m. for hydrogen cyanide. The promoters induced an aged M.D. to write a booklet advocating the use of the device in the treatment of 37 diseases. One of the promoters published a series of so-called lectures titled "Ozone—God's Gift to Humanity" in which he misquoted eminent toxicologists, physicists, and medical authorities as advocating the use of ozone in the treatment of disease.

Twelve different agents were investigated and the records of the corporation seized on a search warrant. Four agents were brought to trial: One in Stockton received a \$25 fine; another Stockton agent was given a suspended sentence of 6 months; an agent in San Diego was given a suspended sentence of 6 months and placed on 3-years' probation; another agent in nearby Chula Vista was fined \$100 and given a suspended sentence of 6 months in jail.

The cases against other agents were dropped when charges of conspiracy were filed against the manufacturer, the State sales director, the Northern California sales manager and the Alameda County agent.

These men were charged with a felony, conspiracy to commit a misdemeanor—to wit, false advertising of a device; namely, an ozone generator.

After a preliminary hearing in Oakland Municipal Court, the case went to trial in the Alameda County Superior Court where they all entered a plea of guilty.

The manufacturer, Fred H. Stephens, paid a fine of \$2,500 and served a year in jail; the phony doctor, John H. Effenberg, served a year in jail; the district sales manager, George W. Kelm, paid a \$2,500 fine and served 6 months in jail; and the Alameda County agent served 3 months in jail. All four were placed on probation for 5 years.

A similar device, an earlier model of ozone generator, was called the ultraviolet ray and radiation machine. In March of 1949, a Bakersfield man who confessed to having sold over 300 of them in Kern County alone pleaded guilty to a violation of the California Pure Drugs Act for selling a mislabeled device represented as being useful in the treatment of high- and low-blood pressure, ulcers, arthritis, and other diseases. He was fined \$200 and given a 6 month suspended jail sentence.

Although an ultraviolet radiation effect was claimed in actual fact, the ultraviolet output was only equal to the output of an ordinary 40-watt light globe; hence the only active principle was the ozone produced.

Another larger and more expensive ozone generator known as the cosmic light ozone generator was sold by Franklin D. Lee for \$300 each. Lee, a Bakersfield man now serving a 360-day sentence in the Kern County jail for practicing medicine without a license and dispensing misbranded drugs, not only sold \$30,000 worth of these worthless and potentially dangerous devices during a 3-year period but also used them in conjunction with minerals, vitamins, and lotions in giving treatments to hundreds of patients for all kinds of diseases and ailments, including cancer, diabetes, insanity, gallstones, goiters, and varicose veins.

His specialty was diagnosing vaginal tumors in women who did not actually have tumors and then giving them treatments with the ozone machine in conjunction with drugs taken internally and finally by supplying them with suppositories containing ferric and aluminum sulfates, which caused the vaginal wall to slough off. When this occurred this quack would assure them they were tumors which had been ejected.

This quack also manufactured an ointment or paste from dirt which he used indiscriminately for the treatment of varicose veins, as a beauty cream, and a hair restorer.

Another type of device is the so-called radionic group. Examples follow:

MARK GALLERT, RESEARCH LABORATORIES, SAN FRANCISCO, 1952

This individual falsely represented himself as a radionic expert and lecturer, and falsely represented himself as a naturopath. In addition to these claims, he made, used and sold devices; the deluxe model selling for \$545.

This device, as claimed by Gallert, could diagnose and treat tumors, cancer, syphilis, and all other diseases. It was made along the general lines of other radionic devices, consisting of a panel mounted with numerous switches all connected in series. The only true electrical circuit was the one which plugged directly into an AC house current to operate the various colored lights.

Gallert departed from the usual radionic circuit somewhat by incorporating the zodiac. He was arrested by a food and drug inspector after receiving a diagnosis of "cancer of the liver, a tumor pressing on the heart, syphilis, and lymphogranuloma." He was charged with false advertising, misbranding, practicing medicine without a license, and petty theft. He was placed on 2 years' probation following a plea of guilty due to testimony by his physician that his health would suffer from incarceration.

In the 2½ months of practice in San Francisco he had developed an extensive clientele in addition to the selling of several devices to members of a branch of the healing arts.

MCCOY DEVICE, SAN JOSE, 1951

Stated by the operator of this device to be an "oscilloclast." A member of a branch of the healing arts supplied the devices to McCoy, an oil dealer, who made his diagnosis from the patient's signature, in a device of his own design. After the diagnosis, the self-styled "oscilloclast" was rented to the patients for \$1 per day. The usual course of treatment was of 60 to 90 days' duration and was terminated after the patient's signature indicated he was cured.

There was an additional charge of \$2 for each individual diagnostic service, including rechecks. Of the numerous patients treated by this quack, who falsely alleged himself to be a naturopath, nearly all were informed by him that they had cancer. McCoy entered a plea of guilty to one count of false advertising and one of practicing medicine without a license.

In addition to the misdemeanor charges against McCoy, criminal conspiracy was charged against both McCoy and a member of a branch of the healing arts. This, however, was dismissed at the preliminary hearing for lack of evidence.

Subsequently, the regulating board took disciplinary action and revoked the doctor's license.

In addition to McCoy, several other individuals were found to be using this type of device. Their names were obtained from his files.

Two masseurs in Fresno falsely alleging themselves as naturopaths were arrested and subsequently found guilty of practicing medicine without a license. E. M. Hall was fined \$300 and served 10 days of a 90-day jail sentence. Claire Lukins was fined \$300 and given a 390-day suspended sentence. Charges against another masseur in San Bruno were eventually dismissed.

CALVERT THERMO-RAY LAMP, SANTA CRUZ, 1953

A lamp made by Calvert in Santa Cruz was sold over the entire State as a cure-all, with particular emphasis on cancer. He applied for and received a patent for an infrared lamp. After becoming associated with a masseur, his sales boomed. They advertised the lamp through practitioners of the healing arts. It sold for \$185. Calvert and Kirk were charged with conspiracy.

Evidence introduced at the preliminary hearing showed widespread sales of these lamps by the defendants and falseness of their claims.

The defendants were held to answer in superior court where the judge dismissed the felony charge. Pleas of guilty to misdemeanors for false advertising were entered and each defendant was fined \$75.

PEOPLE VERSUS "DR." JOHN SAMUEL NEWFIELD (LAYMAN), ELECTRO METABOGRAPH DIAGNOSTIC MACHINE AND QUANTUMETER

These devices were seized on September 26, 1957 by an inspector of the bureau of food and drug inspections and investigator with the State board of medical examiners from the office of John S. Newfield, a self-styled medical practitioner.

"Dr." Newfield, who holds no type of license to practice any of the healing arts in California, was arrested after he "diagnosed" one of the investigators by use of this machine as having heart disease and other serious ailments. After the diagnosis he offered to sell the investigator one of two quantumteters for treating the maladies; an old model for \$195 or a newer model for \$250.

Investigation and examination of "patients" records disclosed that this charlatan had numerous patients from as far away as Phoenix, Ariz., and had collected as much as \$1,500 in fees from some. He also had sold some 30 or 40 quantumteters to patients for use at home.

Newfield was charged with three counts of practicing medicine without a license; three counts of violation of the Pure Drugs Act; two of selling or offering for sale and keeping for sale a misbranded device; and one of advertising and representing a device to have an effect on heart and vascular diseases, high blood pressure, and prostate gland disorders. He pleaded guilty to one count of practicing medicine and to false advertising. The other four counts were dismissed.

Newfield was sentenced to 180 days on each count, sentence to run consecutively. The jail sentence was then suspended and defendant placed on 3 years' summary probation, one condition of probation being that he pay a fine of \$750, the other being he commit no similar violations during the term of probation.

ANALYZER AND ENERGIZER DEVICES SEIZED FROM THE OFFICES OF RALPH R. RUEBER, AN ESCONDIDO CHIROPRACTOR

The energizer was widely distributed in the San Diego County area. The analyzer (the larger of the two) was used to diagnose such ailments as cancer, ulcers of the stomach, heart and vascular diseases. Mechanically, this device consists of three circuits which lights two bulbs and warms a plate which was stroked by the operator to arrive at a diagnosis. The smaller of the two devices, popularly known as an energizer, which sold for \$100 consisted of an electrical coil, a copper disc and a couple of pounds of tar. Two of the three vendors engaged in this activity were tried in San Diego courts. One of the vendors pled guilty to one count of offering for sale misbranded devices in July 1954, and he was fined \$250 and given a 3-month jail sentence which was suspended. A second vendor, who was the manufacturer, was found guilty of attempted grand theft by jury trial. However, after an appeal the case was dismissed.

DIAGNOSTIC DEVICE—GORDON CHANDLER

This device, constructed by a San Diego chiropractor, was stated by the defendant to be used in 50 percent of his cases to determine physical ailments. He stated that it established rapport between doctor and patient. He told one of his patients, a San Diego policewoman, that she had low blood energy, an alkaline colon and weak optic nerves. One of the complaining witnesses paid the defendant \$135 for companion device treatments and vitamins for an acid bladder and thyroid condition which never existed.

He entered a plea of guilty to four counts of false advertising, practicing medicine without a license, and was sentenced in October 1955 to 3 years probation and fined \$500.

LONG BEACH INVESTIGATIONS AND TRIAL

On June 21, 1955, bureau of food and drug inspectors, working with investigators from the State board of medical examiners and the Long Beach Police Department, arrested six members of one branch of the healing arts on charges of alleged false and misleading advertising in connection with diagnostic and treatment equipment in their offices.

This action was instigated by the city prosecutor after a 3-month investigation by his office and the State board of medical examiners. Reports of undercover investigators posing as patients showed definitely that in every instance diagnosis was made by a radionic machine of the type on which we had previously taken action. Diagnosis was made by setting switches and dials to various points and rubbing diaphragms of wood or fabric until the machine was in "tune" to the pathologic condition or ailment. Treatment given was by another radionic device whose dials were set to the numbers developed by the diagnosis. This weird combination of diagnosis and treatments was alleged to be a positive "cure" for any and all ailments of the human body presently known to science. At the time of their arrest, a total of 9 diagnostic devices and 40 treatment devices were seized—all of the so-called radionic type, for which no known therapeutic value has ever been demonstrated by competent scientific analysis.

After many weeks of continuances, delays, and arguments, a jury trial got underway on October 25 with one of the defendants picked by the defense to test allegations. In this case, the defendant was tried on three counts under the general heading of false advertising, to wit: (1) That he advertised an alleged radionic device to have an effect on heart disease. (2) That he orally represented radionic devices could determine what was wrong with patients and "get in tune with every organ in their bodies." (3) That he advertised in the yellow pages of the telephone book that he could treat and diagnose illnesses by radionics.

During the course of the trial one of the prosecution witnesses testified that the defendant had volunteered to him that he had "run 60 to 70 patients a day through the office" and also mentioned it was possible to make \$60,000 to \$70,000 a year in his "vocation."

After 6 days the trial came to an abrupt end when the municipal court judge dismissed the charges. The jurist agreed with a defense motion that conversations between a doctor and patient does not constitute advertising nor does the single word "radionics" listed below the defendant's name in the telephone directory. He then dismissed the jury and ordered the seized devices returned to the defendant.

In view of the fact that charges against the other five defendants were the same as in this test case, the city prosecutor felt that to prosecute them would be useless in light of the court's decision.

Another group is the so-called radioactive devices.

RADIUMATOR DEVICE—C. R. ZAPPONE AND J. E. AKERS, 1951

The investigation of a radioactive device fraud in San Diego, which began about August of 1950, resulted in the apprehension and arrest of the two individuals involved, and their being charged with conspiracy to violate the California Health and Safety Code. They represented the device as a machine capable of producing radioactive water which would cure heart disease, high blood pressure, kidney disease, including uremic poisoning, sexual debility and abnormal metabolism; that the device was remarkable in that its use would specifically revive wilted flowers. It was purported by the vendor that its therapeutic effect was brought about by the interaction of alpha and beta rays, causing a stimulative oxidation in adjacent animal or plant tissue; that the alpha ray—the principal component of radium gas, taken in the body, was constructive, or healing in nature; whereas the gamma ray was destructive. That the device contained from \$4,000 to \$6,000 worth of pure radium chloride whereas an analysis by a competent electronics laboratory at San Diego revealed it to contain about \$1.30 worth of radium.

After 3½ days of jury trial in San Diego superior court, the case was brought to an abrupt conclusion when both defendants changed their plea from not guilty to guilty to the felony count of conspiracy to violate the California Health and Safety Code.

They were sentenced to 3 years' probation.

URANIUM CENTERS

In 1953 there was a series of uranium treatment "centers" set up throughout northern California. These "centers" consisted of cubicles lined with low grade uranium ore. Some had a series of beds with trays of uranium ore under them. The uranium ore used had a very low radiation emission—less than that of a common radium dial watch.

Sinus, arthritis and many other diseases were treated at these "centers." Treatments consisted of an hour exposure to the uranium ore. The fee was usually \$2 per treatment.

Prompt bureau action resulted in closing these centers and the destruction of the worthless uranium ore.

RADON GENERATOR

On March 2, 1955, after 6 months of intensive investigation which resulted from a victimized patient's complaint, inspectors from the bureau of food and drug inspection accompanied by investigators from the Los Angeles County District Attorney's Office, arrested two men and a woman for the manufacture and sale of a "Magic Cure-all Jug". On the decision of the district attorney's office the three individuals were booked on felony complaints charging conspiracy to commit grand theft and attempted grand theft rather than "conspiracy to falsely advertise a device."

The device consisted of an ordinary 2-gallon size picnic jug with a silverlike bell at the lower end of a rod whose top was attached to the lid. When the jug was filled with ordinary tap water and the bell immersed in it for 12 hours, the resulting "radium-impregnated" liquid, when taken internally, was guaranteed to cure almost any ailment including cancer, rheumatic fever, restore hair to bald heads and revive virility.

The manufacturer bragged of the fact that some 9,000 generators had been sold in the United States during the past 20 years and that he had made about 100 devices in the Los Angeles area.

The salesman of the magic generators sold one for \$300 to a bureau inspector posing as a brother of an actual cancer victim who freely gave of his time to aid the investigation.

Laboratory analysis of the "bell" revealed it to contain a minute amount of radium mixed with iron oxide but of sufficient strength to cause the water in which suspended to be 305 times the maximum permissible safe concentration of radioactivity in water for continuous use.

On April 1, 1955, after 1½ days of preliminary hearing in the municipal court of Los Angeles, the case was dismissed and not remanded to the superior court. The judge ruled the State failed to show that the defendants knew in their own minds the falsity of their representations or that they made the misrepresentations with the intent to commit theft.

Misdemeanor complaints under the Pure Drug Act were immediately filed against the two salesmen charging false advertising and sale of a misbranded device. No charges could be filed against the manufacturer of the device since the bureau had no overt act or direct evidence of an overt act being committed during the statutory time of 1 year.

On June 1, 1955, both defendants pleaded guilty to one count of false advertising. Probation hearing and sentencing was held on June 21, with the defendants being placed on three years probation on the condition that each pay a \$250 fine, commit no other such violations, and that the eight generators seized by the bureau of food and drug inspections be retained by them for display purposes.

Another San Diego distributor was prosecuted successfully on a charge of false advertising in 1952. He represented this device to be effective for the treatment of cancer, heart, and vascular diseases. The defendant was fined \$25.

RADIUM POISONING CURE, 1957

A case now pending trial in Santa Cruz involves a practitioner of the healing arts who, through using a radionic device, diagnosed a large share of her patients as suffering from radium burns and/or leukemia. She claims to effect a cure in the space of a month by the use of two cardboard mailing tubes, one filled with sand and the other a wooden dowel around which is wound three or four turns of copper wire. One is placed at the foot of the bed and is called the activator, the other is placed at the head of the bed. This is the purifier containing sand. Around it are placed eggs or egg shells which she claims have an affinity for radium. Once weekly these shells must be buried.

The defendant faces charges of false advertising.

URANIUM RAY PAD, 1954, SAN JOSE AND OAKLAND

A pad consisting of a leatherette bag filled with crushed rock which possessed slight radioactivity was sold throughout the State for \$75 each. The purveyors claimed that it would cure sinus and arthritis.

One elderly vendor was prosecuted in San Jose for the sale of a pad to a woman for arthritis. After weeks of use, she became so ill the manager of the hotel where the patient resided called a competent physician who recognized her condition as advanced tuberculosis and was immediately admitted to the Santa Clara County Hospital where she remained in a critical condition for several years.

The 70-year-old vendor received 2 years suspended sentence. Probation was granted out of deference to his advanced age.

SINUS CURE, SAN JOSE, 1955

One health food faddist ran an ad in a San Jose newspaper advertising a sinus cure. Treatment instructions would be mailed from the promoter c.o.d. for a 2-weeks course at \$8.40. The party falling for the gimmick would receive a package of Knox Gelatin purchased from a store for 40 cents.

Promoter entered a plea of guilty to false advertising and was fined \$50.

WILLIAM DAGLISH, HEALTH FOOD DISTRIBUTOR, SANTA CRUZ, 1950

This man was charged with selling and advertising herbs and devices in violation of the Pure Drugs Act. He claimed his herbs were effective for impotency and other diseases, such as diabetes and cancer.

He also sold a rubber mallet that was to be used in percussing certain areas of the body in effecting a cure for diabetes and cancer. After conviction by a jury he spent 30 days in jail.

MARVEL JUICER CASE

The manufacture and promotion of a juicing machine was investigated in Lodi during 1953.

It was claimed that this juicer possessed outstanding characteristics which rendered the juice derived from it of particular value in the treatment of diseases.

A booklet was actually used in connection with the sale of the machine recommending individual juices for specific diseases. As for example: Raw carrot juice for the treatment of ulcers and cancer, as well as grape juice for the cure of cancer.

Our investigation revealed that the juicer was an ordinary kitchen appliance which could impart no magical or extraordinary powers or imparted nothing to its product which would give it therapeutic value.

This juicer sold for approximately \$100.

Accordingly, we arrested the manufacturer—W. R. Woock. He was charged with falsely advertising a device for the treatment of diseases. He was found guilty by jury trial and fined \$250. The defendant appealed the case on the basis that the juicer in question could not be considered a device as it is defined in the Pure Drugs Act; however, the superior court upheld the conviction.

VIOCELL DEVICE

A so-called electronics specialist was given a cease-and-desist order in 1949 when he attempted to rent out an electrical device consisting of a rectifier tube and transformer for treatment of cancer, sinusitis, and poliomyelitis. Since this person's activity was relatively limited in scope, he was given a warning by the district attorney's office to discontinue operations.

ELECTRONIC STEEL BALL

Then, there was our case of the electronically active steel ball. The gimmick was an ordinary steel ball bearing, about three-fourths inch in diameter, which was represented by the vendor, Allen Daniel, to be energized with 81,000 volts of electricity. A San Diego housewife was told that this device would permanently cure pain, particularly in neurotic and nervous patients. After being energized, the steel ball was grounded before being passed over the ailing part of the body. The inventor, a professed radio technician, was charged with the sale of a misbranded device and was successfully prosecuted in September 1953. He received a 3-year probation on condition that he serve a 3-month jail sentence.

MAGNECOIL BLANKETS

Investigations made in Alameda during 1954 revealed that a layman by the name of H. F. Bell was selling electric blankets and boots for the treatment of cancer. It was found that the vendor did not manufacture these blankets. The source of supply was to obtain used blankets from patients who had died or who had become dissatisfied. The vendor would buy these used blankets for \$5 to \$10 and recondition them, selling them at a high profit for \$185 each. Several of these blankets caught fire due to faulty wiring.

The vendor claimed that these blankets would eliminate accumulated poisons from the body and that the body could thereby cure itself of all disease. The victim in this case suffered from cancer. Medical records show that the patient actually died from pneumonia.

The vendor was charged with falsely advertising the device and practicing medicine without a license. Defendant entered a plea of guilty to the above charge. Because of his advanced age (77 years), the judge placed him on 3 years' probation.

DIAGNOSTIC OFFICE

A diagnostic office in San Diego advertised in local newspapers in August 1956, offering a complete physical examination for \$5. Their records showed that 650 persons were attracted to this office for an extensive course of treatments and medication. Ninety-three percent of these persons were given the same diagnosis by the operators of this clinic, i.e., to have an enlarged heart and liver, a jellied gall bladder, and a high acid and bile condition, whereas scientific physical examinations made on many of these persons disclosed that they were normal.

The defendants in this case, two chiropractors and the wife of one of them, were found guilty of multiple charges of false advertising, petty theft, and practicing medicine without a license by a jury. Each chiropractor was fined \$500 and sentenced to 6 months in jail; the third defendant, who was the owner, was fined \$200.

This case is now on appeal.

HARLAN WILSON, 1954

Then there was the investigation of a psychopath named Harlan Wilson who posed as a medical doctor in San Diego County. The case was continued by the bureau when it was learned that this person had gone a.w.o.l. from Patton State Hospital, and had made application for a dental technician's job in San Bernardino. This person forged prescriptions which were innocently filled by several San Diego druggists. He treated persons for heart and liver conditions. This individual claimed that he practiced medicine in Oregon and Alaska; that he specialized in obstetrics and gynecology; that he graduated from medical school in Kiel, Germany, with a 3-year curriculum, however, the respective agencies and/or authorities could not verify his statements.

The execution of a search warrant revealed Wilson to have in his possession various medical instruments including a stethoscope and a vaginal speculum, and various drugs, including nembutal and nitroglycerin.

Wilson was later discharged from Patton State Hospital, only to be arrested by an agent of the bureau, and delivered to the San Diego County Jail to face trial on two counts of dispensing a misbranded drug and two counts of practicing medicine without a license. Said defendant was arraigned in San Diego Municipal Court Department No. 1, where he finally entered a plea of guilty. He was sentenced to 6 months in jail.

RUPTURE SPECIALIST, SAN JOSE, 1950

A former used-car salesman, Paul G. Dilger, represented himself as a rupture specialist. He was arrested for false advertisement of a device and practicing medicine without a license.

His method of operation was to run advance ads in newspapers in the area he served and operated from hotel rooms.

He advertised: "New sensation rupture development, no surgery, no injections, no more experiments with wrong trusses, instant relief, come in and leave with no more rupture trouble."

Actually he would fit an inexpensive \$3.90 truss for which he charged \$75, claiming it was his own patented device with special pads.

He entered a plea of guilty and was fined \$600.

HEMORRHOID CURES

There are, throughout California, many advertisements for hemorrhoid cures without surgery.

One such healer, a chiropractor named Anthony Salerno, offered a nonsurgical cure for \$150, using a bank time plan.

A food and drug inspector, not suffering from hemorrhoids, obtained an examination. He was told that he had severe internal hemorrhoids with a lesion the size of a nickel that would likely develop into cancer unless his treatment was taken immediately.

He offered easy time-plan payments. After preparation and sale of a simple compound consisting of zinc oxide, starch, and carbolic acid, he was arrested and subsequently convicted on two counts of misbranding. He was fined \$200.

PATENT MEDICINE DISTRIBUTOR

As a result of a consumer complaint received by the San Diego office in October 1952, a man named John E. Cunningham was apprehended selling a variety of patent medicines as a cure for gall bladder attacks and high blood pressure.

This medicine was essentially a laxative and was being sold for \$1.25 a bottle. Approximately 16 cases of this laxative, together with 1,200 leaflets, were seized by the bureau.

The vender was tried in San Diego municipal court, department 4, for false advertising of a drug and given 6 months on the first count and 3 months on the second count in the county jail. The sentence was suspended and he was put on probation for 3 years, during which time he was not to sell or distribute any drugs or medicines.

COCCIDEX

Another fraudulent drug preparation, formulated by a geologist and compounded by a Bakersfield pharmacist, was called coccidex, a purported cure for coccidio-domycosis—more commonly known as valley fever. A box of 16 capsules, containing a mixture of sulfur, cocoa, charcoal, and traces of ferrous sulfate and manganese dioxide—costing a few cents—sold for \$5.

Following the sale of a box to a food and drug inspector, the pharmacist was arrested. He entered a plea of guilty to charges of selling a misbranded drug and selling a new drug without having applied for a new drug permit. He was given a suspended sentence of 90 days.

However, by the terms of his probation, the pharmacist was prohibited further sale of the product.

CANCER SALVE

In 1950, a San Diego chiropractor named James O. Ryan was convicted on charges of attempted grand theft in that he attempted to sell a cancer salve to a person suffering from cancer of the stomach.

Ryan had two salves both containing croton oil which were used to treat internal and external cancer. Both salves were applied externally and were capable only of causing severe blisters and burning of the skin.

Ryan offered to cure cancer of the stomach for \$500. The defendant stated that the formula for his product was a family secret and that the ingredient which did the actual curative work was one that "disappeared when added to the mixtures."

He was sentenced to 10 years' probation on condition that he serve 1 year at the San Diego County industrial road camp. This probationary period was later reduced.

CANCER CURE QUACK AND ACCOMPLICE—FRANK GALWAY AND CAROLYN OSBURN,
1952

As the result of a long and difficult investigation by the bureau, Frank Galway, a cancer cure quack, and Carolyn Osburn, a health food faddist (Galway's most recent accomplice) were tried in San Diego superior court and convicted of conspiring to commit an act injurious to public health, and falsely advertising a drug. Galway was sentenced to a term of 1- to 3-years in prison; Mrs. Osburn was fined \$250.

Galway, a retired millworker, had been victimizing Californians intermittently for over 30 years, according to evidence brought out during the investigation. During the trial Galway's statements indicated that he had treated some 3,000 or 4,000 people. During the investigation both he and Mrs. Osburn admitted that they had been warned to quit this cancer salve activity—that they were "playing with fire." Aged people, for the most part, were duped into using his croton oil salve treatment for internal and external cancer, which they may or may not have had.

Galway had been previously arrested in 1937 in San Diego and charged with violation of the State's Medical Practice Act. Several surgical instruments and jars of his salve were seized at the time of that arrest, but after a parade of alleged "cancer cured" patients to the witness stand, he was acquitted.

His fees varied from as little as \$10 an ounce for the croton oil salve to \$1,000 for a course of treatment.

Investigation by the bureau was hampered by the practice of sworn secrecy and by the difficulty of finding dissatisfied customers among those still alive.

Statements were obtained from approximately a hundred people, most of whom were "sold" on the treatment.

PEARLIE SAVELY CANCER SALVE, LEMOORE, 1957

Another cancer quack in Lemoore used a concoction of blood root, galangal root, and zinc chloride.

The quack, Pearlle Savely, claimed he could diagnose cancer by applying the salve to the suspected spot. If the salve affected the skin, according to Savely, it was a cancer and he would continue to apply the salve until a sizable piece of burned flesh would separate from the surrounding flesh. Actually, of course, the salve had a powerful corrosive and caustic action on any flesh, acting much in the manner of a powerful corn plaster.

Any victim who came to him with a skin blemish, mole, or wart of any kind would be told he was suffering from cancer and would eventually lose some portion of his anatomy.

Savely had several jars of various sized pieces of flesh preserved in alcohol which he boasted were cancers he had removed from people. He added that if he had saved all the cancers he had removed from people in over 58 years of practice, they would fill a washtub.

Some of the specimens from the jars were examined by a pathologist who said he could find no evidence of cancer.

After diagnosing and treating a small mole on the shoulder of a volunteer operative as a "mole cancer," Savely was arrested by agents of the bureau of food and drug inspections and the board of medical examiners.

February 19, 1957, Savely pleaded guilty to a charge of practicing medicine without a license and sale of a misbranded drug. He paid a fine of \$400, made restitution of \$250, and served the first 10 days of a 30-day jail sentence. He was put on probation for 2 years.

A review of these cases reveals that they fall into two main categories:

- (1) Those promoted by laymen using pseudo-scientific jargon; and
- (2) Professional licentiates of the healing arts who utilize misinformation to arouse false hopes in the ignorant and gullible. Many of these employ impressive-looking machines of the radionic type illustrated here to diagnose and treat diseases of the most serious nature.

I have just mentioned a term, radionics, which we find in widespread use. We see the word on signs, in the telephone book, and on treatment office doors. The word refers to a type of device used for diagnosing and treating disease. Some of these devices are the "Drown Device," the "Radioclast," the "Pathoclast," the "Quantumeter," the "Clabro Magnowave," and others.

I want it clearly understood that I am not an expert in this field but all available information indicates that these instruments stem from a device which was the brain child of a Dr. Albert Abrams in the early 1920's. I understand from my scientific advisers that this entire class of devices are deemed medically worthless.

I have here our medical consultant, Dr. Ralph Weilerstein, who is available to discuss with you the theoretical and practical aspects of these devices if you should care to hear about them.

NUTRITION QUACKERY

In addition to the quacks who employ phony devices and worthless nostrums, there is a growing group of nutritional quacks who circulate false ideas about food. Many of their products are harmless, but many people who may have cases of cancer or heart diseases or diabetes are easily persuaded by these promoters that the troubles that they are experiencing are due to faulty diet. This inevitably leads to a delay in seeking rational treatment.

The scare technique is the basic approach used by these quacks, who usually claim to be outstanding scientific authorities. Every means of communication is employed, ranging from lectures resembling revival meetings to radio and television appearances, as well as by house-to-house canvassing or through a "whispering" campaign.

HERBALISTS

Closely allied to this group are the activities of the herbalists. The nostrums that they employ in the treatment of diseases have no scientific value. Nevertheless, they enjoy a considerable popularity attained largely through false advertising of cures for serious ailments.

Control of this field merits attention but the bureau has been limited in bringing their activities under control, mainly because of our inability to secure expert opinion as to the value of the oriental herbs and drugs, and because of a language barrier.

We call your attention to exhibit No. 1, which is a compilation of our court actions. We were successful in obtaining convictions in 59 cases.

However, we receive many complaints of questionable practice about which we are powerless to take action.

One such case involves the alleged treatment of cancer, polio, and tuberculosis by high- and low-frequency waves broadcast. We cannot take action because this activity under the broad scope of practice permitted by the healing arts license held by these practitioners, is not subject to prosecution under the laws enforced by the State department of public health.

I am grateful to you for this opportunity to review our activities in this field.

The statements I have made were derived from bureau files as well as from expert opinions by authorities in their respective technical fields.

If it is your desire, we will be most happy to supply you with any additional factual data pertaining to these cases which are contained in our files.

It is our hope that the data here submitted will be of value to the committee in its assessment and evaluation of the problem of quackery in this State.

EXHIBIT I.—Trials involving drugs and/or devices

Defendants	Product	Diseases	Violation	Results
1948				
1. Desco Laboratories (William J. Downing, Jean Edwards, Eugene Short).	Turnip juice.....	Cancer.....	Conspiracy to commit misdemeanor. Sale of adulterated and misbranded drug.	Not guilty.
2. LaRosa Pharmacy.....	Drugs.....	Gonorrhea.....	False advertising. Practicing medicine without a license.	Guilty, \$200 fine.
1949				
1. G. C. Jacobsen, D.C.....	Assorted drugs.....	Ulcers.....	Practicing medicine without a license and false advertising.	Guilty, \$250 fine.
2. H. L. Wong.....	Herbs.....	Heart trouble.....	do.....	Guilty, \$200 fine.
3. E. J. Kirchenman.....	R. & R. radiation machine.	High blood pressure, ulcers.	False advertising.	Do.
1950				
1. Paul G. Dilger.....	Truss.....	Hernia cure.....	False advertising and practicing medicine without a license.	Guilty, \$600 fine.
2. Reliance Pharmacal Co.....	Ultex.....	Stomach ulcers.....	False advertising.....	Plead guilty. Fine \$150, corporation; \$150, individual: 2 years on corporation and 100 days on individual. Suspended for 2 years, probation.
3. Joe Sherrod.....	Dietary supplement.....	Heart diseases, diabetes.....	do.....	Guilty, \$50 fine.
4. J. C. Collipriest.....	do.....	do.....	do.....	Do.
5. J. O. Ryan, D.C.....	Cancer salve.....	Cancer.....	Grand theft.....	Guilty, 10 years' probation, 1 year road camp.
6. Velma Mitchell.....	Isbells mineral.....	Cure-all.....	Misbranding.....	Guilty, 2 years' probation.
7. G. Salazar, pharmacist.....	Drugs.....	Gonorrhea cure.....	Misbranding and false advertising.....	Guilty, \$200 fine.
8. J. S. Arceri, pharmacist.....	do.....	do.....	do.....	Guilty, \$100 fine.
9. William E. Daglish.....	Health foods, spinal mallet.	Diabetes.....	Practicing medicine without a license and false advertising.	Guilty, \$350 fine.
10. American Bio-Chemical.....	Isotonic solution of sodium chloride.	.....	Misbranding and false advertising.....	Guilty, \$450 fine.
1951				
1. Esterberg & McCoy.....	Electronic device.....	Cure-all, cancer.....	Conspiracy.....	Dismissed.
2. Claire E. Lukins.....	do.....	do.....	Practicing medicine without a license.....	Guilty, \$300 fine.
3. E. M. Hall.....	do.....	do.....	do.....	Guilty, \$300 fine, 10 days in county jail.
4. James E. Akers and Claude B. Zapone.	Radiumator.....	Improve quality of blood; high blood pressure; low blood pressure; heart ailments; kidney trouble, kidney stones; uremic poisoning; increased metabolism.	Conspiracy to violate health and safety code and attempted grand theft.	Guilty, 3 years' probation; grand theft dismissed.

5. Henry Yee.....	Herbs.....	Gall bladder.....	False advertising and misbranding.....	Guilty, 60 days in jail, suspended.
6. Ruth Clary.....	Ozone generator.....	Cure-all.....	False advertising.....	Guilty, \$25 fine.
7. Mrs. S. Gonzales.....	Assorted drugs.....	Liver disease.....	Practicing medicine without a license and misbranding.	Guilty, \$250 fine.
8. Dewey Conway.....	Indian herbs.....	Cure-all, cancer, heart, etc.	Misbranding and false advertising.....	Guilty, 4 counts, \$2,000 fine.
9. Clyde McCoy.....	Radionic device.....	Cure-all cancer.....	Practicing medicine without a license and false advertising.	Guilty, \$500 fine.
1952				
1. Vincent Burdick.....	Radon generator.....	Cancer, heart, and vascular diseases.	False advertising.....	Guilty, \$25 fine.
2. Mark Gallert.....	Radionic device.....	Cancer, cure-all.....	False advertising and practicing medicine without a license.	Guilty, 2 years' probation.
3. J. A. Estrada.....	Drugs.....	Kidney diseases.....	Misbranding and practicing medicine without a license.	Guilty, \$25 fine, 2 years' probation.
4. Dr. C. J. Tyner, D.C.....	do.....	Cancer, cure-all.....	False advertising.....	Guilty, \$500 fine, 2 years' probation.
5. Edward S. Morris.....	Artex.....	Arthritis.....	do.....	Guilty, 6 months in jail.
6. Carolyn Osburn.....	Drug.....	Cancer.....	Conspiracy to falsely advertise	Guilty, \$250 fine.
7. Frank Galway.....	do.....	do.....	do.....	Do.
1953				
1. Gresham Calvert.....	Calvert No-Vi-Ray.....	Cure-all, cancer.....	False advertising.....	Guilty, \$75 fine.
2. Tillie Higgins.....	Calozone.....	Cure-all.....	do.....	Guilty, 6 months custody of sheriff.
3. Merton Bell, pharmacist.....	Merbel powder.....	Ulcers.....	do.....	Guilty, \$125 fine.
4. Franklyn Kirk.....	Device.....	Cure-all, cancer.....	do.....	Guilty, \$75 fine.
5. J. E. Cunningham.....	Vital Tone.....	High blood pressure, stomach and liver conditions.	do.....	Guilty 2 counts, 6 months and 3 months; suspended, 3 years' probation.
6. Hilda E. Stoessel.....	Ozone generator.....	Heart and vascular diseases, diabetes, pneumonia.	do.....	\$100 paid, 180 days suspended.
7. A. P. Daniel.....	Radioactive steel ball.....	Pain killer.....	Practicing medicine without a license, misbranding, and false advertising.	6 months, count 1; 6 months, count 2; suspended 9 months for 3-year probation. Served 3 months.
1954				
1. A. D. Salerno, D.C.....	Drugs.....	Hemorrhoids.....	Misbranding and possession of dangerous drugs.	Guilty, \$200 fine.
2. William Steele and D. W. Brocklehurst, D.O.....	Uranium ore.....	Sinus, cure-all.....	False advertising, operating a clinic without a license.	Guilty; dismissed after firm stopped operations.
3. Russell Wilson.....	Drugs.....	Heart disease and liver ailments.	False advertising, practicing medicine without a license.	Guilty, 6 months in jail.
4. Effenberg, Kelm, Stephens, Garrat.....	Calozone.....	Cure-all, cancer.....	Conspiracy to falsely advertise a device..	Guilty, total fine \$5,000, plus 1 year in jail for Effenberg and Stephens; 6 months in jail for Kelm and Garrat, 3 months.
5. Ralph R. Rueber.....	Analyzer and energizer devices.	Cancer, ulcers, stomach, heart and vascular diseases.	Misbranding and false advertising.....	Sentence: \$250, 3 months in county jail, suspended 3 months in county jail for 2 years.

EXHIBIT I.—Trials involving drugs and/or devices—Continued

Defendants	Product	Diseases	Violation	Results
1954				
6. Margaret Raber.....	Ozone generator.....	Sinus, arthritis, cure-all.	False advertising.....	Probation, 2 years, \$50 or 25 days; \$100 restitution to victim. All machines and parts to Food and Drug. That she shall abstain from sale, manufacturing, repair, purchase advertising of any ozone generator or any similar device.
7. Walter O. Schroeder.....	Analyzer and energizer devices.	Cancer, cure-all.....	Attempted grand theft.....	5 years' probation, \$5,000 fine. Suspended \$2,500 for probationary period. Probation: defendant not to sell, lease, manufacture or rent energizer or related machines and those that are in his possession be destroyed. Judgment reversed by the district court of appeals.
8. Charles Conkey.....	Ray-pad, uranium ore.....	Arthritis, sinus.....	Misbranding.....	Guilty, 2 years' probation.
9. Tulio Silva.....	Dramamine Raudixin.....	Heart trouble.....	Practicing medicine without a license and misbranding.	Guilty, motion for new trial denied.
10. W. R. Woock.....	Marvel juicer.....	Cure-all.....	False advertising.....	Guilty, \$250 fine.
1955				
1. H. F. Bell.....	Magnecoil blanket and boots.	Cancer, cure-all.....	Misbranding and practicing medicine without a license.	Guilty, 3 years' probation.
2. Pearlle Mae Evans.....	Honey.....	Blindness.....	Misbranding and false advertising.....	Guilty, \$25 fine.
3. Keith Nishimoto.....	Knox gelatin.....	Sinus cure.....	False advertising and petty theft.....	Guilty, \$50 fine; petty theft dismissed.
4. Ralph J. Hudgins, D.C.....	Pathoclast machine.....	Sinus.....	False advertising, operating a clinic without a license.	Guilty, \$100 fine.
5. G. E. Chandler, D.C.....	Chandler device and vitamins.	Cure-all, heart conditions.	False advertising.....	Guilty, \$500 fine.
6. Anna Shiels, Albert T. Freeman, Glen T. Davisson.	Radon generators.....	Cancer, rheumatic fever, cure-all.	Attempted grand theft and conspiracy to commit grand theft.	Defendants dismissed.
7. Anna Shiels.....	.....do.....	.....do.....	False advertising and misbranding.....	3 years' probation; \$250 fine, \$10 per month.
8. Albert T. Freeman.....	.....do.....	.....do.....	.....do.....	Do.
9. Norman W. Schmitt, D.C.....	Oscilloclasts.....	Cancer, cure-all.....	False advertising and practicing medicine without a license.	Probation granted, 60 days, suspended, \$500 fine. On appeal.
10. C. W. Coleman, D.C.....	Diagnostic and treatment, radionic device.	Cure-all.....	False advertising.....	All 3 counts dismissed.
1956				
1. F. L. Butler, D.C. and G.K. Phoenix.	Heartometer.....	Heart.....	.....do.....	Dismissed.
2. Robert J. McBride, D.C.....	Drug and device, possession of Nembutal.	Heart disorder, skin rash.	Practicing medicine without a license, false advertising.	Not guilty.

81-135-04-pt. 1-3	<p>1957</p> <p>1. Pearlle Savely.....</p> <p>2. John C. Vogt.....</p> <p>3. Franklin D. Lee.....</p> <p>4. Silas A. Chaffin, D.C.....</p> <p>5. John J. Haney, D.C.....</p> <p>6. Nancy Haney (also known as Vesta Lee Haney).....</p>	<p>Cancer salve.....</p> <p>Squaw Paw herbs.....</p> <p>Drugs.....</p> <p>Bile salts and vitamins..</p> <p>.....do.....</p> <p>.....do.....</p>	<p>Cancer.....</p> <p>Sexual impotency.....</p> <p>Cancer.....</p> <p>Enlarged heart and liver, jellied gall bladder.</p> <p>.....do.....</p> <p>.....do.....</p>	<p>Practicing medicine without a license, misbranding and false advertising.</p> <p>False advertising.....</p> <p>Practicing medicine without a license, misbranded drugs.</p> <p>False advertising, practicing medicine without a license, petty theft.</p> <p>Practicing medicine without a license and attempted petty theft.</p> <p>False advertising.....</p>	<p>Guilty, \$400 fine, 180 days in jail.</p> <p>Guilty, \$100 fine.</p> <p>Guilty, 360 days in county jail.</p> <p>3 years' probation, 6 months in jail, \$500 fine, no practice of chiropractics during probation.</p> <p>Do.</p> <p>3 years' probation, \$200 fine. No activity re chiropractic office during probation.</p>
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<i>Résumé of court cases</i>	
Total number.....	66
Types of charges: ¹	
Adulteration.....	1
Misbranding.....	20
False advertising.....	46
Practicing medicine without a license.....	18
Conspiracy.....	8
Grand theft and attempted grand theft.....	4
Petty theft.....	3
Others.....	1
Types of diseases:	
Gall bladder.....	3
Liver.....	5
Kidney.....	1
Painkiller.....	1
Hemorrhoids.....	1
Sinus.....	5
Blindness.....	1
Cancer.....	23
Heart and/or vascular diseases.....	16
Ulcers.....	5
Cure-alls.....	22
Arthritis.....	3
Diabetes.....	3
Venereal diseases.....	3
Sexual rejuvenation.....	2
Defendants:	
Naturopaths.....	2
Laymen.....	43
Pharmacists.....	5
Chiropractors.....	13
Herbalists.....	3
Osteopaths.....	1

¹ Many defendants were charged with multiple violations.

Dr. PULLEY. At that time the committee concluded that:

* * * the bureau of food and drug inspections of the State department of public health is presently doing a noteworthy job in keeping at least some of the phases of quackery under control, within the limits of funds and personnel assigned to the bureau for this work.

We are convinced that quackery exists in California to a degree substantially detrimental to the health and welfare of its citizens.

A greater than usual number of referrals and complaints were received last year from consumers, civic organizations, voluntary health organizations, and other interested persons. These, coupled with our own observations, lead us to conclude that quackery is extensive in California, and appears to be increasing.

We suspect that, like the iceberg, considerably more medical quackery is hidden than is obvious.

Something has already been said of the over 65 age population in California. Eight percent of California's 17 million people are 65 years of age or older. In southern California this percentage may be higher, approximately 10 percent.

Three-quarters of these have some type of chronic condition, cancer, rheumatoid arthritis, heart disease, or other chronic disability. It is this senior citizen class with chronic ailments, approximately one-half million, that is the most sharply affected by the activities of the medical confidence man.

It is this class that becomes the main target for extensive exploitation.

The statute on which we rely most to combat the problem of quackery is the California Pure Drugs Act. It has been successfully amended so as to contain the same substantive provisions as the Federal Food, Drug, and Cosmetic Act. An important provision makes it unlawful to advertise any drug or device to have any effect on any of 48 serious diseases which are listed in the code, diseases for which there is no known cure or for which self-medication is dangerous.

Some examples of these are cancer, heart disease and diabetes, and so forth.

Now, we have a new requirement that is important. A recent significant addition is the requirement that both new drugs and new devices must be proved both safe and effective for the purpose or use intended prior to being offered for sale. This requirement that proponents of a new drug or new device submit data proving safety and efficacy should prove extremely useful in preventing the marketing of worthless nostrums and pseudo-scientific devices in the future.

It is my understanding that similar legislation at the Federal level has been proposed. In addition to these traditional measures, another approach was instituted 4 years ago.

This has already been referred to by Mr. James as the cancer control law.

In June 1959, sections 1700 through 1721 of the health and safety code were signed into law by the Governor. It placed responsibility for its enforcement upon the State department of public health, and authorized a 15-member cancer advisory council to advise the director.

The first council was appointed by the Governor in November 1959, and since that time the council and department have concerned themselves with testing or evaluation of a number of completely ineffective treatment and diagnostic agents.

As a result of these investigations, regulations to ban the use of six such agents have been promulgated and adopted by the State board of public health. These regulations now in effect prohibit the use of hoxey, Lincoln staphage lysate, mucorhycin, Koch oxidation catalyst, and laetriles, in the treatment of cancer, and the Bolen test for diagnosing cancer.

Eight cease-and-desist orders have been issued. One of these was based on a feature in the law which provides that if a proponent of an agent fails to produce samples of his agent, and complete information as to its composition and use, it may be conclusively presumed that the agent is of no value in the diagnosis, treatment, alleviation, or cure of cancer.

The composition of the 15-member cancer advisory council is specified in the law. As now constituted, eight members are intimately concerned in their clinical practice with their diagnosis and treatment of cancer, and six others are associated with diagnosis and treatment in an experimental or research capacity, or in some fashion with education or public health aspects of the cancer problem.

Consequently, the council is qualified to recognize whether an agent in use in the diagnosis and treatment of cancer is one which is conventionally acceptable, or whether it falls into the category of unproven agents. This ability is a valuable asset when a decision is required whether or not to investigate an agent.

The goal under the law is to determine the value or lack of value of a cancer diagnostic or treatment agent. If it is found to be of no value, the department seeks to prohibit its use in the State of California.

Now, there is an orderly procedure by which this prohibition is accomplished.

It must be conclusively established that the unproven agent is in use in one or more areas in the State other than under a research plan.

A sample of the agent, together with the pertinent data regarding its composition and use, is requested by the department by subpoena.

The sample is subjected to such analyses or testing as the council considers necessary.

After examining all of the available evidence, if it is found to be of no value, the council proposes a regulation to prohibit its use.

On concurrence by the director, the proposed regulation is referred to the State board of public health for a public hearing and for possible adoption.

On adoption, the regulation, if unchallenged, becomes effective in 30 days. After the effective date, and after prescribed administrative hearings, cease-and-desist orders may be issued by the council against those who are or who have been prescribing the agent. They may appeal. If the cease-and-desist order is violated, an injunction against the violator may be sought in superior court.

This law as mentioned by Mr. James expires in 2 years, December 31, 1965, unless the law is renewed. The program in the department is currently operating on an annual budget of approximately \$50,000.

Now, in addition to these enforcement procedures, the department has an educational program which consists of talks, news releases, pamphlets, pamphlet distribution, and a display of a quackery cancer exhibit. We are convinced that the best protection the American people have comes from knowledge of basic facts. Hence, we have vigorously tried to arouse public awareness to the problem of quackery by the above-mentioned various means, and have supplemented a hard-hitting enforcement program with educational approaches.

Our bureau of health education has actively assisted in the preparation of a pamphlet called "Beware of Quacks." About 25,000 of these pamphlets have been distributed in the past year.

The quack device exhibit displayed here has been shown at the State and county fairs, to large meetings of the medical and dental professions, and to civic and voluntary health organizations. It was sponsored by the California Cancer Society, and we think it has served a useful purpose.

Public addresses have been given by members of the department to educators, schools, colleges, civic groups, and professional societies. We hope to stimulate greater interest and participation by educators in dissemination of information relating to quackery to students in the secondary and college level.

In our efforts to curb quackery, we have sought the assistance of Federal agencies who have primary responsibility in this field, including the U.S. Food and Drug Administration, the U.S. Post Office, and the Federal Trade Commission.

We believe we have an effective working relationship with these organizations. An effective working relationship exists with the

California State Division of Investigation in any action which involves a licentiate of the several healing arts.

We have received excellent cooperation from voluntary health organizations, such as the Cancer Society, the Arthritis and Rheumatism Foundation, and the Heart Association. The California Medical Association, as well as the local county medical societies, and the better business bureau, have provided needed support.

The board of public health has appointed several highly qualified consultants to provide scientific medical opinions on problems involving quackery, and we have received excellent assistance and legal advice from the attorney general's office, as well as from district attorneys and prosecutors throughout the State.

The department recognizes that medical quackery constitutes a serious and growing public health program which depends for its existence on a combination of ignorance, fear, and superstition, and which utilizes medical and nutritional misinformation to arouse false hope.

This has prompted the development of a specialized regulatory program which falls into three broad categories. The first is the application of traditional after-the-fact punitive measures for violation of the Pure Foods and Drugs Act, and several other sections of the penal code.

The second is the establishment of the cancer diagnostic and therapy evaluation unit with the 15-member cancer advisory council, to work toward the elimination of worthless remedies by regulation and cease and desist orders.

The third is the premarketing control of new drugs and new devices by the requirement that proof of safety and effectiveness be submitted to the board prior to sale.

This is a new law which is just going into effect.

We are supplementing these three programs by several education approaches. We will work with all interested persons who will join us in seeking a better solution to the problem, and who will assist us in making California unprofitable, if not unhealthy, for quacks.

Now, Senator Williams, it is our plan to have Mr. Joseph Bottini, program supervisor for the State bureau of food and drug inspections, explain the work of the fraud investigation section of the department in its enforcement program.

Following Mr. Bottini, Dr. Kenneth Ernst, head of the cancer diagnosis and therapy evaluation unit, will speak about his work and that of the cancer advisory council.

Thank you very much.

Senator NEUBERGER. One thing bothers me concerning your statement. You mentioned a budget of \$50,000. Can you analyze all of the material that must need analyzing? Do you have a State laboratory for this work?

Dr. PULLEY. We have a State laboratory which in effect checks the analyses which have already been made. We have the formula and purported reports, and through this laboratory we check on information that is given to us by the manufacturer or distributor of an agent so we don't have to start from scratch, but we do check information carefully.

Senator NEUBERGER. Have you ever checked Krebiozen?

Dr. PULLEY. We have not worked on Krebiozen. We have checked other agents, but not Krebiozen.

Senator WILLIAMS. Mr. Bottini.

**STATEMENT OF JOSEPH F. BOTTINI, PROGRAM SUPERVISOR,
STATE BUREAU OF FOOD AND DRUG INSPECTIONS**

Mr. BOTTINI. Senator Williams and Senator Neuberger, my name is Joseph F. Bottini, and as program supervisor for the State bureau of food and drug inspections, I have been delegated by Milton P. Duffy, the chief of the bureau of food and drug inspections, to present a statement.

It is my honor to do so.

As Dr. H. C. Pulley, our deputy director, has indicated, the bureau of food and drug inspections has had considerable experience in dealing with quacks. Medical quacks are generally lawbreakers, and the law most directly concerned, and which establishes jurisdiction in this field, is the California Pure Drugs Act, comprising sections 26200-26385 of division 21, chapter 2 of the California Health and Safety Code.

There follows the sections that have already been referred to. This chapter contains prohibitions against adulteration and misbranding, which are essentially the same as those contained in the Uniform State Food, Drug, and Cosmetic Act.

In addition, it forbids the dissemination of any false advertisement of a drug or device (sec. 26286).

More particularly, section 26286.5 states:

The advertisement of a drug or device represented to have any effect in any of the following diseases is unlawful and prohibited: albuminuria, appendicitis, arteriosclerosis, blood poisoning, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, cataracts, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high-blood pressure, mastoiditis, measles, meningitis, dental caries, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis (infantile paralysis), prostate gland disorders, pyelitis, alcoholism, erosion, periodontal diseases, epilepsy, goiter, scarlet fever, sexual impotence, sinus infection, smallpox, encephalitis, tumors, typhoid, uremia, venereal disease, whooping cough, tuberculosis, ulcers of the stomach and varicose ulcers.

The provisions of this section encompass virtually the entire field of medical fraud and quackery, and constitutes an important statutory bulwark against a massive threat to public health.

However, to prove false advertising, we must be prepared to show a pattern of repeated offenses rather than a single isolated act.

As has been indicated, at the last session of the legislature, the Pure Drugs Act was strengthened by amendments which parallel the Drug Amendments of 1962 to the Federal act. These set forth elaborate provisions which require the proponent of a new drug or new device to submit proof of safety and efficacy to the board before marketing the article.

In other words, if a new device has not yet received general recognition by medical experts as being safe and effective, it falls into the same category as does a new drug with its accompanying safeguards.

We anticipate that this will prove to be an extremely useful tool and experience will determine whether our expectations are realized.

Because violations of the act are misdemeanors carrying a nominal fine and/or jail sentence, we have had recourse to other statutes

whenever the penalty did not seem to be commensurate with the degree of public injury. We have effectively applied various felony sections of the penal code, including grand theft and/or attempted grand theft, and conspiracy to violate the Pure Drugs Act.

It has often been observed that you cannot legislate quackery out of business. Legislation must be enforced with energy and intensity.

The section's regulatory activities are wholly directed against health racketeers, and we believe we have the necessary prerequisites for such an undertaking. To begin with, of the six employees that comprise the section, four are highly experienced in this field. In addition to being expert food-and-drug inspectors possessing the required basic knowledge and skills of this civil service category, all have had peace officer training with specialization in investigative techniques.

We have three in the Los Angeles area, and three are stationed at the Berkeley headquarters for the northern area. Temporary undercover agents have been hired to assist our inspectors whenever necessary.

We have the latest type of equipment, including radio and recording equipment. Such self-contained recording instruments are most useful where "word-of-mouth" advertising is the sole method employed to induce sales.

Our experience indicates that there is a marked reluctance on the part of the public to complain directly to a law enforcement agency for fear of becoming involved in a court trial, or they don't wish to "make trouble" for another, in spite of the fact they have been duped of their life savings, or wasted valuable time which may lead to loss of life.

Our leads are developed through telephone calls, letters of complaint, referrals from other agencies and organizations, newspapers, and our own observations, and we endeavor to establish priorities on the basis of the following criteria:

First, the extent of the hazard to health that exists or likely to ensue either by causing injury directly or preventing rational treatment.

The second is the economic magnitude of the sum involved, and the extent of the operation.

The third is the source of the complaint, whether it is a bona fide victim, government, business or professional associations, or violations noted by inspectors—even though the purchaser is not dissatisfied.

The fourth is the chronic and willful violator.

If the complaint comes within our jurisdiction, we begin a routine investigation following certain procedures. Complete statements from the victim or his family are taken. Specimens of the drug or device are collected. Physical and documentary evidence of the sale are secured. Photographs may be taken or a detailed description of the device is made. Suffice to say that the drugs or devices are analyzed at our State laboratories in Berkeley or Los Angeles, but many devices, particularly those of an unusual nature, such as electronic equipment, and so forth, require the hiring, on a temporary basis, of some expert to testify as to their findings in a criminal trial.

This examination must incorporate certain essentials, the chief of which is a determination of the composition of the product or output of the device, and this may include chemical analysis, electrical

measurements, schematic drawings, and it also includes expert evaluation of the product on the basis of these findings.

After careful examination of the article and evaluation of the data is made, and if the evidence is deemed sufficient, it is presented to the district attorney of the county in which the violation is committed.

A further investigation may then be carried out and an undercover agent may be employed for the purpose of determining with greater detail and accuracy the nature of the suspected criminal activity. Such an agent is often one of our own inspectors.

Several trips may be necessary in order to establish the actual pattern of activities, and an attempt may be made to purchase the drug or device in question.

After careful consideration and evaluation of the evidence, the agent may place the suspect under arrest. Prior to such an arrest, our investigators would invariably be in close contact with the district attorney's office. The prosecuting attorney may have determined that the facts do not warrant a complaint under the California Pure Drugs Act, in which case the matter may be referred to another agency for further investigation and disposition, or it may be held in abeyance.

Frequently, as previously mentioned, there may be a compound violation involving theft, false advertising, and/or practicing medicine without a license. Where multiple violations of different codes exist, several enforcing agencies at the Federal, State and local level may be working together in the investigation and ultimate prosecution of the suspects.

Now, this may indicate that there is an overlapping of jurisdiction, but actually this is not the case. These violations require extensive preparation of evidence, and the ultimate in cooperation is mandatory for all agencies concerned.

The arrest of the suspect is only a midway point in the investigation. All records and documents must be carefully read and evaluated, and physical evidence collected at the time of the arrest, including X-rays or other drug products, and must be analyzed and evaluated by proper laboratory procedures.

As stated previously, most drugs are analyzed at our State laboratories at the University of California in Berkeley or Los Angeles. In addition, corroborative data is obtained by securing statements from other victims, and these may even be the so-called satisfied customers.

Such statements serve two purposes, the first being that if the victim is dissatisfied he may be used as an auxiliary witness at the time of trial. If the person interviewed is one of the satisfied ones, his statement will prove valuable through the prosecuting attorney in the event that person appears as a witness for the defense.

The statement prevents the witness from changing his story on the stand, since a substantial change could serve as a basis for impeachment.

At the time of trial, the investigators, agents, officers, expert witnesses, and victims will be required to testify. Great care must have been exercised prior to the time of trial so as to preserve the chain of evidence up to the moment of its introduction at the trial.

We have prepared a summary of these procedures which details the action step by step and is available to the committee if the committee desires it.

Experience indicates that if a case is based on sound evidence showing that the promoters used falsehoods or half truths, the courts have generally held the defendants guilty, if testimony is presented by scientific experts supported by actual experiments.

Now, these trials are rarely without a great deal of emotional tenseness, dramatic outburst, and cries of persecution on the part of sympathetic spectators. This can sometimes create a formidable hindrance to the orderly conduct of a case.

Until recently, our work in the public interest was rarely in the public eye. However, there are heartening indications that greater attention is now being focused on the subject. Newspapers, magazines, radio and television programs are contributing immeasurably to the presentation of the truth.

For example, in an article entitled "Crackdown on Quackery" in the November 1963 issue of Life magazine, two important cases which the bureau investigated, and on which charges were filed, were reviewed; these are currently pending trial in Los Angeles.

Our cases range from simple sales of cure-alls by house-to-house peddlers, to complex and involved promotions, generally of a clandestine or secretive nature. I would like to review this particularly.

During the past year, 83 cases were considered. Of these, 36 are still pending. Twelve court actions ensued. Three are pending trial, the balance were convicted except for one found not guilty by a jury trial lasting 2 weeks.

Now, eight of these actions were handled by informal administrative hearings or office interviews which resulted in voluntary cease-and-desist agreements. In two instances, injunctions are being sought through the attorney general's office.

We have found that the quest for the fountain of youth has not abated. One of our joint actions with the division of investigation involved Francisco Rosete of Mexico City who was promoting imported injectables to rejuvenate the entire body.

The promotion was based on the live cellular therapy theory whose advocate is in Switzerland.

We just completed a case against a self-styled psychologist and herbalist, Joseph Guarascio, who was using lactose for treating sexual impotence. Variations of this type of case using chicken embryo, silicone fatty acids and egg yolk in grape juice are pending further investigation.

These are all promoted to make "impotency a thing of the past," develop "greater acuteness of senses," "suppleness of tissues and muscles, and remarkable body harmony," and restore "vitality and virility."

Incidentally, we destroyed 1,000 of those Abunda beauty bust developers that were previously mentioned by Mr. James. The owner was convicted for interstate sales, but similar devices are still being exploited by several others.

Alcainezterase, a vitamin-like substance, consisting of para-aminobenzoic acid, was sold as a treatment to "prolong the mental and physical activities, as well as retard the symptoms of the aging."

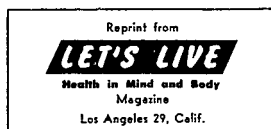
This is a variant of the Roumanian treatment, using a procaine injectible called Gerovital H₃. I have the promotional documents, and I will submit them as exhibit A, if I may.

Senator WILLIAMS. Fine.

(Exhibit A follows:)

Our Natural Chemical Liquefier . . . And Discussion of H₃

by Maurice H. Kowan, B.S., D.O.



The H₃ treatment

At the present time a new type of treatment for arthritis is sweeping the world—namely the H₃ treatment. This was popularized by a woman physician in Bucharest, Rumania. She claims that H₃ has a vitamin-like action on the entire body, restoring normal cell function and is particularly effective in the aged. H₃, when injected, breaks down into a vitamin-like substance belonging to the B-complex group.

Employing H₃ for the past year, it appears to me to be of value in arthritis. But arthritis is a chronic, persistent, destructive disease and every possible weapon must be employed. The most important single modality in its prevention and treatment is diet, including raw juice.

— Excerpted from "Overcoming Arthritis," Oct. 1960 LET'S LIVE

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H₃ therapy

Unfortunately society has completely lost interest in our swiftly growing population of oldsters. Their rapid deterioration physically and mentally is shocking. They are a tremendous drain on their children or other relatives and on local charities. For this reason I became vitally interested in the claims of Dr. Anna Aslan of Bucharest, Roumania, who revived an almost forgotten discovery that procaine (a relatively harmless anesthetic), when injected into the body, breaks down into a vitamin-like substance (para-amino-benzoic acid) which she labeled H₃. After many years of clinical study

she stated that these injections given over a period of time would revitalize the body, producing, in fact, a youthful resurgence.

In order to check her results I completed a three year clinical study of H₃ injectable. Of course, not everyone benefited, but many showed remarkable improvement, as in the following cases.

Mr. T., aged 72, was despondent and irritable and suffered from leg weakness so that he could not play golf. Now he is able to play 18 holes of golf, is energetic and full of optimism.

Mr. R., aged 74, had retired from work. He complained of severe pains in his feet and legs. After the injection treatments, he is back at work, shows great improvement in strength, is mentally alert and relatively free from pains.

Now energetic

Mrs. H., 46, exhibited a clear-cut condition of Parkinson's disease syndrome: mental confusion, "pill rolling" tremors, slow, staggering ambulation, facial mask. Her condition was truly deplorable. Following injections she recovered fully and is now energetic, with full control of her musculature.

Mrs. A., age 55, felt weak and depressed, suffered severe body pains and twitching muscles. She is now energetic, optimistic, eager to return to work.

Mr. F., a retired engineer, working only part time, was plagued by a failing memory. He is now back to a full-time job. His memory is improved and his outlook is optimistic.

In all these cases, one outstanding result was increased mental alertness with restoration of optimistic outlook and euphoria (sense of well-being).

Oral H₃ tablet

Fortunately there is now available an

oral H₃ tablet offered as a substitute for the costly injectable, and I sincerely hope that it will help in a natural manner to revitalize our "oldsters".

As one ages the glands of the body gradually lose their efficiency. This holds true of the stomach as well.

Normally the stomach produces hydrochloric acid, pepsin and rennin as its chief function. The hydrochloric acid maintains the proper pH (hydrogen ion concentration) of the stomach contents to enable digestion of the proteins to take place. The pepsin and rennin also aid. If these substances are lacking, foods ferment and cause flatulence, abdominal distress due to pressure, and also malnutrition. A great help would be to add to the meals diluted lemon juice, diluted hydrochloric acid or—perhaps the best of all—two teaspoonfuls of apple cider vinegar in a glass of water to be sipped slowly during each meal. Two teaspoons of honey may also be added to increase palatability.

— Excerpted from "Our Natural Chemical Liquefier . . . And Discussion of H₃," Nov. 1961 LET'S LIVE

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* * *

► Tells results with "H-3"

We love LET'S LIVE. All the articles are so helpful and I have been having wonderful results with the H-3 tablets. Have had scads of them for 11 months. It does work!

I had five years of this and that, just an infuriating siege. To wind up the agony I broke my hip. You'd be surprised what H-3 has done for me generally and for bones in particular. I can almost gallop upstairs now and walk like mad everywhere.

I thought you might like to know this.

NAME ON REQUEST

— Excerpted from "Letters..."
Feb. '63 LET'S LIVE

JS 8/2/63
→ P.M.

H - 3* POINTS THE WAY

Everyone wants to have the Look of Youth, the Spirit of Youthfulness, and the Vitality of Youth.

Medical reports from Europe and substantiated in the United States about a substance used as an injectable called Gerovital H3 in Roumania by Prof. Dr. Anna Aslan, M.D., and is called Neural Therapy in Germany. PLEASE NOTE: There is much confusion between Cocaine and Procaïn. They are vastly different: Cocaine is habit-forming, a narcotic, dangerous and toxic. Procaïn is easily TOLERATED in the BODY and NON-HABIT FORMING.

"The report tells of apparent successful treating over a period of time, **MUSCULAR RIGIDITIES — JOINT PROBLEMS — MENTAL ILLNESS — SKIN & NERVOUS CONDITIONS**. A pattern slowly emerged through prolonged treatment of 12 to 16 injections monthly that there was a criss-crossing effect:

"While benefitting **CARDIAC & CORONARY** conditions **TINNITUS** of the ears was silenced, **MUSCULAR** symptoms were relaxed and **PSORIASIS** symptoms diminished.

"**SKIN** conditions improved while the **ARTHRITIC** conditions were also aided. Such, that it seemed, that each symptom by itself is not totally the chief cause of discomfort — **Nutritional Deficiencies, Occupational Tension, and Sedentary Inactive Living** combine to play host for more than one condition.

"In many cases the total response was that the patients became more **DYNAMIC — OPTIMISTIC — had INCREASED VIGOR — EVIDENCE OF EFFECT** on the **GENERAL NERVOUS SYSTEM** through

Restoration of **MEMORY**

Reduction of **TENSION**

Increased Expectation of **YEARS OF LIFE**".

Dr. Bernard Goodman, M.D., of New York, corroborated and further reported "that the H3 treatment was **NON-TOXIC, NON-HABIT FORMING**. While 85 % of the **ARTHROPATHIES IMPROVED**, response varied with each individual: at times rapid results were secured; at other times it took longer to secure adequate beneficial result. It appears that the direct cellular action of the injected H3 and Neural Therapy constitutes a typical vitamin effect."

Ref.: The Golden Years, Herman Goodman, B.S., M.D.; "H3" in the Battle Against Old Age, Henry Marx, American Weekly, April 16, 1961; Medical Times, K. E. Kretzmar, M.D., U. S. Dispensatory, 24th Edition.

H - 3 = HEALTH, HAPPINESS, HOPE

We took this vitamin-like substance with its strong bio-catalytic action and added other nutritional factors including poly unsaturated fatty acids to create this special superior dietary supplement. Greater or smaller amounts of **poly unsaturated fatty acids** can only add to this dietary supplement greater over-all achievements.

Nutritional deficiencies may be the cause of disastrous after-effects to those who lead quiet, inactive lives but exercise violently on the week-ends. One should always maintain good nutritional habits, exercise daily, and avoid tensions.. This superior special Dietary Supplement H-3 with Alcaïnezerase has a detoxifying effect on Sulfa and Arsenical combinations. For problems of diseases or defects in the system we recommend the doctor-patient relationship.

30 Tablets	\$3.50
60 Tablets	6.50
180 Tablets	17.25
360 Tablets	31.50

Calif. Residents Only
Add 4 % Sales Tax

NUTRITION HEALTH FOODS
307 N. BRAND BLVD.
Citrus 3-2318

D & C SUPPLEMENTS CO.
P. O. BOX 2416
SEPULVEDA, CALIFORNIA
* Reg. U. S. Pat. Off.

THE H3* TABLET

Everybody wants to increase their life span. The older we get the more definite are our desires to live. Doctors, scientists, and researchers are human so the problem is constantly being investigated.

People who live longer would like to have use of all of their faculties such as sight, hearing, less painful joints, good skin, mental alertness, and good circulation. This is the prayer of all of us. Science has lengthened the span of life, therefore the body sometimes needs special help. Nutrition is an important factor in health. H3* is a dietary supplement only. For problems of disease or defects in the system, see your doctor.

Research is always trying to create a tablet substitute for most things that are injected. Injections, while more costly, are for some people still the only method to use. In many cases tablets are as effective as the more costly injections.

As an illustration, vaccines and vitamins can either be taken orally or by injection. The oral table many times is considered the perfect substitute for the injection and most times less expensive.

For years and up to the present time, an injectable was used by physicians in the battle against old age called by some H3 (Procain HCL with a PH between 3 and 4). Their research was to try to slow down the aging processes.

Reports of their apparent successes have been written up in magazines, journals, newspapers, etc. The articles quoted the doctors' reports of the following benefits: "Beneficial action on skin with a more youthful appearance, hearing loss aided, noises in the ears lessened, circulation improved, joints were more mobile, and other professional advice on symptomatic relief." It was noted their treatment was given over a long period of time with some people benefiting quickly and others taking longer. The articles were very careful to advise that it was only a treatment never a cure.

We questioned the use of H3 — was it a VITAMIN? — was it a Drug? Science has always known that when H3 (Procain HCL) was placed into the body by physicians it changed into a vitamin-like substance.

This vitamin-like substance can be considered the active principle of Procain HCL. We took this active vitamin-like substance with its strong bio-catalytic action and placed it with other nutritional factors to create this special dietary supplement considering the right PH which we call H3* with Alcainezterase.

We recommend the doctor-patient relationship. Money back guarantee with your doctor's letter stipulating the tablets are incompatible.

Ref.: Let's Live Magazine; Los Angeles Mirror News of Jan. 6, 1961; Coronet Magazine; American Weekly of April 16, 1961; and the U.S. Dispensary, 24th Edition.

* T.M. Pending	30 Tablets (Trial Size)	\$ 3.50
Distributed by:	60 Tablets	6.50
D & C SUPPLEMENTS	180 Tablets	17.25
P. O. Box 2416	360 Tablets	31.50
Sepulveda, California	Plus California Sales Tax	

(Other pamphlets relative to this matter will be found in the committee files.)

Mr. BOTTINI. We had to take action against the vendors of negative-ion generators for which false or exaggerated claims were made. One was prosecuted for failure to file a new-device application prior to marketing of the device.

We stopped the brisk sales of an herb tea consisting of juniper, artemisia or wormwood, and honey for stomach ulcers, dropsy, and diabetes.

The quack was convicted of practicing medicine without a license and of falsely advertising a drug and a \$300 fine was imposed.

We were successful in prosecuting an oriental herbalist in San Francisco. He concocted an ointment consisting principally of zinc oxide, which he would apply and sell to persons afflicted with any skin disease, including cancer.

With these two exceptions, the whole field of quackery by herbalists remains virtually unmolested by governmental agencies in general.

We have many other examples of drugs and devices currently exploited:

Instruments for the treatment of various diseases such as arthritis, rheumatoid conditions, and other diseases.

Heat treatment instruments for sciatica, varicose veins, and foot conditions.

Radionic devices for diagnosing and treating diseases with vitamins and food supplements.

Drugs purported to prevent heart attacks and which as a side effect restore original hair color.

Mineral waters with exaggerated therapeutic claims.

Vacuum cleaners purported to be air purifiers for the treatment of asthma and other respiratory ailments.

Red root and whisky for treating arthritis, rheumatism, and cancer.

Vibrators for lifting facial muscles and eliminating wrinkles.

Products purported to recontour the female body.

There are two in particular that I would like to talk about, the two devices that we have in the back of the room. One is called the ozone generator, and the promoters of that offered it as "God's Gift to Humanity."

It was used for the treatment of diseases which range from anemia to varicose veins.

Senator WILLIAMS. How long was that product on the market before you got to them?

Mr. BOTTINI. It took us 2 years of working on the case. We started immediately after it was promoted, but it took us 2 years to accumulate the evidence.

Senator WILLIAMS. Do you know how many were sold?

Mr. BOTTINI. Yes, we feel there were about \$1.5 million worth sold.

Senator WILLIAMS. Nationwide?

Mr. BOTTINI. Statewide. The interesting thing about it was that it was called Calozone in California, Orozone in Oregon, and Nevozone in Nevada, and this avoided the interstate requirements. It was really an elaborate scheme. It generated a considerable amount of ozone.

We had to prove this at U. C. Donner Laboratory; at about a foot away, it is developing 150 parts per million of ozone, and this is a most dangerous gas. It was demonstrated in the laboratory that such a device could kill mice in a matter of hours.

It is interesting to note that the maximum allowable concentration for ozone is one part per million, compared to 100 parts per million for carbon monoxide and 10 parts per million for hydrogen cyanide.

(Whereupon followed a demonstration of the ozone generator by Mr. Bottini.)



(San Francisco News-Call Bulletin photo)

Mr. Bottini demonstrates ozone device at hearing

CALOZONE GENERATOR

This is an ozone machine. According to a booklet found with it, it will cure cancer, heart disease, high blood pressure, sinus infections, tumors, diabetes, and ulcers. In reality it cures nothing, and it may be harmful.

The machine produces a mixture of ozone and oxides of nitrogen, which are harmful gases. In actual tests, these gases have killed mice, and experts tell us they could damage the lungs of people who breathe them very long.

The manufacturer and three salesmen were arrested and pleaded guilty. The length of their sentences ranged from 3 months to 1 year; in addition, two of the men were required to reimburse their county \$2,500 each.

OZONE *The Breath of Life*

WHAT
Is OZONE?

WHAT
Does OZONE DO?

WHAT
Do DOCTORS SAY?

WHAT
Do USERS SAY?

HOW
Will OZONE
BENEFIT YOU?

OZONE IS —

tri-atomic oxygen—a concentrated and super-active form of oxygen, having the chemical designation O_3 . In nature it is produced by the action of the sun's rays on the oxygen in the atmosphere; it is most abundant at the seashore and in the high mountains. Health resorts take advantage of this fact because ozone is not measurably present in the contaminated air of cities. The pleasant fragrance which you notice when bringing in clean clothing from the drying line is actually due to minute quantities of Ozone.

OZONE BENEFITS MANKIND

in many ways. Doctors, Chemists, Physicists, Engineers—all have established facts about Ozone which place it in a category that no other physical or chemical discovery has ever attained. In quantities as small as two parts per million parts of air, Ozone will destroy airborne bacteria. In a dramatic experiment, the air in a five room house was rendered free from bacteria in only thirty minutes by a single Ozone Generator, on **lowest output**. Dr. James Stewart reduced the absences in St. Louis city schools by more than 50% through the use of Ozonized air.

Ozone is used by more than 50 cities for the purification of drinking water, much of which comes from lakes and rivers which are polluted by sewage. "Puritas" distilled drinking water, which is recommended by local physicians, is purified and vitalized by Ozone.

Ozone has an outstanding medical history. In addition to its use in hospitals for the sterilization of operating rooms, it has become a standard treatment for many ailments.*

Ozone increases the oxygenation of the blood and tissues, thus increasing oxyhemoglobin and also increasing the number of red blood corpuscles.

DOCTORS SAY OZONE IS A HEALING AGENT of great value—

DR. NOBLE EBERHARD, M.D., Ph. D., writes, "IF I COULD HAVE ONLY ONE **REMEDY** I WOULD PREFER TO TAKE MY CHANCES WITH OZONE." Although this is a strong statement from a man of medicine, his confidence in this wonderful agent is confirmed by reports from Doctors and Scientists all over the world.

*—See list on Back

USERS SAY . . .

To Whom It May Concern:

Our daughter began having convulsions at the age of 18 months. The doctors were unable to find out the trouble. Several times we took her to Stanford Lane Clinic in San Francisco and had all kinds of x-rays taken, but they were unable to find the trouble.

She had never been able to go to school more than a week or two at a time. She was losing her appetite and was unable to walk from one room to the other without help. She was having as many as four convulsions a day. The doctors told us she would never be any better. We had spent ten thousand dollars with doctors trying to help her.

One evening about three months ago Mr. Snyder came to our place selling books, and we told him about our daughter. He said he would send a man down the next day to talk about the Ozone machine.

The next evening he brought Mr. Roth and he left the machine in our home three weeks. Our daughter started getting better and in two weeks she could feed and dress herself. She is now able to go to church and any place we want to take her. She has had only a few light attacks since she began taking Ozone treatments.

We surely thank the Lord for sending the Ozone machine our way. Always before in the winter we had colds and sore throats, but this winter since we have the Ozone machine in the home we haven't had a cold.

For the last three years my husband has been bothered with his gall bladder and had to be very careful about his diet, but since we have been using the Ozone machine he eats anything he wants.

We will be glad to tell anyone what the Ozone machine has done for us in our home.

Signed: Mr. and Mrs. Norris Beuerly
P.O. Box 125, Lincoln, Calif.

A little word of encouragement for folks who are afflicted and deformed by the painful disease of Arthritis. I wish to say to them, "Don't be discouraged, for there is hope with the Ozone generator." I am speaking after two months of experience with the generator.

I have had this terrible disease for over 50 years and have become badly deformed. I tried **everything** I ever heard of but everything failed until I purchased the Ozone generator. For the first three weeks I seemed to feel worse. This I later learned was caused by the forced

circulation of the blood which cleanses the system of all poisons. When I started to use the generator, my blood pressure was 180, after three weeks of use the doctor again took my blood pressure and it was down to 165.

At the time I started to use the generator I was taking six or seven Imdrim tablets every day to obtain relief from the severe pain. Now I have discontinued the use of these pills altogether. I sleep wonderfully well at night. This too, is new for me. My bowels are regular for the first time in many years. My hopes are soaring high, and I know that I will continue to improve in the future as I have done in the last two months since using the Ozone generator.

Anyone wishing to inquire about the generator, please feel at liberty to do so.

Trusting that this may be a ray of light to those who are afflicted with Arthritis.

Gratefully yours,

Signed: Arthur M. Taylor

Signed: Mrs. Edna Mark
(Nurse to Mr. Taylor)

"If the price were a thousand dollars it would be worth every penny," says Mrs. E. W. Haller, 325 E. Wilhelmina St., Anaheim. Rusty, our one-year-old baby boy, had just returned to the hospital after a bad attack of asthma, and on the third day of using your Ozone generator, Rusty began sleeping all night. The mucous in his chest was loose, and he was able to rid himself of it without the aid of ipecac. Linda, our little daughter, began to show color in her cheeks and both our children are pictures of health now."

Frank J. Vaca, 115 E. 4th, San Bernardino, writes, "At this time I, too, would like to join the enthusiastic boosters of your Ozone Generator. Being a Victim of Public Enemy No. 1, namely, Heart Trouble, I feel qualified to testify for the merits of the Ozone generator. One day, about a week ago, I had a severe attack and passed out, completely exhausted. My landlady came to my rescue with the Ozone Generator. In only one week's time I feel like a different person, full of energy and wholly revitalized. It hardly seems possible that such a tremendous change could come over me in only one week.

YOU TOO —

can have the benefits of Ozone as produced by the Pure-O-Zone Ozone generator. See the reverse side of this panel for important information on this health-building discovery.



The
PURE-O-ZONE

OZONE GENERATOR destroys air-borne bacteria, thus PROTECTS YOU and YOUR FAMILY from the many air-transmitted diseases which injure and kill hundreds of thousands of children and adults every year.

PURE-O-ZONE neutralizes the deadly Carbon Monoxide gas which results from incomplete combustion of fuel in heaters, furnaces and stoves, thus PROTECTS YOU AND YOUR FAMILY from injury or death from Monoxide Poisoning.

PURE-O-ZONE is constantly purifying and revitalizing the air you breathe.

OZONE produced by PURE-O-ZONE increases the oxyhemoglobin in your blood, which is the life of your body, thus HELPS YOU GAIN BETTER HEALTH, by helping your body rid itself of disease. Good health is essential to the enjoyment of a full long life.

PURE-O-ZONE quickly and completely destroys all unpleasant organic odors.

PURE-O-ZONE operates 24 hours a day at a cost of but 1 or 2 cents.

The PURE-O-ZONE GENERATOR has adjustable control for high or low output of Ozone.

The PURE-O-ZONE GENERATOR is fully guaranteed against defective materials or workmanship for one year. (PURE-O-ZONE has no moving parts, nothing to wear out.)

ACT NOW to IMPROVE and PROTECT YOUR HEALTH—it is more important than **anything** else.

Write to PURE-O-ZONE for a free demonstration in your own home.

OZONE

Has been used in the treatment of

ANEMIA

ASTHMA

ARTHRITIS

BRONCHITIS

CHLOROSIS

COLDS

COLIBACILLOSIS

CONSTIPATION

DYSPEPSIA

ECZEMA

FISTULA

HAY FEVER

HEADACHE

INFLUENZA

INSOMNIA

INACTIVE LIVER

INACTIVE KIDNEYS

MIGRAINE

MUCUS COLITIS

OSTEOMYELITIS

PSORIASIS

VARICOSE VEINS

And Many Other Ailments

Mr. BOTTINI. The theory of the machine is that the sufferer from a disease had only to breathe in the ozone created by the device and he would be cured. They were told to keep it on constantly, but with your permission I will turn this off.

Senator NEUBERGER. What is ozone? I thought it was air.

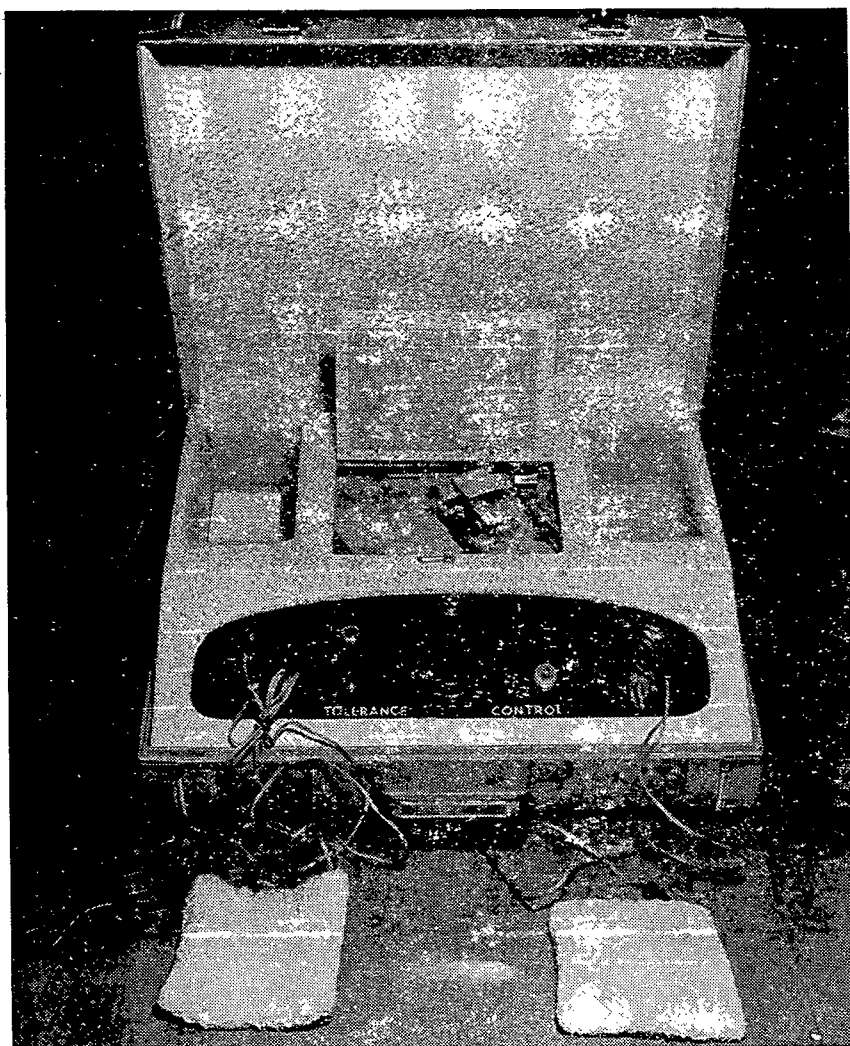
Mr. BOTTINI. On the basis of our high school chemistry, ozone is O_3 . In other words, O_3 is pure, and O_2 is the one combined in the air, and since our bloodstream is a thing that cures us of all our diseases, let's get pure oxygen into us. This is the type of pseudo science that is promoted and has a semblance of color and interest for people.

Senator NEUBERGER. How much did that sell for?

Mr. BOTTINI. \$154, plus tax. It cost \$24 to make.

If there are no other questions on the ozone generator, I would like to mention this last device. This is called the Film-O-Sonic case and can be referred to as a cancer cure by music.

(Whereupon followed a demonstration of the Film-O-Sonic machine by Mr. Bottini.)



FILM-O-SONIC

This is actually an ordinary tape recorder with the speaker removed. A continuous tape of the song hit "Smoke Gets in Your Eyes" is played silently on the machine.

The quacks selling these machines claimed that they had diagnosed and cured cancer, cataracts, heart disease, ulcers, and other diseases. It was also claimed that the machine would kill germs.

Various versions of this machine sold for \$300 to \$500.

The three quacks selling the Film-O-Sonic were found guilty by a San Francisco court and were given sentences ranging from \$250 fine to 6 months in jail.

Mr. BOTTINI. This is merely a tape of "Smoke Gets in Your Eyes," but you don't hear the music. We have hooked up a little speaker to the device since we have purchased it, so you can hear the music; but ordinarily, according to the promoter, the vibrations emanating from an endless tape were disseminated through the wires to the site of the cancer causing the tumor to disintegrate.

This was an elaborate promotion by a misunderstood "genius" from Santa Ana by the name of Billinton and Dr. Hartman, a chiropractor from San Bernardino. They got together to promote this at \$385 apiece, a very simple little tape of music.

It isn't easy to buy these, Senator. You can't buy these on the open market. It takes a lot of undercover work, a lot of effort, to be able to buy an instrument of this nature for the treatment of cancer.

Needless to say, we were successful in prosecuting the three defendants in San Francisco here. They received substantial fines.

I think I have overtaken my time, and I thank you very much for the opportunity to speak here today.

Senator WILLIAMS. When you say substantial fines, what do you mean?

Mr. BOTTINI. In this particular instance, the chiropractor was fined \$500, and he had to spend 90 days in jail because he refused to reimburse the victims.

Senator WILLIAMS. \$500 doesn't impress me, but the other aspect does. If they are making that kind of money—big money on these devices—you can pay that fine in the sale of four or five of the gadgets.

Mr. BOTTINI. Yes, this is one of the reasons that we have gone into the more elaborate felony charge where we hope we can show grand theft or attempted grand theft.

Senator WILLIAMS. Shall we go on to Dr. Ernst, and then perhaps inquire generally of you gentlemen? You are giving us very helpful information.

(The following was supplied for the record.)

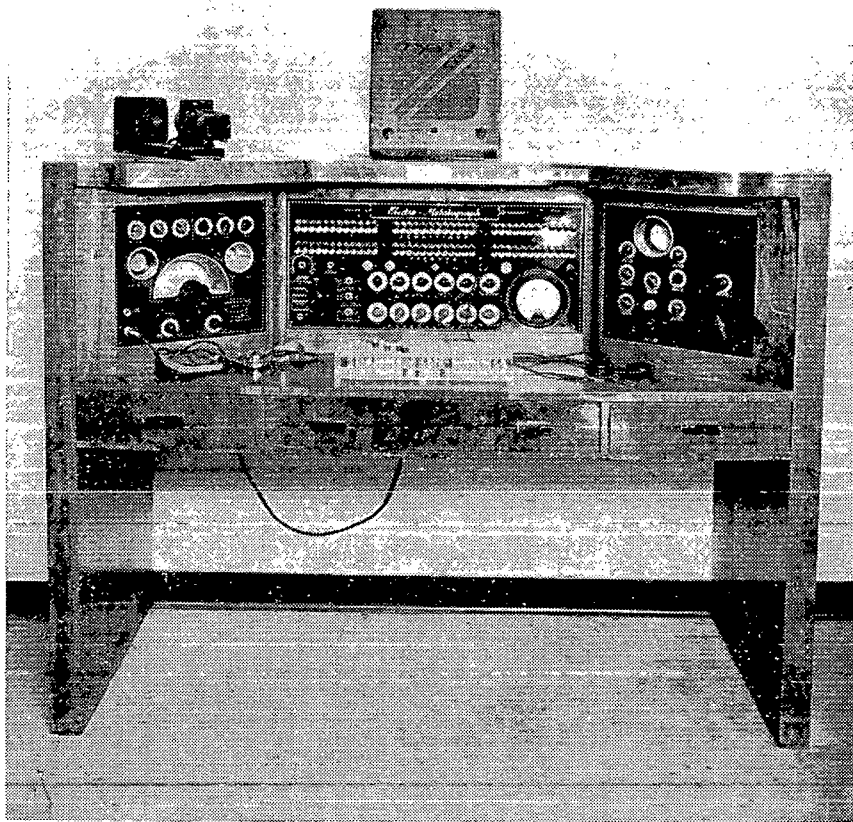


PEARLIE SAVELY CANCER SALVE

This salve was made by a Lemoore, Calif., man who claimed his product would diagnose and cure cancer.

The salve consisted of powdered blood root, galangal root, and zinc chloride—a powerful caustic. Savely claimed the salve would be ineffective on noncancerous tissue. In the case of the woman pictured it was used on a mole on her shoulder which the quack diagnosed as a “cancer mole,” but which, in reality, was non-malignant.

Savely entered a plea of guilty to counts of practicing medicine without a license, a violation of the California Medical Practices Act, and preparing and dispensing a misbranded drug, a violation of the California Pure Drugs Act. He was fined \$400, served 10 days in jail and made restitution of \$250.



ELECTROMETABOGRAPH DIAGNOSTIC MACHINE

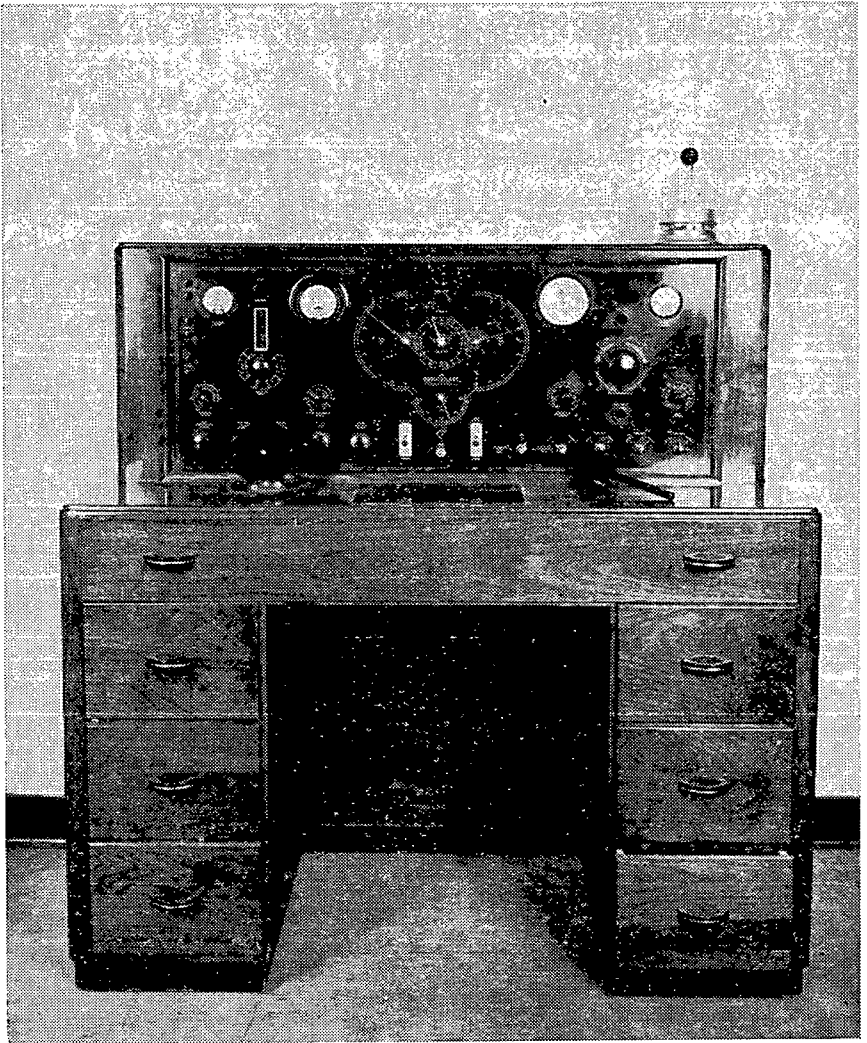
This device was seized jointly with an investigator of the State board of medical examiners from "Dr." Newfield—a quack.

This charlatan had treated close to 1,000 patients and collected as much as \$1,500 in fees from some.

He pleaded guilty to one count of practicing medicine without a license and one count of false advertising in violation of the Pure Drugs Act.

He was sentenced to 360 days in jail, which was suspended; he was placed on 3 years' probation and fined \$750.

(This device is now in the U.S. Food and Drug Quack Museum, Washington, D.C.).



PATHOCLAST

This device was advertised as "a new instrument that eliminates uncertainty." It was falsely advertised as being capable of both diagnosing and treating a variety of diseases.

The operator would "diagnose" the patient's condition by turning various knobs to "analyze" each organ of his body. After a diagnosis was made, he placed a rod which was attached to the same machine against the patient's body to "cure" him.

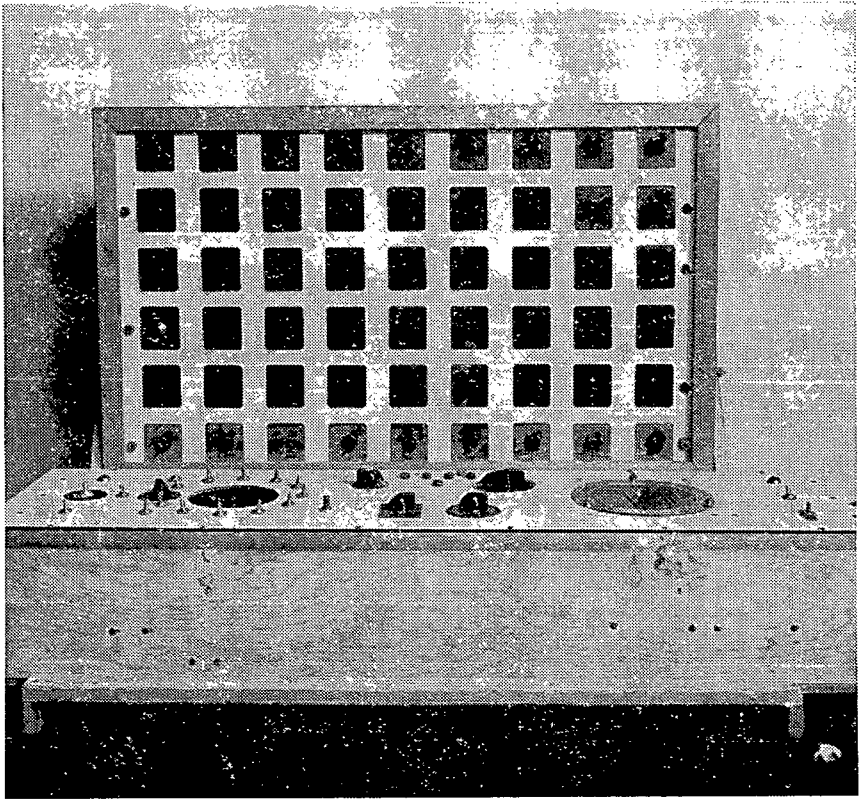
The operator pleaded guilty to false advertising and operating a clinic without a license. He was fined \$100 and given 1 year to pay. His five worthless machines were confiscated by food and drug inspectors of the California State Department of Public Health.



URANIUM ORE PAD

This device was being sold throughout California for the treatment of arthritis. It consisted of a leatherette covering over a multi-tube-like casing bearing crushed rock from which there could be demonstrated a small degree of radiation.

An elderly lady was found in a third-rate hotel using one such pad that had been sold to her for arthritis. It was found that she was actually suffering from advanced tuberculosis. The standard price for the pad was \$75. Several vendors were apprehended and were fined. Seldom did the fines exceed the profit from one sale.



GALLERT RADIONIC MACHINE

This complicated machine was manufactured by a man named Mark Gallert and sold throughout California and Arizona. Mr. Gallert used the letters N.D. after his name to indicate a nonexistent medical degree. He also called himself a "radionics naturopath."

A State food and drug inspector in excellent health went to Gallert for "diagnosis and treatment." Mr. Gallert stroked a circular plate on the machine with his fingers. When it squeaked he diagnosed the case as "cancer of the liver with 91 degrees of malignancy." Then he placed numerous drug bottles in the machine and when a light flashed over one of them said that was the "correct drug for a complete cure."

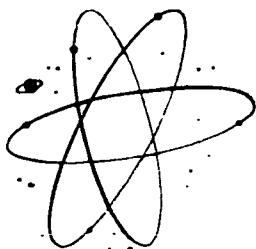
After his arrest for false advertising and practicing medicine without a license, Gallert pleaded guilty and was sentenced to 2 years' imprisonment.

URANIUM CENTERS

There was a series of uranium treatment centers set up throughout northern California. These centers consisted of cubicles lined with low-grade uranium ore. Some had a series of beds with trays of uranium ore under them. The uranium ore used had a very low radiation emission—less than that of a common radium-dial watch.

Sinus, arthritis, and many other diseases were treated at these centers. Treatments consisted of an hour exposure to the uranium ore. The fee was usually \$2 per treatment. These centers were promoted by laymen, but in several cases licensed practitioners were used as fronts.

RADIUM RADIATION



Health Center

556 San Jose-Los Gatos Road
Burbank Theatre Bldg.
SAN JOSE, CALIFORNIA
Phone CYpress 3-7285

Natural Radium Ore Treatments

RECOMMENDED FOR

ARTHRITIS, RHEUMATISM, ASTHMA,
SINUS, NEURITIS, SKIN DISORDERS

Loss of Sleep

"NATURE'S OWN WAY
TO HEALTH"

\$3.00 Per Treatment
6 Treatments \$15

Thousands of people from all sections of the UNITED STATES have gone to Montana to visit the amazing URANIUM deposits of the BOULDER-BASIN area in MONTANA.

Many of these people, chronic sufferers for years with arthritis, rheumatism, sinus trouble, bursitis, swollen joints, skin disorders and other ailments, have reported their physical condition improved sometimes to an astonishing degree, after a few visits to the Radio-active Ore mines.

Now the RADIUM RADIATION people have brought this amazing Radio-active Ore to SAN JOSE. At the RADIUM RADIATION HEALTH CENTER you will be subject to the same conditions of Radio-activity and Radon gas as in a actual visit to an URANIUM HEALTH MINE, but without the necessary travel, just drive to 556 Bascom Avenue and here test the amazing power of this miraculous MINERAL.

THE URANIUM SERIES

Partial list of the 38 elements contained in Uranium Ore and decay rate:

<i>Element</i>		
URANIUM 238	4,550,000,000	years
Thorium	24.1	days
Protactinium	1.1	minute
Uranium 234	269,000	years
Thorium	82,000	years
Radium	1,600	years
Radon	3.8	days
Polonium—(Radium)	3.1	minutes
Lead 214—(Radium)	26.8	minutes
Bismuth 210—(Radium)	139	days

A Word About
Radium and Health

The Radium Radiation Health Center of San Jose makes no claim that arthritis, rheumatism, sinus trouble, skin disorders or other ailments can be positively cured through visits to the Center. We say only that persons afflicted with one or another of such ills have said that, having had similar Radium Radiation treatments in Radium Radiation Health Centers and now feel vastly improved.

There are many different types of arthritis. The age of the sufferer, the length of the illness, the type of illness, and the general physical and mental condition of the person all tend to support a hypothesis that probably no two cases are precisely alike.

To date, no positive cure for arthritis or rheumatism has been announced by medical authorities. Laboratory and clinical research continues toward that end. It is known, however, that radiation has been employed successfully in many instances to allay human suffering.

The Radium Radiation Health Center of San Jose, we repeat, advances no claim of cure for any ailment. We do urge you to do as many other persons have done. If you are afflicted with arthritis, rheumatism, sinus trouble or skin eruptions visit us and see if we can help you in any way. Come in and try our treatments . . . for many have been helped in the past by exposure to the radiation of URANIUM Radium-active rays in the famous Health mines.

In your visit to the RADIUM RADIATION HEALTH CENTER for the Radio-active ore

treatments you will be subject to a bombardment of gamma rays from all sides and within the lung area. Many thousands of your body cells will be ionized, but your body will not become radio-active.

You are invited to visit the San Jose RADIUM RADIATION HEALTH CENTER where we will demonstrate FREE of charge our Radium Radiation Treatments.

Mrs. H. H. of Great Falls, Montana says:

After months of pain and suffering I found my only relief from Radium Radiation treatments. I can raise my arms and do my own hair, it's wonderful, thanks to Radium Radiation.

Mr. Shockley of Amarillo, Texas, says:

Its amazing, the pains in my back and shoulders vanished after only two treatments with Radium Radiation.

This is only two of hundreds of testimonials testifying to the curative benefits of Radium Radiations.

Radium Radiation Health Center

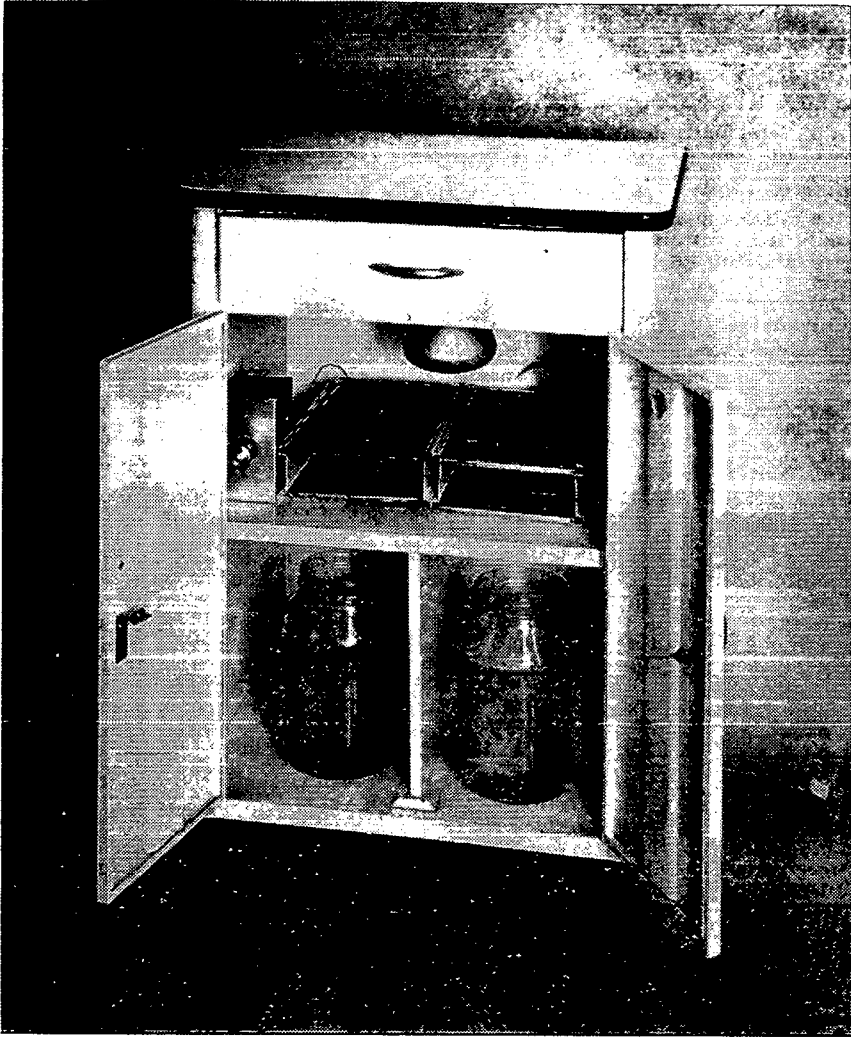
556 Bascom

San Jose-Los Gatos Road

San Jose, California

Phone C.Ypress 3-7285





THE ATOMOTRONE

This device, which consists of an ordinary kitchen cabinet fitted with: a sun lamp, short wave unit, colored slides, is assembled so that jugs of water can be irradiated. The resulting product is recommended for a large variety of serious diseases, including apoplexy, tumors, and ulcers. This device was seized following an investigation conducted jointly with representatives of the U.S. Food and Drug Administration. Investigation revealed that 30 of these devices had been sold in the Modesto area for \$300 each.

The original inventor of the device had been arrested for illegal practice of medicine in Florida and Illinois and had been convicted of perpetrating a confidence game in obtaining money under false pretenses. Shipments of the device continued while he was incarcerated in a Texas jail. Prosecution of the distributor was deferred in view of his agreeing to a permanent injunction in the shipment of his devices.

[Texas Bulletin, Apr. 26, 1954]

WILLIAM ESTEP CONVICTED

SENTENCED TO 5 YEARS IN PRISON AND FINED \$2,000

William M. (Doc) Estep was convicted April 16 at Abilene, Tex., on all counts of a Federal indictment and sentenced to 5 years in prison and fined \$2,000. Five of the counts involved mail fraud and the remainder violation of the Federal Securities Act of 1933.

Basis of the charges were Estep's activities in promoting a so-called fuel-less motor called the atomotor and a machine he called the atomotrone which supposedly treated water atomically, thus converting it into a cure for many and varied assortments of human ills such as cancer, heart disease, arthritis, and others.

Estep's indictment and conviction in U.S. District Judge T. Whitfield Davidson's court followed many months of exhaustive and painstaking investigation by Regional Administrator O. H. Allred, of the Fort Worth office of the Securities and Exchange Commission, and Charles Curry and Ed Booth, two ace SEC investigators.

Estep's activities in connection with his atomotor first came to the attention of the Dallas BBB soon after it learned of his local efforts to sell his atomotrone when inquiry to the BBB office resulted from his financing promotion.

This conviction in Federal court adds substantially to Estep's mounting difficulties. On April 7, Texas Attorney General John Ben Shepperd brought suit in 126th district court to put the atomotor firm out of business, charging the company fraudulently sold more stock than its charter authorized.

Estep has also been charged in San Antonio with felony theft in the sale of the "atomotrone" which he allegedly said would cure cancer and other ailments.

In addition, Estep and his wife Dora are fighting extradition to Illinois where he was convicted in 1950 and sentenced to 5 years and fined \$2,000. She was sentenced to 2 years in the same case.

For a record of Estep's previous difficulties, see Texas Bulletin of March 9, 1953.

"ATOMOTRONE" SEIZED BY UNITED STATES IN TULSA

WON'T PERFORM AS CLAIMED, SAYS GOVERNMENT

In April 1953, the Dallas Better Business Bureau was advised by the BBB of Tulsa of the proposed sale in that city of "atomotrone," device claimed to have been developed by William Estep and to have amazing curative properties. Later, inquiry from the Oklahoma City BBB indicated similar activity in that city.

Since then, the Dallas BBB has been in close contact with the U.S. Pure Food and Drug Administration.

(BBB members will recall the intensive investigation made by the bureau of Estep's activities and the sale of this device in Dallas and other Texas cities; of Estep's subsequent conviction for violation of the Securities Act of 1933).

Tuesday, July 27, Federal authorities seized one of the machines in Tulsa in action reported by the Tulsa Tribune of that date. BBB members will be interested in the Tulsa story as related by the Tribune:

"What its proponents consider one of Texas' major contributions to the welfare of mankind was on display here this morning. It's called the atomotrone or vital-tone.

"It reportedly combines the four sciences of chromoology [sic], electronics, hydroponics, and ethereal atoms, and lays claim to having a definite therapeutic effect on more than 25 maladies ranging from cancer to sinus troubles. It sells for \$300.

"The only catch—and seemingly there always is one in what appears to be such a good thing—is that the Government says it won't do what its makers claim and has cracked down on the machine.

"It was on display, incidentally, in the U.S. marshal's office, after being seized from the Tulsa distributor on a Federal district court order.

"Outwardly the device appears to be no more than a white-enameled kitchen cabinet unit.

"It is hardly more complicated in the interior.

"The drawer at the top has been turned upside down, and a sun lamp, covered with a wire screen, and an electronic tube wired into it. On a shelf below are two sets of colored glass filters. Beneath the shelf, on either side of a partition, are two 1-gallon milk bottles.

"According to the Tulsa agent, the filters on the left side screen all 'unfriendly' ethereal atoms out of the tap water one places in the two bottles below. Chlorine and fluorine, with which most cities treat theirs are 'unfriendly,' he said.

"On the right side, a different set of filters irradiates the water with 31 energy atoms—thereal ones, of course. An ethereal atom—and don't say you haven't learned something today—is one you cannot see, feel, or taste.

"So, the water on the left side is electric, or E water, which is good for poisons in the systems. That on the right is thermal, or T water, which gives you energy.

"Take the T water in the morning and the E at night, according to the Texas doctor who invented the gadget, and the agent here.

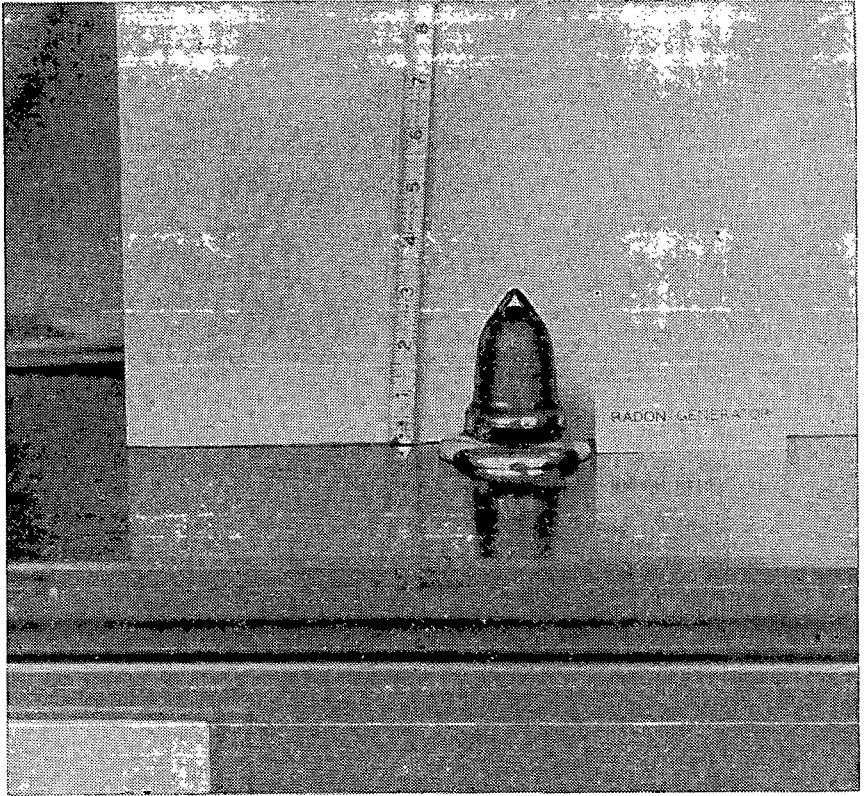
"The screen over the sun lamp, it was explained, is an antenna for short waves drawn over the colored filters.

"As a footnote, the following definitions (in the words of the agent) may prove of value to the reader:

"Chromology—the science of light and rays and their effects. (Not found in the dictionary.)

"Hydroponics—the science of healing with water, one of the oldest sciences. (Also not found in the dictionary.)

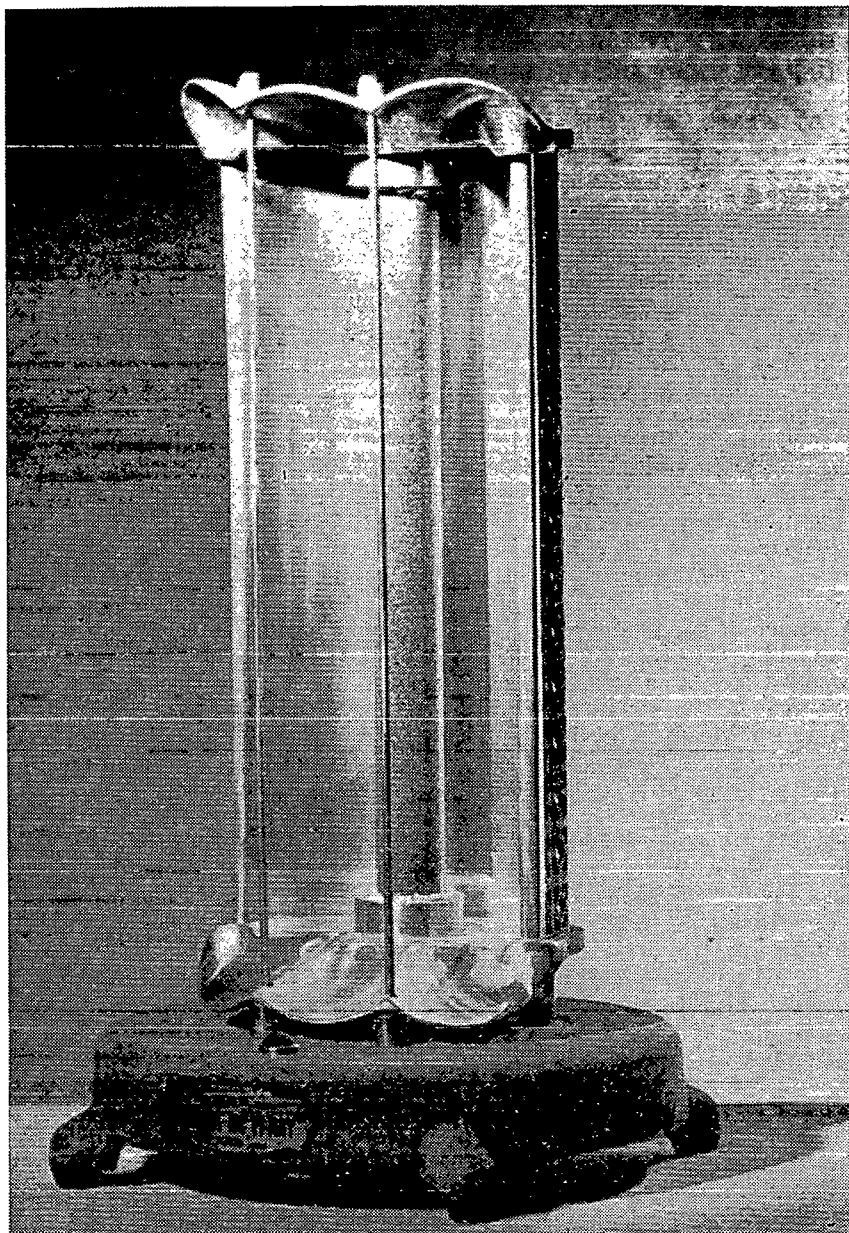
"Ethereal atoms—the study of energy from the air or ether (this sounds fantastic, the atomotrone man conceded)."



RADON GENERATOR

When operating, this device actually gives off small amounts of radon, a gas produced by certain radioactive materials. It was designed to produce radon in a thermos jug of tap water. The claim was that if a person drank two quarts of such water a day for a certain period of time, he would be cured of whatever disease he had.

In San Diego the sale of this device was halted and one of the vendors pleaded guilty to violating the Pure Drugs Act. A second vendor was given orders to cease and desist. The device sold for \$300 and could be purchased through a bank loan.



THERMO-RAY OR NO-VI-RAY LAMP

Claims made for these devices run the spectrum of diseases with emphasis on its curative effect on arthritis and cancer. The distributor, by his own records, took in over \$37,000 in 2 years selling them for \$185 each. The cost of materials was estimated at less than \$10. Twenty-three of the victims, most of whom were elderly, died of cancer while using the device. The defendants, Calvert and Kirk, were charged with conspiracy.

Following a preliminary hearing, the case was sent to superior court where the felony was dismissed by the court and pleas of guilty allowed to misdemeanor violations of the health and safety code involving false advertising of a device. Each defendant was ordered to pay a \$75 fine.

STATEMENT OF DR. KENNETH F. ERNST, STATE CANCER DIAGNOSIS AND THERAPY EVALUATION UNIT, CALIFORNIA STATE DEPARTMENT OF PUBLIC HEALTH

Dr. ERNST. To serve as background for my remarks, it will be necessary to be a little repetitious of some testimony that has gone before me.

Action under the California cancer law is oriented primarily to establishing to the satisfaction of the Cancer Advisory Council and the State department of public health that an unproved agent promoted for the diagnosis, treatment, alleviation, or cure of cancer is either of no value in such usage or is actually harmful, and, secondarily, where either is established, to prohibit the prescription, administration, sale, or other distribution of that particular agent, or one essentially similar by any person using it for the management of cancer, as described above.

As a preliminary to establishing that an agent is in fact useless or harmful in the management of cancer, it is necessary, with one exception, to obtain from the person using it the formula of the agent, other necessary information concerning its composition and method of preparation, a description of the use to which it is put, and a sample of the agent sufficient for testing or analysis.

On receipt of the sample and other information, the department, on advice of the Cancer Advisory Council, may subject the agent to chemical, physical, biological, and/or spectrophotometric analysis, may test it against experimental animal tumors, or may subject it to clinical testing.

There is no mandatory requirement in the law for exploring all of these facets of evaluation so a decision as to the extent of such testing is the responsibility of the team of scientists making up the cancer advisory council.

The testing may be concluded at any stage of the outlined examination procedure when in the opinion of the council evidence sufficient to arrive at an evaluation and to render an opinion has been obtained.

The exception to the requirements for furnishing samples and other information based on the conclusive presumption feature of the law has been referred to by Dr. Pulley.

In the investigation or testing of an agent, the department may utilize the facilities and findings of its own laboratories or other appropriate laboratories, clinics, hospital, and nonprofit cancer research institutes recognized by the National Cancer Institute, within this State or elsewhere in the Federal Government.

The department on recommendation of the cancer advisory council, arranges, by contract, for investigation by and submission to it of findings, conclusions or opinions of trained scientists in the appropriate departments of universities, medical schools, clinics, hospitals, and nonprofit cancer research institutes recognized by the National Cancer Institute, and the submission to it of findings, conclusions, or opinions of other qualified scientists.

Before demands for samples and information are made, the department should develop conclusive evidence that an agent is, in fact, in use by an individual, person, firm, association, or other entity, and that it is being represented directly, or by inference to be beneficial, purificative, or diagnostic for cancer.

Such evidence is difficult to obtain from bona fide victims since they frequently are either dead from their disease, completely satisfied with their treatment and hence unfriendly to our efforts, or are ashamed to admit publicly that they have been bilked.

Occasionally a surviving spouse or other relative is able and willing to contribute valuable evidence but unless he has been physically present during the times when diagnosis, promises, or treatment were rendered, his testimony would be considered hearsay.

To get the necessary information, it is therefore necessary to employ as undercover operators persons who have cancer or who obviously have been treated for cancer in order to obtain commitments from the practitioner under investigation.

Today we have at the hearing two persons who have performed invaluable service in that regard. Both have been successfully treated for cancer by conventional means, surgery and/or X-ray, but both while acting as undercover operators were given treatment for cancer with worthless agents without any attempt to confirm its presence.

Our third witness is a man whose wife received treatment for recurrent breast cancer with a remedy now banned in California. She derived no benefit from it and died of her disease while still under treatment.

Thank you.

Senator WILLIAMS. Thank you, Dr. Ernst. The people you mentioned are going to come to this table next; is that right?

Dr. ERNST. Yes.

Senator WILLIAMS. Now, you have banned drugs, you have banned many devices, and under your system of examination and control and enforcement you have accomplished many things. Do you, after that has been accomplished, inform the Federal Food and Drug Administration of your conclusions on any of these devices or drugs?

Dr. ERNST. Yes, we do. We work very closely with the local people in the Federal Food and Drug Administration and the reports of these six agents on which regulations have been passed, regulations which ban them, those reports have been furnished to the Food and Drug Administration here in San Francisco and in turn they are forwarded to Washington.

Senator WILLIAMS. Does the State food and drug administration take California findings and informally or formally advise the other State departments of health?

Dr. ERNST. I can't answer that. I don't know what the basis for this latest action on their part was. I will say, however, that the converse is very true, we have utilized the Federal findings as part of our evaluation.

Senator WILLIAMS. I would think it would be very useful for the information that is arrived at at the State level to go to the Federal level and have a clearing house and let other States have the benefit of your work.

Mr. BOTTINI. May I address myself to that question?

Senator WILLIAMS. Yes; please do.

Mr. BOTTINI. There is a "Food and Drug Review" that is published periodically by the Federal agency which contains in it all of

the State actions that could be taken by any State and it is distributed rather generally throughout the States.

Senator WILLIAMS. Throughout the States?

Mr. BOTTINI. Yes.

Senator WILLIAMS. Have you seen in that revue a description of your conclusions of the calozone generator?

Mr. BOTTINI. Perhaps not in as much detail, but it will mention the fact that an action was taken, particularly when we work jointly which in many of these cases we do.

Senator WILLIAMS. What is the name of the publication of the Food and Drug Administration?

Mr. BOTTINI. I believe it is the "Food and Drug Review," but I may be incorrect.

Senator WILLIAMS. Just one or two other observations: I think it was you, Mr. Bottini, who mentioned publications—newspapers, periodicals—and the fact that they are more frequently entering the fight against misrepresentation and quackery. What was your point, editorially?

Mr. BOTTINI. Not just editorially, Senator. They are calling us. They call up and ask if an ad can be run in a particular paper and they will give us the type of product or device that is being advertised and in this way if we have any doubts regarding the article, if we have evidence to show that it is either misbranded or misrepresented in any way or falsely advertised, then, they refuse to run the ad.

Senator WILLIAMS. Are you getting a lot of cooperation in that regard?

Mr. BOTTINI. Yes, indeed.

Senator WILLIAMS. We have a lot of ads here that were taken from California papers. Under your law section 26286.5 the advertisement of a drug or device represented to have any effect on any of the following diseases unlawful and prohibited.

Now, that is the action part of the legislation and then 40 or so devices are listed. I have two observations. One, it seems to me that some of these diseases listed do have known cures or there are means to deal with some of the problems here.

For example, I believe that there are drugs that are effective in the area of high blood pressure. I am told that there are drugs that will indeed cure venereal disease, and yet these are within this paragraph, and it says no advertising of any drug or any device.

Now, can you tell me how this happens to be?

Mr. BOTTINI. I think that there are two ways we can answer that, Senator, and one is that wherever advances in medical science take place the board can recognize this and permit the advertisement, but I think what you find with respect to the advertisement that you mentioned regarding high blood pressure where you need competent medical supervision to determine it is limited usually to the profession, and we do have such drugs which are usually of a potent nature advertised for the self-treatment or self-medication in a serious illness such as cardiovascular disease.

Senator WILLIAMS. I see the point here is that there are cures indeed that must be professionally administered rather than advertised and picked up down at the store?

Mr. BOTTINI. Yes.

Senator WILLIAMS. Many ads ask whether you are sick, and so forth; and then name blood pressure and a few other things. The ad will read: "Do something worthwhile about getting well; learn the cures for your health." There is a doctor's name on that ad.

Mr. BOTTINI. That is the point; there is a doctor's name there.

Senator WILLIAMS. It couldn't be a real doctor, because doctors can't advertise.

Mr. BOTTINI. Is he using a drug or device, Senator?

Senator WILLIAMS. I don't know, but he couldn't be a medical doctor, because they can't advertise.

Senator NEUBERGER. They can, but it is unethical.

Senator WILLIAMS. Well, the AMA would take action, I imagine.

I don't know that your laws are adequate. Here is an ad. It says: "Look years younger through nonsurgical face rejuvenation, and in 10 to 16 days you can get rid of lines, freckles, premature wrinkles," and so forth. We had expert testimony that you cannot get rid of wrinkles at one of our other hearings, that you cannot get rid of freckles in 10 to 16 days.

Do you feel equipped to go after that and stop it?

Mr. BOTTINI. These are the sort of things precisely that we are working on and I think that is mentioned in the memorandum I submitted. I believe I mentioned vibrators for lifting facial muscles and eliminating wrinkles. Was this a San Francisco advertising?

Senator WILLIAMS. As a matter of fact that was my next point. One of the most reputable newspapers in your State carried that ad. I think freedom of the press is essential, but isn't there some responsibility on the part of these people to stop this? You have indicated that some newspapers are accepting a voluntary responsibility to ask you whether this is prohibited or acceptable.

Mr. BOTTINI. It may be that a particular case has actually been tried in the courts. We have some difficulty in that respect. Perhaps the individual has been charged with practicing medicine and has actually been declared not guilty and if that is so it makes it much more difficult for us to attempt an approach after the fact.

Dr. PULLEY. Where is a limitation in the law. It says it is illegal to prescribe a cure and then it lists or names 40 diseases but there are other conditions such as wrinkles and freckles and sagging eyelids that are not listed among the 40 diseases so an ad of that sort is not illegal in the terms of the statute to which we referred earlier, and it may be better not to name 40 diseases but to make the law general. We are operating under a list of diseases that cannot be used as the basis for advertising as cures.

Senator WILLIAMS. And there is no other existing law to permit you to go after this sort of thing?

Dr. PULLEY. No; it is a matter of ethics.

Mr. BOTTINI. If it is false it is illegal. There is a general phrase that states dissemination of any false advertisement with respect to this is illegal.

Senator WILLIAMS. Diseases generally are the 40 named?

Mr. BOTTINI. The dissemination of any false advertisement with respect to a drug or device but the burden of proof is upon us.

Dr. PULLEY. There is a job in proving it is false.

Senator NEUBERGER. This says 16 days and if the flabby skin doesn't disappear—

Dr. PULLEY. It is a little hard to get at the victims of these advertisements.

Senator NEUBERGER. The Federal Trade Commission Act says unfair and deceptive advertising. I would think this would come under that.

Dr. PULLEY. Of course, we don't have all of the answers and this is one of the tricky things left. It is very laborious to work up one of these cases. It requires fieldwork, it requires careful compilation of evidence and then considerable time in court and we have problems there.

Senator WILLIAMS. Whom does this prohibition run to? Does it run to include the advertiser, not only the individual who promises the cure, but the Journal that carries the ad?

Mr. BOTTINI. I think the Journal has no liability. They are exempt if they provide us with a copy of the advertisement.

Dr. PULLEY. They would be up against a pretty difficult job if they had to prove everything.

Senator WILLIAMS. They have to rely on you?

Dr. PULLEY. Or to us if they ask.

Senator WILLIAMS. I think one of the areas that disturbs me is the clever way a lot of the leading journals and newspapers carry retirement ads describing the land of fruit and honey for retirement with all of the false claims and without even checking it evidently.

I don't know what we can do about such advertisements but I do believe there should be somehow developed a more professional approach to advertising in this area of good representation practice.

Senator NEUBERGER. The report of the Surgeon General's Committee on Smoking and Health has brought about a response at least from the broadcasting industry in that they are now reexamining their policies and this is something that we have been saying for a long time.

(The review referred to above follows:)

REVIEW OF DEPARTMENTAL, CANCER ADVISORY COUNCIL, AND STATE BOARD OF PUBLIC HEALTH ACTIONS UNDER THE CANCER ANTI-QUACKERY LAW, 1959 TO DATE

HISTORICAL

In June 1959, chapter 7 of the health and safety code, sections 1700 through 1721 inclusive was signed into law by the Governor. Responsibility for its enforcement was placed upon the State department of public health, and to advise the department, a 15-member cancer advisory council was authorized. A majority of the members of the council are intimately concerned in their practice of medicine or dentistry with conventional and research methods in the diagnosis and treatment of cancer and others, including three who are not physicians and surgeons, represent educational or public health aspects of the cancer problems. The first council was appointed by the Governor in November 1959, and since that time, the council and the department have been concerned with the evaluation of a number of unproven cancer treatment and diagnostic agents. As a result of these investigations, regulations to ban the use of six such agents have been promulgated and have been adopted by the State Board of Public Health, which is the agency concerned with the adoption of such regulations. In this and other administrative actions such as the issuance of cease-and-desist orders by the department, the council, which has no administrative or executive powers, has acted in an advisory capacity only.

EVALUATION OF HOXSEY AGENT

The first agent considered by the council was the Hoxsey remedy which had been promoted in the Middle West, Pennsylvania, Texas, and California for 20 or 30 years. This remedy containing potassium iodide and extracts of 10 roots and herbs, supposedly was discovered by Harry M. Hoxsey, a naturopathic physician,

or by his ancestors. However, the ingredients, exclusive of potassium iodide, are essentially those contained in a fluid extract trifolium compound which appeared for the last time in the National Formulary, fifth edition, in 1936.

In its evaluation of this remedy, the council considered testimony of expert witnesses, animal studies, chemical analyses, Federal court actions, opinions of deans of the California Schools of Medicine, interviews with relatives of cancer victims who had received the Hoxsey treatment, and investigatory hearings held on six California practitioners who were prescribing this agent. Two public hearings before a committee representing the State Board of public health were held on the proposed regulation—one in Berkeley and one in Los Angeles. At the latter hearing, as a result of encouragement by one of the proponents of the agents, approximately 250 advocates of the agent appeared, and about 50 of them testified in favor of it. The evidence given was usually testimonial in type, and consisted of claims that the witness himself, or relatives, friends, or even remote acquaintances were benefited by the medication.

In May 1962 the council concluded its studies on the Hoxsey agent and found that it was without value in the diagnosis, treatment, alleviation or cure of cancer and recommended to the director of the department of public health that appropriate action be taken which would ban the prescription, administration, sale or other distribution of the agent. A regulation containing these features was adopted by the State board of health on September 20, 1962, and became effective on November 1, 1962.

STUDIES ON OTHER AGENTS

Soon after its formation, the council also began studies on four additional treatment agents and one diagnostic agent. The latter is known as the Bolen test for cancer, and it is claimed that a diagnosis of cancer can be made by observing the clotting pattern of a droplet of blood.

The treatment agents included amygdalin, a glucoside present in apricot pits from which, in combination with glucose and sucrose, it is extracted as "laetrile"; the Koch oxidation catalysts or Koch synthetic antitoxins which presumably contain chemicals in dilutions varying from 1 to a million, and from 1 to a trillion, but which on chemical analysis revealed nothing but water; the Lincoln staphage lysate, a bacteriophage useful in the laboratory identification of epidemic strains of staphylococcal bacteria but not in the treatment of cancer, and mucorhizin, prepared from an exudate collected during the culture of two strains of fungi.

In its evaluation of these agents, the council studied material similar to that utilized in its consideration of the Hoxsey agent but in addition, in the case of "laetrile," some 150 clinical records were examined.

In May and June 1963, the Council concluded months of study on these five agents and reported its findings to the director of the California State department of public health. In all instances, the council found these agents although apparently nontoxic, were without value in the diagnosis or treatment of cancer and recommended that such appropriate action be taken as would prohibit the prescription, administration, sale, or other distribution of them. Proposed regulations intended to bring about this prohibition were formulated and hearings on them scheduled.

HEARINGS ON REGULATIONS

Although one hearing would have met the requirements of the law, two were held on each agent—one in Los Angeles and one in San Francisco or Berkeley. Notices of these hearings were published 30 days in advance as required by law, and those persons known to have an interest were notified individually of the scheduled hearings. The notices of hearings included a statement that copies of the proposed regulations and of the reports of the cancer advisory council were available for public inspection in six convenient locations in the State. In addition to the official notices, the department issued news releases and date slips to daily newspapers, wire services, and some TV stations a few days prior to the hearings announcing the purpose and the place of the hearings.

As with the Hoxsey agent, the hearings were heard by a committee representing the State board of public health and were held with the intent to receive any scientific evidence of the effectiveness of these agents as a cure or in the diagnosis of cancer, and for suggestions for amendments to the proposed regulations. Ordinarily at such hearings, opportunity is given to those appearing to present evidence only, and discussion of hearing or other protocols or questioning of the committee or other hearing body does not occur, but actually, great lati-

tude for discussion was allowed the public, especially in the San Francisco hearing on "laetrile."

As a result of the hearings, a clarifying clause was added to the proposed regulations calling attention to section 1708 of the health and safety code which states:

"This chapter shall not apply to the use of any drug, medicine, compound, or device intended solely for legitimate and bona fide investigational purposes by experts qualified by scientific training and experience to investigate the safety and therapeutic value thereof unless the department shall find that such drug, medicine, compound, or device is being used in diagnosis or treatment for compensation and profit."

The committee found that no scientific evidence had been presented at the hearings which would refute the findings of the cancer advisory council and consequently final action by the State board of public health on the regulations was scheduled for July 19, 1963.

Prior to this meeting, however, the producer of mucorhcin offered to furnish clinical records which he implied would show his agent to be of value in the treatment of cancer and he requested deferment of board action on the regulation concerning his preparation. It was felt that this request was reasonable even though formal hearings had been completed, and that the same privilege, if allowed him, should be extended to the proponents of the other agents. Therefore, the State board of public health, on July 19, 1963, agreed to accept additional evidence until August 20, 1963, and to defer final action until the next meeting on September 20, 1963.

The producer of mucorhcin, however, failed to present any additional material in support of his claims that mucorhcin was of value in the management of cancer, but between July 20 and September 20, 1963, communications from other sources regarding "laetrile" were received from 25 individuals, and on the subject of the other 4 agents, communications from 16 were received. Roughly, half of these arrived prior to the cutoff date of August 20, but all were given careful consideration by the State board of public health and the cancer advisory council.

Only three submissions were considered of sufficient clinical value to warrant further study.

One of these involved an adult, who as a boy, some 15 years previously, had had a tumor removed from one leg. That diagnosis at that time was neurofibrosarcoma, a malignant tumor, and the parents had been told that only amputation of the leg would give him any chance of survival. This procedure was refused and "laetrile" was prescribed. He has survived to this day and he and his parents believe that his survival should be credited to that chemical. The department obtained tissue from the original tumor and submitted it to a tumor pathologist in California and one in New York, both of them outstandingly able in tumor diagnosis. Both gave the same opinion and diagnosis, namely that the tumor removed some 15 years previously had been mistakenly diagnosed as malignant when in fact it was benign—a neurolemmoma. Such errors in diagnosis are not unusual as the tumor is a rare one and a bizarre pattern may suggest malignancy to the unwary.

In another instance, there was evidence that a tumor, although malignant, had been entirely removed at the time of initial surgery.

In the third instance, a patient presumably receiving great benefit from "laetrile" was, in fact, receiving conventional therapy at the same time.

It was believed by the members of the State board of public health and of the cancer advisory council that no scientific evidence had been presented before or after July 19, 1963, which would refute the findings of the council that the agents in question were without value in the diagnosis, treatment, alleviation, or cure of cancer. The former body, in the interests of the public, accepted the responsibility of adopting the proposed regulations banning the prescription, administration, sale, or other distribution of the agents concerned in the State of California and did so adopt them on September 20, 1963. The regulations were filed with the secretary of state on October 3, 1963, and became effective on November 3, 1963.

PUBLIC RESPONSE

Protests, arguments, complaints, objections, and accusations regarding the actions of the State department of public health and its two affiliated bodies—the State board of public health and the cancer advisory council, were registered orally in the public hearings on regulations, in hearings on individual practitioners, and later in the form of personal letters, open letters, resolutions and questionnaires to various levels of State government, including the Governor, attorney general,

members of the senate and assembly, director of the department of public health and staff and the president and members of the State board of public health. One open letter was addressed to the President of the United States and others.

These challenges showed many variations. It was stated in some that there was inadequate publicity regarding hearings; that banning the remedies under consideration and others in the future would destroy a last hope of cancer victims, and that since these agents were nontoxic and palliative, that they should remain available. Most objectors stated that the proposed regulations were violations of their constitutional right of freedom of choice; that the cancer advisory council and the department were exceeding their authority and jurisdiction and/or that the whole law was unconstitutional.

There were representations that the council had acted too hastily; that its findings were based on inadequate evidence, and that controlled clinical testing was required under the law. The qualifications of the council members were questioned; there were charges that economic rather than scientific reasons had influenced the decision of the council, and, in protest to members of the State legislatures after adoption of the regulations, it was stated that all cancer remedies except irradiation and surgery had been banned by the council. Some of these representations deserve comment.

The only agents banned at the present time are the six enumerated above. The constitutionality of the law and of departmental action under it can only be settled in the courts. Clinical testing under section 1704(c) of the cancer law is not a mandatory requirement in the opinion of the attorney general but may be recommended to the department by the group of scientists comprising the council when in the latter's opinion it is indicated and justified. No such justification was present in the six agents evaluated. Furthermore, section 1711 provides for the utilization in evaluation studies of a wide variety of scientific disciplines and scientific agencies, and solicitation of their findings, opinions, or conclusions in matters before the council and department. Finally, such clinical testing would demand personnel and budgetary resources not available to the department.

Further justification for the investigative procedure followed by the council may be found in the releases and reports of the U.S. Department of Health, Education, and Welfare on the controversial drug "Krebiozen." On chemical analyses, "Krebiozen" was identified as creatine, a common chemical derivative of meat metabolism, which is present in substantial amounts in human tissue. Based on these analyses, and on examination of clinical records, the Department of Health, Education, and Welfare found "Krebiozen" worthless as a treatment for cancer, and therefore that clinical testing was not justified.

CEASE-AND-DESIST ORDERS

Cease-and-desist orders have been issued by the department against the practitioners listed below.

Name of practitioner	Agent	Date of issue	Basis for issue
Catherine E. Harmon, D.C., El Monte, Calif.	"Harmonizer".....	Dec. 26, 1961	By stipulation.
Charlotte M. Steiner, D.C., Moraga, Calif.	1. Mucorhicin.....	Dec. 14, 1962	1. Conclusive presumption. ¹
Wendell G. Hendricks, D.O., Los Angeles, Calif.	2. Grape cure.....	July 23, 1963	2. Accusatory hearing. Conclusive presumption. ¹
Francis M. Altig, M.D. (D.O.), ² Rosamond, Calif.	Lincoln, Koch and 4 cellular agents.	.....do.....	Hoxsey regulation and accusatory hearing.
Nelson E. Mathison, M.D. (D.O.), ² Long Beach, Calif.	Hoxsey.....	Mar. 21, 1963	Hoxsey regulation and consent without defense.
John H. Friend, M.D. (D.O.), ² Costa Mesa, Calif.	.....do.....	.....do.....	Do.
Willoughby W. Sherwood, M.D., West Los Angeles, Calif.	.....do.....	Aug. 31, 1963	Do.
Charles L. Hawk, M.D., Los Angeles, Calif.	.....do.....	.....do.....	Do.

¹ Section 1707 of the cancer law.

² 1 of some 2,000 doctors of osteopathy granted M.D. diplomas by the California College of Medicine (formerly College of Osteopathic Physicians and Surgeons) in July 1962 under the provisions of section 2396 and 2396.5 of the Business and Professions Code of the State of California.

COUNCIL MEMBERSHIP

At the end of 1963 the membership of the Cancer Advisory Council was as follows:

FACULTY MEMBERS OF CALIFORNIA SCHOOLS OF MEDICINE

- Thomas S. Nelsen, M.D., assistant professor of surgery, Stanford University School of Medicine, Palo Alto.
 David A. Wood, M.D., director of the Cancer Research Institute and professor of pathology, University of California School of Medicine, San Francisco.
 Jesse L. Steinfeld, M.D., assistant clinical professor of medicine, University of Southern California School of Medicine, Los Angeles.
 Maurice H. Simmers, M.D., professor and coordinator of cancer training, California College of Medicine, Los Angeles.
 Joseph F. Ross, M.D., professor of medicine, professor of biophysics and nuclear medicine, director, Laboratory of Nuclear Medicine and Radiation Biology and chairman, Department of Biophysics and Nuclear Medicine, University of California School of Medicine, Los Angeles.
 Orlyn B. Pratt, M.D., professor and head of the Department of Pathology, Loma Linda University School of Medicine, Los Angeles.

NONPHYSICIANS AND SURGEONS

- Mrs. Robert L. Brown, president, Los Angeles County Branch of A.C.S. and member, Division Education Committee of A.C.S. for the State of California.
 Edith R. Lindly, Ed.D., professor of health education, Fresno State College, Fresno.
 Sol Silverman, Jr., D.D.C., associate professor of oral biology and chairman of division, University of California School of Dentistry, San Francisco.

REPRESENTATIVES OF NONPROFIT CANCER RESEARCH INSTITUTES

- Renato Dulbecco, M.D., professor, Salk Institute for Biological Studies, San Diego.
 Mr. Seymour Graff, president, City of Hope Medical Center, Los Angeles.

PHYSICIANS IN PRIVATE PRACTICE

- John W. Cline, M.D., associate clinical professor of surgery at Stanford University School of Medicine, Palo Alto.
 L. Henry Garland, M.D., clinical professor of radiology at University of California School of Medicine, San Francisco.
 Sol R. Baker, M.D., assistant clinical professor of radiology at University of California School of Medicine, Los Angeles.

EX OFFICIO MEMBER

- Malcolm H. Merrill, M.D., director of California State Department of Public Health.

(Transcript continues:)

Senator WILLIAMS. I know it would be helpful to continue this discussion but again we have a very tight schedule and Dr. Ernst has three citizens whom he would now like to present.

Dr. ERNST. Mr. Chairman, I would like to introduce Mrs. Tecla Tibbs, Mrs. Bessie L. Tomlinson, and Mr. Harold A. Delp.



Mrs. Tibbs, Mr. Delp, and Mrs. Tomlinson at hearing

(San Francisco News-Call Bulletin photo)

Senator WILLIAMS. We welcome you and are very grateful for your cooperation in our endeavors. Would you like to each make a brief statement and describe your experiences, please.

Mrs. Tibbs, would you like to lead off?

STATEMENT BY MRS. TECLA TIBBS

Mrs. TIBBS. Thank you, Senator. I have had a laryngectomy and I went to Dr. Henricks office about September 1961. I went at the request of Dr. Ernst and I said I thought my cancer was progressing because of the swelling in my glandular area and I was wondering if there was anything he could do for me.

He said there was. He said he would like to make an appointment with me which he did and he asked for \$150 which would be the initial cost of a physical examination and he said I would have to do that first.

When I was there they explained to me that there were three treatments that they gave, one was the Koch treatment from Russia. The other one was the Rozetti treatment from Mexico and the third one was something to do with the blood, the injection of cell therapy, but first he had to examine me he said and I complained up here [indicating], but I got the examination which was a very desultory kind of examination because he kept talking so much—how he cured his father, et cetera.

He said he cured TB with Koch, and Audie Murphy's wife had been cured of polio in 6 hours when she was ready for the iron lung and by that time we were finished with this very peculiar vaginal examination. He also examined my ear area because of the swelling and he did say that they would use all three treatments in my case but they would have to take blood and send it to Switzerland for analysis and when it came back, which would be about 6 weeks, I would be told exactly what was deficient in my make up and we would go on from there.

Well, about 6 weeks later, I went back and the nurse came in and explained to me that I had 13 deficiencies in 13 parts of my body. I was just like an automobile, the parts were worn out, and that they would replace each cell. This would cost \$100 a shot for each cell for 13 shots which would be \$1,300 because I have 13 deficiencies.

They told me I could have the treatment for \$1,100 if I wanted to pay it all at once. It seems the doctor was giving it to me at a cheaper price as he was moving.

At any rate, they gave me that day the shot for the treatment, the Koch shot. Dr. Hendricks gave me the intravenous shot and this was supposed to clear my blood so that I would be all right for the injection of these cells.

Well, he told me to expect a reaction from the shot that would last for about 6 hours. I went back to work and in about a couple of hours I began to feel the chills and fever that he told me to expect and I went home and in about 6 hours it was over, very much like a typhoid shot; that is what I understood the reaction to be. However, I called him the next day and I said I had had a very severe reaction from that shot that he gave me and he said that shows how many cancer cells I had in my body. He said when I got the treatments they—the reaction—would abate as I got rid of the cancer that was in my body.

Of course, you know I didn't take the other cell shots. That is my story and this doctor has such a clientele that it is amazing, just amazing.

Senator WILLIAMS. This doctor represents one of the cases that were prosecuted?

Mrs. TIBBS. Yes.

Senator WILLIAMS. Mrs. Tomlinson.

STATEMENT BY MRS. BESSIE L. TOMLINSON

Mrs. TOMLINSON. Dr. Ernst asked me to go out to Dr. Steiner's. I went out and told her that I definitely was not going to have any more surgery, radium or X-ray, and I asked her what she could do for me.

She said, "Those things aren't going to do you any good." I asked her if she could take care of me and she said that she had cured patients of cancer and that she would do what she could for me.

We asked her what she could do. She said that she would put me on a strict diet and I was to do just as she said, eat nothing, but what she told me to take was all I could eat, and I was to take mucorhycin which I did.

That was \$10 for a little bottle like this [indicating]. But I wasn't supposed to take that until I started on the diet for 3 days.

I was to go on this diet of sauerkraut and apple sauce and a great many other things and then she would give me the enemas for 3 days. She told me where to get all these things to take. I went back then on the next visit and I told her that I couldn't take these things because my daughter was coming and I didn't want my daughter to know about it because she would worry but I would start the following week.

Then, I asked her about the grape cure which is supposed to cure cancer. She said I couldn't start on that until the grapes came into season that, she would put me on that just as soon as the grapes came in.

This other medicine I was to take in orange juice 3 hours after I had eaten, and she told me the cases that she had cured of diabetes and told me if I would follow her direction I would be all right.

I didn't go back for the rest of the treatment.

Senator WILLIAMS. Thank you, Mrs. Tomlinson.

STATEMENT BY MR. HAROLD A. DELP

Mr. DELP. My wife had been treated for approximately a year and a half for cancer by the legitimate medical profession. She had had a radial mastectomy followed by a series of cobalt treatments. A year later she had another operation, a bilateral oophorectomy, followed by another series of cobalt treatments.

The medical profession had done all it could, as far as we knew, to cure her.

A friend of hers mentioned Dr. Steiner, whom she was going to for diet prescriptions. My wife, who at that time was grasping at straws, decided to see what Dr. Steiner could do for her.

Dr. Steiner prescribed mucorhycin, which she sold directly to my wife. I think we purchased three or four bottles before we finally gave up, shortly after which my wife passed away.

Later, I was asked to appear at a hearing which resulted in a cease-and-desist order on Dr. Steiner concerning mucorhycin.

I would like to say that I think the law they have, or that they are trying to put through, which would require Federal analyzation of drugs, and permission to dispense or sell, is a wonderful law. Yet in one case, at the hearing, Dr. Steiner professed she was not treating my wife for cancer, although the one time that I personally took my wife out to her for one of her treatments I had a discussion with Dr. Steiner who distinctly made it understood that she was treating my wife for cancer, among other things. I then asked why, if her treatment was so effective for cancer, the medical profession hadn't endorsed it, or why the cancer society was spending thousands of dollars trying to find a cure for cancer. Her statement was that the medical profession did not want to cure cancer because it was too lucrative a field.

At that time my wife came back into the room and as the discussion was distressing to her, we talked of other things.

What surprised me was the lengthy process necessary to issue the cease-and-desist order.

That is all I have to say unless you have some questions.

Senator WILLIAMS. How did you and Dr. Ernst of the State department come together? What was the communication that brought you together?

Mr. DELP. One of Dr. Ernest's assistants phoned me and asked if I would care to make a statement at a hearing with reference to this mucorhycin and Dr. Steiner's dispensing it. I said I would cooperate.

Senator WILLIAMS. I imagine the doctor learned who Dr. Steiner's patients were and then went to the patients, is that right?

Mr. DELP. That I don't know, sir.

Senator WILLIAMS. It seems that would be the logical development here. Were you ladies asked to go to the doctor's office?

Mrs. TIBBS. Yes, we offered to go.

Senator WILLIAMS. Offered to go?

Mrs. TIBBS. Yes, and I was very anxious to do something, put some teeth in this law if we possibly can. I sat in the waiting room and watched some of these people knowing they were depending on this pseudodoctor and it makes you real sick in your heart and you want to do something about it if you possibly can. They are so obviously in need of help.

Senator WILLIAMS. Mrs. Tibbs, did you voluntarily go to the State agency and describe your experience?

Mrs. TIBBS. In a roundabout way. We have people in our organization that are very interested in cancer naturally and through them and through our interest in the subject we got in touch with Dr. Ernst.

Senator WILLIAMS. I am very glad that this is being well reported by the radio and television stations and the newspapers, because it seems to me people who discover that they are being taken in these devices can be most helpful to the rest of us if they will voluntarily come in and make their cases known.

Mrs. TOMLINSON. I belong to the cancer club of Oakland and Dr. Ernst came there and gave a talk and showed all the pictures of the gadgets and had some of them with him and then he asked if someone would volunteer to do this work and I was very glad to do it.

Senator WILLIAMS. Senator Neuberger.

Senator NEUBERGER. Mr. Delp, you were unique in one respect. You sought the professional medical advice first for your wife. Many of the people who go to these quacks, don't they go first to the quack?

Mr. DELP. Yes, and I think that is where the harm is done. In my wife's case, as I said, the legitimate medical profession had done all it could and it was as a last resort, to give my wife some peace of mind that I consented to her seeing Dr. Steiner.

I didn't put much faith in her ability to cure my wife of cancer.

Senator WILLIAMS. Would any of the three of you have any opinion why people would go to quacks, answer advertisements, before they go to their own reputable practicing physician?

Mrs. TOMLINSON. My daughter was working at the university and there was a 24-year-old woman working for her and she had breast cancer and she went to a chiropractor and this chiropractor treated her and she would take with her at lunch time beet juices and different kinds of juices for her lunch and she wasn't getting any better. My daughter told her to go to a doctor and have herself taken care of. She was losing weight and she went to a doctor but it was too late because within 2 months the girl was dead.

Senator WILLIAMS. Why didn't she go to a doctor in the first place?

Mrs. TOMLINSON. People are afraid, I suppose.

Senator WILLIAMS. Are they afraid to be told they have cancer, is that what you mean?

Mrs. TOMLINSON. Yes.

Mrs. TIBBS. They are afraid of surgery. They are afraid of what the doctor will tell them especially in an age group like ours. They are afraid of being told that they have to have surgery, say of the type that I have had so they go seek something else.

Senator WILLIAMS. And I suppose they think it is going to be more expense also?

Mrs. TIBBS. Well, I don't know; some of it is pretty expensive.

Senator WILLIAMS. In other areas I believe people have exhausted their true medical remedy, as in arthritis, for example. And then the false ad is the straw that they grasp for in desperation.

I think you three witnesses have shown very good citizenship to come here and help us in our deliberations. You have been most helpful.

Senator NEUBERGER. The next witness is John Miner, deputy district attorney and chief of the medicolegal section, Los Angeles County. Mr. Miner, we are glad to have your testimony.

**STATEMENT BY JOHN W. MINER, DEPUTY DISTRICT ATTORNEY;
CHIEF, MEDICOLEGAL SECTION, OFFICE OF DISTRICT AT-
TORNEY, LOS ANGELES COUNTY**

Mr. MINER. Thank you, Senator Neuberger.

First, let me express the appreciation of the district attorney of Los Angeles County for inviting us to come here and testify before your committee. In discussing this problem with you I am going to take a slightly different approach than has been taken by previous witnesses you have heard already.

They have done an important thing in assisting you with the constructive approaches that exist at least in California with respect to the problem of medical quackery.

I think I will preface what I am going to say in this sense, that what is being done merely scratches the surface. We haven't even begun to attack this problem in such a way as to protect the public.

Looking at the scope of the thing we can see that that is true.

The National Congress on Medical Quackery has conservatively estimated that \$1 billion is stolen annually from the American people by the medical quacks.

That is 1 percent of our national budget. From the patient population of quacks prosecuted in Los Angeles County, approximately 7 out of 10 victims are over the age of 60 and in my statement I reduce that to 50 percent so we are talking about, as far as the elderly are concerned, the stealing of some \$500 million a year.

The second point I made in my statement, and I would like to state here, and maybe it will sound too strong to some of you, but except for the public executioner, only the medical quack is permitted to earn his living by killing people in our society.

The approach of the law to medical quackery is badly inadequate. Where the fraudulent conduct involves such criminal activity as misbranded items, false advertising, practicing medicine without a license, and making prohibited representations about cancer, the quack is guilty of a mere misdemeanor.

In California that means a fine of \$500 or a county jail sentence of 6 months, or both. You have already heard the witnesses tell you about some of these gadgets for which a substantial fine and even in one case 90 days in the county jail was imposed.

These are instances in which the quack gadgets are responsible for the loss of human life and the stealing of substantial amounts. It is nonsensical to expect that the penalties of a misdemeanor conviction are effective in controlling the quack. It is important, I think, for the legislatures and the prosecuting officials to recognize the need for some kind of far more organized, planned approach to the problem of medical quackery.

Now, I have a couple of devices to illustrate that point, because you are Federal people and you are interested in the Federal program. I cannot identify the defendant because it is a case pending trial.

Incidentally, all praise should be given to the California State Department of Health which did the investigation in this case and that was Mr. Bottini and his people, and a magnificent investigating job it was.

This is a device (indicating) which cures everything and diagnoses everything. Here is a chart on which all of the diagnostic data is placed. This machine, without ever using any kind of blood pressure instrument of any kind of laboratory techniques does a complete blood count, urinalysis test, blood pressure, diagnoses every disease that there is, and in a different form, cures every disease that there is.

Actually all this does is register on this ammeter the difference of electromotive forces that exist when a current is passed between two dissimilar metals. That is all in the world that it does and it doesn't really do it as effectively as a flashlight battery would.

The device (indicating) is also a most convenient one. I brought you what the manufacturer calls a portable model. This is very handy because you see you can carry that and your luggage with no trouble at all, and if you need some medicine you don't have to take it internally or take an injection and there is nothing unpleasant about it.

You put this little device in the machine and then you set the dials to the treatment. Let us say you are treating a disease such as high blood pressure and you want to lower the blood pressure or let us say you have an ulcer; this also will cure that.

You set the dial to the proper place and you don't even have to be there. You take a couple of drops of blood, you put it on a piece of blotting paper, and you press a button and insert the blood into the machine and the vibration from the blood crystals are exactly the same as those vibrating from your vital organs so by putting the dials in the proper position you are cured.

Now, we laugh at this or at least it is humorous to us and we smile. This particular operator has records of treating over 35,000 people of whom some 20,000 are in the area of your special concern and perhaps over the age of 60.

At least from the records we have well over a half million dollars has been taken from these people by the sale and use of this one machine.

They are retailing now at \$550 apiece. I bring this machine to your attention particularly because this exact machine was the subject of a Federal prosecution in 1951 and this individual was convicted of violating the Federal statute which prohibits the sending in interstate commerce of misbranded items.

She was convicted of a misdemeanor, because that is all the offense is. The subject matter upon which Federal prosecution came up was an instance of sending this machine in interstate commerce to a woman suffering from breast cancer and who, by the fraudulent misrepresentation of this individual, delayed treatment. At the time the trial took place she was already inoperable and died 2 months thereafter.

The punishment imposed on this defendant in 1951 was a \$1,000 fine and from 1951 until now, when this matter is pending trial under the State laws and the county of Los Angeles, she has victimized countless thousands of persons.

Senator WILLIAMS. At that point, if there is a conviction in the present prosecution what will be the maximum penalty?

Mr. MINER. Well, the indictment charges two counts of attempted grand theft and two counts of grand theft. The punishment for grand theft is 1 to 10 years in the State prison, and for attempt to commit same, 1 to 5 years. In the event that there is a conviction on more than one count, the sentences could run consecutively, and California has an indeterminant penal sentence that allows our adult authority to determine how long any given defendant will serve, but certainly, if a conviction is secured in this case, I shall make every effort to secure the maximum sentence.

Senator WILLIAMS. There definitely, or evidently, isn't any legal authority to move in a swifter way through an injunction enjoining the sale of these objects pending the criminal trial?

Mr. MINER. Not exactly, Senator. In a sense there is a kind of procedure that would be available to our attorney general, but it is not too frequently invoked and, of course, this presents matters that are a little more difficult to deal with because of the extraordinary remedy involved than even the heavy burden of a criminal prosecution. I should mention this, that I think you must consider that, while you have heard citizens that have cooperated in undercover work in attempting to reveal the activities of these quacks, when I try this case coming up in Los Angeles there will be literally hundreds of people trying to knock down the courtroom doors to get in and say how these defendants have saved their lives and have made them whole and well because of the vulnerability of people to want to believe something, how painless it is, how easy it is and it only takes money, but the fact is that they have to have the money, then there is no surgery, no unpleasantness, and an absolute cure assured. That is part of the problem of medical quackery, the fact that many of the victims do not realize that they are being swindled.

There are just two other things I would like to mention to you and they are the sacred cows. You have already pointed out, Senator Neuberger, and Senator Williams, some advertising with the word "doctor."

Senator Neuberger asked you why people didn't go to registered M.D.'s instead of quacks. Now, mind you, I am not taking on the whole profession of chiropractic, but when you see the word "doctor" and no M.D. and no initials designating what kind of a doctor it is, usually a chiropractor is involved.

The State of California and 46 States license persons in this field of chiropractic to use the title "doctor." To those who are ignorant and have no way of knowing the difference, when they wait in the office of a person like this in the State of California and 46 other

States, those States permit chiropractors to call themselves doctors even though the same law prohibits these people from practicing medicine and surgery. Because the States which license them permit chiropractors to hold themselves out as doctors, the unscrupulous among the chiropractors have an almost unlimited opportunity to defraud the public by claiming to be able to diagnose and cure a disease. I regret to say that these States stand in *pari delicto*. The laws licensing chiropractors should be changed. Since they are expressly prohibited under most statutes from practicing medicine and surgery there is no more reason why chiropractors should be permitted to call themselves doctors than there would be for physiotherapists and laboratory technicians to be allowed to use that title.

Second is the area of the faith healer. Here I am getting into an area, and how well you Senators appreciate that that is a very delicate area, by the First Amendment, but under the cloak of religion and particularly in my county, I suppose more than anywhere else in this entire country, there are those that through the name of God claim to be able to heal people.

They throw the name of God around and I am afraid in vain, but they get people to believe that all disease can be cured by their particular religious course. It is an extremely dangerous form of quackery and it is one the law has not even begun to touch and I am not sure I know how to begin to touch it or make a recommendation.

My final comment as to what on the Federal level can be done:

There are three things necessary. The first is proper legislation, the money to implement that legislation and the proper means of enforcement. In no respect is any jurisdiction adequately supplied. You pointed that out, Senator Neuberger, when you raised your eyebrows about \$50,000.

Well, \$50,000 is certainly not even a beginning point. I am the only chief of a medical legal section in any prosecuting agency in the entire United States and to that I think credit must be given to the district attorney in my county and his chief deputy because they decided it was worth while to take someone like me and turn him loose on such problems as medical quackery.

You have to have a man in law who knows medicine as well. The right hand rarely knows what the left hand does in the field of medical quackery. Look how many Federal agencies you are involved in. You have the Food and Drug people and Health, Education, and Welfare, and so forth. This is a problem that requires a coordination of all of these agencies.

Each one does a splendid job but you have got to have some single agency of leadership and I suggest that in the Department of Health, Education, and Welfare under the Surgeon General is where it would seem to me to belong and I believe that a unit solely concerned with medical quackery should be set up under a qualified specialist in law and medicine and that he be given the legislative and financial tools necessary to do his job, that he start on it much in the same way that the cigarette situation was approved.

That is, the whole problem be analyzed. The work of your committee would then be implemented by an enforcement agency who will take all of the information you have and from the data you are assembling, from that work out the enforcement program where the

Federal laws are involved and there is where you can get the State agencies to assist in local control.

Thank you for the privilege and opportunity to be before you this morning.

Senator WILLIAMS. Well, you come to us with a reputation of being very forceful and effective in this area and your name, of course, has preceded you in connection with the case of law and prosecution that we have seen so much publicity about.

I believe Life magazine had quite a spread on it.

Mr. MINER. Yes, it did. At least personally I was a little embarrassed to be in that situation, but I have a feeling that it brought to the public this problem in a way where you can rarely reach the public as to the dangers of medical quacks.

Let me say that while the case is pending on appeal I think it utterly remarkable that in the whole history of law no person who has taken a human life by fraudulent representation has ever been prosecuted for homicide. It is just unbelievable and we do have that one case here in California where such a conviction was had for second-degree murder but that is now in our appellate courts and it is not yet the law of the State of California, but I certainly hope that it will be.

Second, the quacks have taken more human lives than any other type of criminal activity put together and yet society has just kind of tolerated it.

I don't think it should be tolerated any longer.

Senator WILLIAMS. Senator Neuberger.

Senator NEUBERGER. Well, I have been so impressed all morning with the hearing and again with you, Mr. Miner, and I am wondering why it is when a bill comes up before the Congress of the United States asking for effective legislation to require the proven efficacy of drugs that there is so much opposition to it.

You would think that through all this testimony and evidence here and through the work that has been done and the experience of these people here today that there would be people knocking at our doors every day saying that we must have a law requiring efficacy be proved and yet we have just the opposite. There is a group of people who don't want drugs to be proved effectively.

You will begin to think that the only reason would be that there is somebody making money off drugs that are not effective. The testimony that we have received all morning convinces me that we are going to have to give the public more information.

This is not required and that is one thing that we can do through the Federal Government, I would hope.

You mentioned a department of organization as the Surgeon General's Committee on Smoking and Health to deal with this. I get a report every month from the Food and Drug Administration about cases and they cite the cases that they have investigated and the results and enforcement and seizures and so on.

Would you go beyond that; is that not sufficient or effective?

Mr. MINER. I know very well, having worked with the Federal Food and Drug people, that they are dedicated and they do a wonderful job in view of the limitations of the legislation that they work under.

What I am saying is that medical quackery is, by definition, really a single entity. It is where someone with fraudulent intent is representing something, whatever it may be, as a way of being able to

diagnose and cure disease, fraudulent intent being the identifying mark. We have a multiplicity of agencies to deal with the problem and somewhere and in some way the bringing together of those agencies, at least in the sense that they all know what they are doing, and they use their multiple weapons in a coordinated approach to the problem, is desirable and necessary.

Take our own State, for example, I think the Federal Government would be in the same boat. Any advertisement, for instance, over the television is interstate. We have a couple of very aggravated situations as to fake healers in Los Angeles County.

The initial investigation was started by the State department of public health, but its agency in that respect is the bureau of food and drug and they are limited to something tangible, not just the spoken word alone, and they are questioning now whether they can send in their people and spend their time, investigative time and money, on this particular problem.

That may be, of course, a legislative thing to be cured. What I am getting at is this. Every agency does a good job, but you need coordination of these agencies under a single agency that sees to it that each of the aspects—because these quacks overlap, they overlap from food and drug to postal, and they might be violating both laws which involves the two different agencies and that sometimes leads to more confusion through which, sometimes, the quack escapes.

Senator WILLIAMS. Well, your job is a prosecutor of quackery criminal law and particularly the case, that is now so prominent, where the charge was homicide must require, for the burden of proof, a tremendous investigative effort on your part and medical evidence to back it up.

Mr. MINER. That is very true and that is one of the big problems. For example, the case that I mentioned, State prosecution is now some 12 years later after a Federal prosecution.

This investigation was started in April of 1963 and the indictment was not secured until October 9, and a great deal of work and effort by the State department of health, the bureau of food and drug, went into that investigation and we won't even get to trial until sometime in March, so there is an entire year on just one case.

Senator WILLIAMS. You suggest a unit in the Department of Health, Education, and Welfare at the Federal level to deal with quackery. I would imagine that you would want this to include not only drugs and devices but the quackery that comes with advertisements, the word-of-mouth quackery?

Mr. MINER. Yes, indeed.

Senator NEUBERGER. It seems to me that if there were this basic body that you speak of, for undertaking information at the Federal level, that this would be made available to you at the county level where you have to bring the prosecution?

Mr. MINER. Exactly. The Federal Government always intends to take the lead in these things that affect the health of the people. The Federal Government has also been in the background but then the State kind of fouls up to some extent.

Senator NEUBERGER. You have the same problem at the State legislature in Sacramento like we do in Washington about the lobbyist against this and against that and about members themselves who don't want to support the State program?

Mr. MINER. I am by no means an authority on State legislatures. The legislators that I have personally talked with have indicated to me that they will attempt to support constructive legislation in this field and I am very hopeful that in our next general legislative session, which will be in 1965, that there will be bills introduced and passed.

Senator NEUBERGER. You seem to be well ahead of the national laws, but behind in some places on appropriations, and one isn't good without the other.

Mr. MINER. You are right.

Senator WILLIAMS. You and others have used the analogy of the Surgeon General's Commission or Committee studying smoking and health in your remarks and as I am smoking here I am thinking that that report is on appeal, pending appeal, so I think I will continue to smoke.

Senator WILLIAMS. Thank you very much, Mr. Miner.

Mr. MINER. Thank you very much, Senator, and thank you, ma'am.

Senator WILLIAMS. The next witness is Thomas C. Schumacher, chief deputy director of the department of professional and vocational standards in the State of California.

**STATEMENT OF THOMAS C. SCHUMACHER, CHIEF DEPUTY
DIRECTOR, DEPARTMENT OF PROFESSIONAL AND VOCATIONAL
STANDARDS, STATE OF CALIFORNIA BUSINESS AND
COMMERCE AGENCY**

Mr. SCHUMACHER. Senator Williams and Senator Neuberger, my name is Thomas C. Schumacher. I am the chief deputy director of the department of professional and vocational standards in the State of California.

There are 35 agencies in one department and we have divided the administrative responsibility between the structural group and the healing arts. I am related to the healing arts.

Within the department of professional and vocational standards are the agencies which license persons practicing the healing arts within the State.

Each agency operates within its own statutory framework and has its own rules and regulations, and each has within its authority the matter of disciplinary action.

There is, within the department, a division of investigation; whenever a matter of alleged violation of the law subject to its jurisdiction comes to the attention of an agency, an investigation is conducted. If the investigation turns up reasonable evidence that there is a violation, the agency initiates disciplinary proceedings under the Administrative Procedure Act.

Under this act the licensee is given a hearing before a trained hearing officer who is independent of the agency. The agency is represented by the attorney general and the licensee may have his own counsel. The decision of the hearing officer is then reviewed by the agency and the agency may adopt any disciplinary action recommended by the hearing officer or may reduce the penalty, it may not increase the penalty without further hearing.

Such proceedings are generally determined on the basis of a violation of the Business and Professions Code of California.

Normally the conviction of a felony or any offense involving moral turpitude within the framework of this hearing constitutes unprofessional conduct.

If a licensee is found guilty by the courts, the record of conviction is conclusive evidence of the fact that the conviction occurred and the agency concerned may then enter into the procedure of a disciplinary hearing as above outlined.

There are some problems involved in protecting the elderly on the matter of fraud and misrepresentation, but also we have the problem of protecting the practitioner from harassment. Out of this comes, then, the protection of the unjust as well as the just. For instance, one agency within the department took disciplinary action on the basis of fraudulent advertising. The licensee published a pamphlet in which he claimed to have cured cancer in hundreds of cases by use of the Koch oxidation catalyst, despite the unanimous professional opinion that the Koch oxidation catalyst treatment for cancer is nothing more than professional quackery.

This man appeared on television shows and additionally claimed to have used cellular therapy in treatment of a great variety of conditions ranging from faulty vision to mental deficiencies.

The agency investigated the matter, instituted a disciplinary hearing and the hearing officer felt that strong disciplinary measures should be taken. The agency revoked the man's certificate to practice. However, he went to court and obtained an injunction and is still practicing. The agency does have high hopes, of course, that the court and perhaps the appellate court following will sustain its action in protecting the public.

I am sure this committee understands the difficulty in this matter inasmuch as the Koch cancer treatment has been before the Federal courts on three different occasions and in no instance was a conviction obtained.

All of the agencies within the department work in close connection with other State agencies administering health programs to all of the people including the elderly. Many of our agencies and the professional associations involved have advisory committees to assist the various State departments in any problems that arise in connection with services rendered to recipients under the medical care program to the needy aged. In some instances the professional schools participate in an inspection program so there are some regulatory conditions other than the revocation or suspension of a license.

One agency reports that there is a problem that might be considered by this committee because it does cross State lines. This is the matter of selling ready-to-wear eyeglasses, and the filling of prescriptions and the duplication of broken lenses by out-of-State companies and firms. These out-of-State companies advertise in various magazines and transact their business through the mail. It is our opinion that their advertising is frequently misleading. It is the professional opinion that mail-order glasses can be a definite hazard to the unsuspecting wearer.

There is a recognition on the part of the board of nurse education and nurse registration of the increased emphasis that has been placed on rehabilitation and illnesses common to the older person. This agency is now including a greater emphasis in this area in the licensing examination.

Leaders in dentistry have estimated that about 15 to 20 percent of artificial dentures are being made without the benefit of professional dentists or a signed work authorization. Ailments caused by ill-fitted dentures are mouth cancer, impairment of hearing, neuralgia, stomach disorder, and damage to mouth tissues and jawbones caused by pressure and distortion of the natural bite.

The problem involved in this area is from unlicensed persons, such as a dental technician working out of his home or visiting the patient's home at night to take an impression and perhaps make the denture at the laboratory where he is regularly employed. There is also occasionally a dental laboratory which may employ a staff of dental technicians and make plates without legal prescription. While these people are not licensed by an agency in our department, the agency concerned with this activity does have its investigators working on any reported violation in this area and if the allegations are true the matter is placed before the local district attorney and subject to a hearing of the court for the final disposition of a criminal allegation.

In order that the department might better discharge its duty we urge the public to make us aware of illegal practices and I can assure this committee that all of our agencies will investigate thoroughly the presence of violations of the business and professions code of the State of California as it relates to the individual agencies.

Unfortunately we cannot always depend upon the victim of an illicit treatment or operation to report his plight to the agency involved even when they have had to pay for their folly with months and months of pain. They apparently realize they have been a party to a conspiracy and do not want to become further involved.

Senator WILLIAMS. Thank you very much; that is a very fine statement. You have described the detrimental effect on people that take care of their dental and optical problems with these mail-order outfits, and you say that that is wrong. Do you have any way of dealing with those who advertise this way within the State?

Mr. SCHUMACHER. If it is fraudulent advertising; yes.

If it is in eyeglasses, the investigators who are responsible to the board of optometry, institutes the proceedings of that nature as you heard in the testimony today; it is extremely difficult getting at this matter of fraudulent advertising.

In eyeglasses it is a little bit rough because it is not as drastic as the matter of people dying of cancer. In the matter of dentures, the board of dentistry has brought some of the people who are not licensed to make dentures to criminal action. We can't take their license away because they don't have one but we bring them into court on the basis of a misdemeanor charge.

Senator WILLIAMS. Thank you. This concludes our morning aspect of the hearing, and it has been a very fruitful morning for the committee. We have full and helpful descriptions of the various State programs that deal with quackery and medical misrepresentation in the State of California.

I certainly applaud the State for being a pioneer in an area where far too little has been done to develop effective ways to protect people against the frauds and misrepresentations, the quack who is bilking people of this country of billions of dollars.

As we heard today they are delaying people from getting proper care and treatment, care that is available from professional people.

Certainly the enforcement of this existing California law is obviously good but probably not as complete as more money would permit it to be.

The criminal prosecution of the quack in California as throughout the country is inadequate as was pointed out by Mr. Miner of Los Angeles.

Thank you.

We will now adjourn and reconvene at 1:30.

(Whereupon, a lunch recess was taken at 12:10 p.m. until 1:30 p.m. the same day.)

AFTERNOON SESSION

Senator NEUBERGER. The afternoon session will come to order and the first witness scheduled is Dr. Eugene L. Miller, of the California Medical Association and the American Cancer Society, California Chapter.

He will be accompanied by Dr. W. Edward Naugler, Arthritis and Rheumatism, Northern California Chapter; and Mrs. Virginia Nelson, assistant secretary, Better Business Bureau; and Mrs. Lucelia Moore, Metropolitan Hearing Center of Los Angeles.

STATEMENT OF DR. EUGENE L. MILLER

Dr. MILLER. I am Dr. Eugene G. Miller, representing the California Medical Association, and the California Division of the American Cancer Society.

I serve on the administrative staff of both of these organizations, working primarily in the field of cancer control. These two organizations, the State department of health and other voluntary unofficial agencies work closely together. A notable example of their cooperation is the cancer advisory council which was described to you this morning.

Although there has been quackery in California since its early history, the California Medical Association increased its investigative studies shortly after World War II. Scientific reports on three unproved treatment methods were published in California Medicine.

California Medicine is the official scientific journal of the California Medical Association and is distributed monthly to over 20,000 members. At the conclusion of these studies, the California Medical Association and the American Cancer Society discovered more legal control was necessary and successfully assisted in the passage of Senate bill 194 in 1959.

Both associations have continued their support by providing leadership, information, and publishing progress reports on the council in California Medicine. Recognizing legal action control is not enough, the two groups, with four other organizations, sponsored a California Congress on Medical Quackery.

The California Medical Association also sends a brochure to its members on active proponents of unproved methods. This is now being rewritten. Physicians are also provided with speakers kits on quackery for public and professional audiences and county medical societies have the powers to take corrective action when a member does not act in the best interest of his patients.

Many of the activities might be described, and these may be brought out in the panel discussion and questions. There is no question that problems of control do remain, but observers are encouraged. The problem of control as seen by us is not limited to the aged nor can its control be restricted to the aged.

Cancer is more common in the aged, but is a disease of all age groups. For control of other forms of quackery, the California Medical Association works with appropriate agencies in this regard.

At this time the California Medical Association and the American Cancer Society do not have any specific recommendations to this subcommittee, but we do pledge our continued action, including investigation and education, and support of such legal action by governmental agencies as indicated.

I believe most important is increased public education on this important and complex problem. I thank you for this opportunity and I will try to answer any questions that you may have.

Senator NEUBERGER. The only question that occurs to me, you say you have no specific recommendation. Well, then, are you actively supporting any legislation that might control these devices that tend to reflect on the whole medical California profession?

Dr. MILLER. Well, as I have mentioned, we did support the passage of Senate bill 194 in 1959. As was described previously, it expires next year but we will work to see that this law be continued.

Senator NEUBERGER. By this you mean California's law?

Dr. MILLER. Yes, this was the bill that set up the cancer advisory committee here in the State.

Senator NEUBERGER. Are you going to actively support any new legislation for control of this insidious disease?

Dr. MILLER. I don't believe we have anything planned at this time. Nothing has been proposed that we are familiar with, so in this sense we are not supporting it.

Senator NEUBERGER. Do you oppose or propose any legislation in this area at the Federal level?

Dr. MILLER. I don't believe it is something that has really formally been considered by the California Medical Association, but I don't believe they would oppose any legislation that would serve a useful purpose.

Senator NEUBERGER. I don't think anybody would. I don't think think that quite answers my question. Would your branch of the American Medical Association support a restrictive law controlling the dispensation of drugs where such might be doubtful. Do you have a council down at the AMA?

Dr. MILLER. I work for the California Medical Association but the AMA does have a council on drugs.

Senator NEUBERGER. Isn't the CMA a branch of the American Medical Association?

Dr. MILLER. We are a State unit. We have a committee on dangerous drugs that works primarily in the legislative field. We also have a committee on adverse drug reaction which is more of an investigative committee.

Senator NEUBERGER. Thank you. We will now hear from Dr. Naugler of the Arthritis and Rheumatism Foundation.

STATEMENT OF DR. W. EDWARD NAUGLER

Dr. NAUGLER. I am a member of the medical and scientific committee of the Northern California Chapter of the Arthritis and Rheumatism Foundation and vice chairman of the medical advisory committee of the American Rheumatism Foundation.

Very large studies have been undertaken in recent years by the Federal and State regulatory agencies assisted by the programs of the private medical service organizations in reducing the incidence of medical frauds and misrepresentations.

Popular awareness of the general problem has vastly increased, and the remaining defects, in our view, in our laws and means of implementing them have become apparent. We are convinced that very satisfactory progress is currently continuing.

The Northern California Chapter of the Arthritis and Rheumatism Foundation has been actively studying the problem and has developed an inclusive program to combat frauds and misrepresentations affecting arthritis.

This program has included the following components. The establishment of a committee on legislation, a subcommittee of its medical and scientific committee.

The second is a system of referral to competent physicians when requested by patients. The third is public information services which include public forums, participation in radio and television programs, interviews with members of the press, organizing and participating in organizing congresses on medical quackery.

Also, contributing articles to various publications, designing and providing public displays—some illustrations are shown below—dissemination of information at appropriate medical and scientific meetings, and advising and informing its large board of directors, who are significant and influential persons in the community.

Also important is cooperation with local and Federal law enforcement agencies, such as the Federal Trade Commission and the State bureau of food and drug inspection.

So successful has the general progress been in this effort that we are rapidly coming to the point where the subject is soon to become quite knotty.

Fraud and outright misrepresentations are clear-cut problems, but borderline activities such as the advertising of medications and nutritional elements which encourages widespread self diagnosis, and treatment by fringe practitioners who, to understate it, provide less than adequate medical care, now urgently require close study.

The most clear-cut defect in the law at present is the imposition of penalties so small that they could almost be regarded as licenses for continuing in business. A more difficult nut to crack is the evaluation of expert and scientific evidence by juries untrained in these concepts. California now has a law that provides that its courts may consult experts or panels of experts in the clarification or interpretation of evidence.

The use of such impartial panels should be encouraged and become more widespread.

Our recommendation at this time is that an inquiry be made into several questions which it is now appropriate to ask. The medical service organizations should pool their efforts and set up a study group composed of physicians, behavioral scientists, attorneys, newspaper-

men and experts in advertising to study in depth this problem and the problems which the following questions define:

(1) What are the factors underlying the tendency of many persons to rely on self-diagnosis and self-treatment?

(2) What is the net effect of the advertising of medications and health foods for specific complaints? Does such advertising contribute to the tendency for self-treatment?

(3) What is the real effect of magazine and newspaper articles on medical subjects. The physician wants an informed public but do these articles produce the effect generally hoped for.

(4) What are the most effective methods of enabling the public to find the best kind of medical care available in the community?

These could be amplified, of course, into many categories.

Senator NEUBERGER. Thank you very much for enumerating so clearly some of the points you have made here. I was very curious about one thing.

Why did you include the behavioral scientists when speaking about your recommendations about studying the problem?

Dr. NAUGLER. I think these are the people who are more aware of the mechanisms whereby people develop ideas about things.

Senator NEUBERGER. The point I wanted to make is that you think that behavioral scientists know about why people should come into the law of the advertising?

Dr. NAUGLER. Yes.

Senator NEUBERGER. Rather than think that some people are more prone toward arthritis than others?

Dr. NAUGLER. Yes.

Senator NEUBERGER. This is what the tobacco industry has said about smoking, the behavioral problem in some people is that we haven't studied the psychological.

Dr. NAUGLER. There is no doubt that is important but this is an area for research, I think, and for this particular program it seems to me.

Senator NEUBERGER. The very fine work that has been done for a good many years by this foundation, would you say, that you have any way of measuring any results of your propaganda and I call it good educational propaganda?

Dr. NAUGLER. What sense do you mean that, in the sense that more people are getting competent medical care and thereby arthritis is becoming a less important factor or are you speaking of the incidence of quackery in the total problem?

Senator NEUBERGER. As a result of your work and the medical groups and so on?

Dr. NAUGLER. Very much so. I think that almost every day in my own personal practice someone brings up a problem which is related in some way to misrepresentation and fraud and incompetent practitioners or those who make promises and advertise and so forth. I think it makes some of us wonder if our public education programs are effective.

That is what we would like to make an inquiry into and we are recommending that this inquiry be made in depth. It is a very difficult problem because it is not easy to label some of these things as fraudulent.

Senator NEUBERGER. I was interested because both Dr. Miller and you referred specifically that we needed a further examination of

information. This has been going on for a long time and quackery seems to continue and I begin to get discouraged and I certainly don't think we can rely on education alone, but it does seem to me that now we have some pretty big strides to take somewhere.

Dr. NAUGLER. I mentioned that as the third or fourth one, what are the most effective methods of enabling the public to find the best kind of medical care that is available in the community and part of the recommendation is to inquire into the effect of advertising medications for aches and pains and that sort of thing.

Senator NEUBERGER. I believe you referred to magazine and newspaper articles on medical subjects, what is their effect. Do you think such articles should be submitted to a board, maybe an advisory group of the American Medical Association, so that they are completely satisfactory?

Dr. NAUGLER. No, I don't think we are quite ready for that yet because I don't think enough studies have been made to find out what the effect is of any given article. This isn't a question of whether it is written by an M.D. or non-M.D.

As a matter of fact, this is a question of even a most enlightened individual writing on a subject. Very often in an effort to emphasize we overdo it and get many worried people around.

When we put down the negative aspect of a situation the people feel that nothing can be done about arthritis and that is about it. This can have an opposite effect, we don't know the cure of rheumatoid arthritis. This may have a tendency to drive people into the hands of the unqualified, less scrupulous people; the regular doctors have been unable to define the cause, but here is one who tells us in large letters in the mail here, here is one who has the answer and the program.

Senator NEUBERGER. Is the use of a popular magazine with a multi-million circulation helpful toward spreading the information?

Dr. NAUGLER. As I just indicated it can sometimes, yes. Regardless of how careful we have been in this, regardless of how excellent and accurate these reports are we often find to our amazement that they have not produced the intended effect. I don't think there is any who are capable at the moment of studying this with enough insight to make any judgment on any article.

Senator NEUBERGER. Do you as a foundation monitor any of the television advertising that effects your particular interest?

Dr. NAUGLER. We have never been invited. If you mean by looking at it, yes, of course.

Senator NEUBERGER. What do you do when you look at it and are displeased?

Dr. NAUGLER. I think we bite our fingernails.

Senator NEUBERGER. Do you think there could be some legislation that could be helpful?

Dr. NAUGLER. After the subject and the problem has been studied and some recommendations are forthcoming then, I think, some legislation would be advisable.

Now, for example, take the simple problem of advertising aspirins on television; I don't think very many people would go along at this moment with any legislation that completely abolishes advertising of aspirins. I think that is a little advanced, but at the same time I think we ought to study exactly what effect this advertising produces. As I said in my report, it sometimes invites people to self-diagnosis and self-treatment.

Senator NEUBERGER. I was interested in your mentioning the advertising of health foods. Do you think that health foods may not bring about miraculous cures, but they can do no harm?

Dr. NAUGLER. The only harm they can do is that they are tremendously expensive. Many health foods from health stores are sold at prices that are out of proportion to their market value because it is done in the aura of health food stores.

(The exhibits mentioned above follow.)

THE CHAPTER'S QUACK EXHIBIT

Enclosed are pictures of the quack exhibit as it originally was, together with individual pictures of the single items as well as one of the Gallert radionic machine which has now replaced the original pictures of the Depolaray.

The Depolaray, shown on the third panel of the exhibit, was seized by the Federal Government. An electromagnet in the headlight case was its source of treatment for arthritis. The Government charged misrepresentation in the statement that the use of the Depolaray was effective in the treatment of arthritis and rheumatic diseases.

There is a Federal injunction against transporting the machine in interstate commerce and therefore the presentation of the device outside of California was all right. However, as there was no California judgment against it, its sale was legal here and we had to remove the picture or mention of it within the State.

We substituted the Gallert radionic machine which was a complicated device supposed to diagnose your disease. A tray of drug bottles was placed in the machine and when a light flashed over one of them, it was identified as the "correct drug for a complete cure."





DEANS THERAPEUTIC MITTENS

The vendor directed that by rubbing the salve on the afflicted joints and placing the wrapped hand into the electric mittens, the heat would cause the salve to penetrate into the joints for the treatment of arthritis.

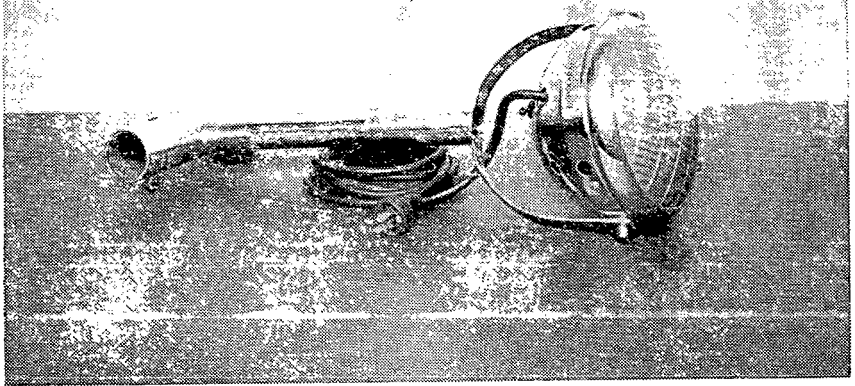


NUE-Ovo

A nostrum claimed to successfully treat arthritis. Many people believed the false promises printed in the circular which accompanied the package.



DEPOLORAY FIXTURES



DEPOLORY LIGHT

Senator NEUBERGER. Thank you very much. We will now hear from Mrs. Moore of the Metropolitan Hearing Center of Los Angeles.

STATEMENT BY MRS. LUCELIA MOORE

Mrs. MOORE. Since communication is so essential for a person in our society we in the hearing field must take steps to help our aging citizens compensate for the progressive hearing drop associated with advancing years. And we know a loss of hearing is often a barrier to communication because many can benefit from a hearing aid as part of a complete rehabilitation program.

I want to emphasize the importance of the senior citizens being able to communicate. If they can't communicate they become antisocial. They will not go out. You people don't realize how important it is to hear.

Therefore, in Los Angeles there are 110,000 people on old-age security. Approximately 10 percent of this number or 10,000 have a hearing impairment in varying degrees.

A small percentage of this number have asked for help or advice as to their problem. The Hearing Center of Metropolitan Los Angeles and the department of senior citizens' affairs offer free counseling.

Now, by means of radio and other types of publicity more of these elderly people should be contacted. The Department of Senior Citizens' Affairs of Los Angeles County broadcasts weekly over KFI for 15 minutes discussing senior citizen problems.

Hearing is one of them. Information is given as to how, where, and when to secure counseling and aid. A leaflet entitled "Hearing Helps" is distributed to senior citizens for help.

Many elderly persons with prolonged hearing problems are suspicious of having their hearing tested. Many have repeated unfortunate experiences with hearing aid dealers and so-called hearing specialists and consultants. Some get an exaggerated impression of the value of hearing aids to overcome their hearing impairment.

Senior citizens as they get older have a hearing defect and it is usually a nerve loss. I lost my hearing as a baby and did not talk until after I was five and my speech was very poor. Are you hearing me very well?

Senator NEUBERGER. Wonderfully.

Mrs. MOORE. I learned how to talk because I had the right environment, the right kind of parents. I was bombarded with speech and I went through college and by that time I was able to learn to read lips. Mine was a nerve loss. All of these people here have been talking with their backs to the audience and I could hear the voices very well but I didn't get one word of meaning; only with lipreading we understand conversation.

One man was told by an otologist that a hearing aid would not help him. He bought it anyway, signed a contract and was told that his hearing would improve, but due to his nerve loss the aid only made him more nervous.

He came to me and I advised him to get a written statement from his doctor and take it to the salesman. This was a case of misrepresentation. That man was not a case for a hearing aid. Some of the doctors have said not to wear a hearing aid to their patients but they have bought a hearing aid, have taken lipreading and are getting along nicely, so, in some cases it is a gamble with or without an aid.

Another man, a pensioner, came to the Hearing Center of Metropolitan Los Angeles and complained of having been pressured into buying three hearing aids and still was not able to hear.

He was desperate and I sent him to the Los Angeles Better Business Bureau. I believe they took care of his case satisfactorily.

The California State law permits \$175 maximum to be spent on each ear for a hearing aid. This means that the pensioners in California may have a monaural hearing aid up to \$175.

I have a hearing aid but don't wear it because when very young I learned to talk without a hearing aid. If I wear my aid while talking my speech changes, so I use my aid for listening and my eyes for lipreading. This means the pensioners of California may have a monaural hearing aid up to \$175. Their social workers take care of the contracts and the added monthly payments in their checks which the pensioners pay to the hearing aid dealer.

This means that you pay on time which means financing, using taxpayers money, so why not pay for the aid in a lump sum, instead of on time and save money?

In many cases these pensioners are buying a monaural hearing aid but they are paying \$350 for it. They are using the \$175 from the county with their social worker's permission and taking \$175 out of their own pockets without the social workers knowing about the deal.

The basic concerns regarding the sale of hearing aids to the elderly are that the dealer must assume the responsibility of servicing the instrument for an indefinite period after the sale just as a dentist services dentures for a lengthy period after he fits the patient—minimum of 2 years' servicing.

It is fair to pay a fair price for the hearing aid which includes servicing, but some dealers are not too anxious to do this servicing after the sale.

Now, let me say here that all hearing aid dealers are not like this and far from it. They are a small minority. I have worked with these hearing aid dealers and they are a fine bunch of people. I am only saying that there are a few who are not ethical.

Here is where the biggest complaints come; some dealers talk the elderly person into buying a new aid when the old aid would do just as well with a small amount of repairs.

Recommendations regarding hearing of the elderly include a non-profit service station where persons can have their hearing aids tested and repaired, the batteries changed, and so forth. This station should be sponsored by a nonprofit clinic or center. It should not be in connection with any hearing aid dealer or company.

The reason that this recommendation is made is that most hearing aids can be kept operable for many years. My aid is over 5 years old and my hearing aid dealer said I didn't need a new one, an ear-level model which I considered buying.

Most hearing aid repairs are minor and can be accomplished within a few minutes. Some of these items include the removal of corrosion, replacement of batteries, perhaps a new cord, a new ear mold, and so forth.

It is a common fact that some hearing aid dealers will try to sell a new aid and disregard the possibility of repairing the old one or will make the price for repairs so prohibitive that the unknowing individual will again be involved in a contract for a new aid.

Lastly, people coming to the service station should be shown how to wear their aid effectively, should receive some auditory training and should have some lipreading lessons.

Many people buy aids and put them in the drawer and then want to return them. The hearing aid dealer doesn't want to take them back or take the time to teach them how to wear the aid.

They should receive some auditory training and learn how to wear their aid effectively. I am getting auditory training when I look at the television set as I see and hear the programs at the same time.

My recommendation to the elderly is to see an ear specialist first, follow his advice, purchase a hearing aid if so advised, take lipreading lessons. In my lipreading class some of the people come and say, "I can't hear with my hearing aid." They will have their aid tested, the battery is all right, the cord is all right, so then I tell them to stay in the class and in a year's time they will say they are hearing better, and their hearing aid is working better.

I will tell them what has happened. In order to hear, their eyes see the consonants, their ears hear the vowels and their brain interprets the meaning of what is being said. This combination makes for understanding conversation.

That is the reason I have to see the person's lips in order to hear. Due to a nerve loss sounds are distorted and always will be and the hearing aid amplifies this distortion, but the lipreading and brain clarifies the sound.

My advice to the elderly is to be slow to sign a contract for a hearing aid, and then only with their social worker's knowledge and advice. I have seen too many people get into trouble. One woman lived only

3 months after buying a hearing aid which she hardly wore. After she died her husband wanted to get the money he had paid on contract. He then realized he was obligated to pay for the aid even after her death as he had made the deal with the salesman.

Finally, my advice is to find and attend a lipreading class near their home. In Los Angeles County there has been a growing need for organizing more lipreading classes and some of the senior citizen homes now have such classes established.

Thank you very much.

Senator NEUBERGER. Mrs. Moore, I am sure a great many people will take heart from your testimony and it certainly is very practical testimony.

We will now hear from Mrs. Virginia Nelson, assistant secretary of the Better Business Bureau, San Francisco.

STATEMENT OF MRS. VIRGINIA NELSON

Mrs. NELSON. Thank you very much, Senator Neuberger. I am Mrs. Virginia Nelson, assistant secretary and office manager of the Better Business Bureau.

The Better Business Bureau believes that most frauds can be dealt with by the present Government agencies, acting under existing laws, with the cooperation of such organizations as the better business bureau.

That is why the Better Business Bureau devotes itself to determining facts and making information available to the public, and to enforce agencies when voluntary correction is not readily achieved.

We were asked specifically regarding practices harmful to senior citizens. Questionable business practices are worked in transactions involving the young and others at all ages, including the elderly. To be specific, in 1957, Age-less Cosmetics promoted the sale by mail of two cosmetic products which were represented to "banish wrinkles," and were subsequently cited for mail fraud.

The fraud order was vacated in 1958 when Age-less Cosmetics signed an affidavit of discontinuance with the Post Office Department on May 4, 1959, Post Office Docket No. 1-100.

On January 14, 1962, the Better Business Bureau noted an advertisement in the feature section of a local newspaper for what appeared to be the same product, now under the name of Age-Wise Cosmetics.

The bureau sent a clipping of the advertisement with a letter to the San Francisco postal authorities. During the months which followed, the bureau received requests for information about the product from better business bureaus and individuals throughout the United States, as the advertisement was appearing nationally, using such phrases as "Young throats for old * * * amazing clinical pad * * * better than most plastic surgery * * *"

In December 1962, the Post Office Department held another hearing to determine the authenticity of the subject's written statements on its products in the form of printed matter going through the mails. At this hearing, representatives from the U.S. Food and Drug Administration were quoted by media as stating that subjects cosmetics "didn't do a thing to alleviate wrinkles, sagging, or other signs of aging."

On November 21, 1963, the judicial officer, Post Office Department, issued fraud order No. 63-190 requiring that all mail addressed to the firm or its proprietress be halted at the post office and return to sender marked "fraudulent."

Now, currently the Better Business Bureau of San Francisco is in receipt of a few complaints regarding a vibration treatment allegedly guaranteeing weight loss. Complaints allege treatments induce motion sickness and that employees of the advertiser acknowledge that anyone would be foolish to expect such things as 10 to 20 pound weight reduction and 4 inch loss around the waist to be accomplished in 30 days.

This advertiser still is under investigation. Cooperation between the Los Angeles Better Business Bureau and the California State Department of Public Health is evidenced by several articles which appear in current consumer literature.

The National Better Business Bureau has forwarded to each better business bureau a copy of the U.S. Department of Health, Education, and Welfare entitled "Your Money and Your Life," in the development of which the national bureau cooperated.

It is believed this booklet should be helpful in many of the areas which are the interest of this subcommittee.

The better business bureau services of counsel and warning are available without charge to all the people upon request. The bureau urges a continuance of cooperation between Government agencies and the better business bureaus with emphasis on the enforcement of existing laws.

As I have listened to Mrs. Moore and Dr. Miller and Dr. Naugler it occurred to me that the better business bureau has been touched by the subject of each of these people.

The Better Business Bureau of San Francisco maintains many thousands of files and as you were speaking a few minutes ago you said that the elderly who buy hearing aids would do best to buy from reputable salesmen.

I would like to state that one of the most important services available to the elderly is the furnishing of factual reliability reports concerning business firms, if they will inquire of the better business bureau before committing themselves.

Thank you very much.

Senator NEUBERGER. Thank you. How is the better business bureau supported?

Mrs. NELSON. The better business bureau is a nonprofit corporation supported entirely by the voluntary membership subscriptions of the business community.

Senator NEUBERGER. You stated I believe that the better business bureau believes that most frauds can be dealt with by the present Government agencies and under the existing laws. That would indicate that you are satisfied with the status quo. Do you think that we can have no improvement in laws that would enable law enforcement agencies to stop the sort of abuses that we have heard about here today?

Mrs. NELSON. Certainly if there is a need shown for additional laws we would not be opposed. However, it is not the policy of the better business bureau to propose legislation. We say here that "most frauds" can be dealt with in this manner. We do believe

generally that there are now enough laws on the books to handle almost any infraction that might arise.

We believe that the problem is that of enforcement rather than the need for additional law.

Senator NEUBERGER. Immediately when you confront officials who have the responsibility of enforcing these things they say that existing law is not sufficient. I have talked to postal inspectors about this and the law does not give them the authority to do some of the things they would like to do.

Therefore, if I may in all good faith give a bit of constructive criticism, others say that we need more laws. I think we do need to examine existing laws.

Mrs. NELSON. Certainly if there is the need shown for additional legislation, we do not oppose it—

Senator NEUBERGER. I am sure you wouldn't.

Mrs. NELSON. We do work to maintain self-regulation in business as opposed to further legislation.

Senator NEUBERGER. Thank you all for your participation. I appreciate your coming here very much.

This time I would like to call on Dr. Cora Miller. I wonder also if Dr. Briggs would come forward at this time. Also we have sitting up with us here this afternoon Mr. Miller who was not with us this morning. He is the minority representative on the Special Committee on the Aged.

STATEMENTS OF DR. CORA MILLER AND GEORGE M. BRIGGS

Senator NEUBERGER. Dr. Cora Miller is chairman of the Home Economics Department, Whittier College, and the immediate past president of the Greater Los Angeles Nutrition Council.

Dr. Briggs is the chairman of the Department of Nutritional Sciences, the University of California College of Agriculture, and I thought we would have you both here at the same time and we can hear from Dr. Miller first.

Dr. MILLER. Dr. Briggs and I are the kind of doctors that "don't do you any good." We are not osteopaths; we are just Ph. D.'s. I have been asked to discuss food fads in southern California and as you pointed out, Senator Neuberger, I think a great many of these frauds are involved not because they are fraudulent but that when people are induced to buy foods at higher prices than they could find just as easily in their regular supermarket, then, it may add up to a considerable amount more than the \$175 for a hearing aid or \$385 for the machines that we have been talking about.

I have jotted down a few of the food fads that we find very rampant in our area and I will illustrate in a few minutes some of these things.

People cling to these things even though their commonsense tells them that the idea doesn't have very many bases in fact. We have a great many people buying organically grown foods and vegetables and there is a store out in Hollywood that states they have beef that is organically grown. They serve food prepared by well-trained chefs but they do advertise it as organically grown food.

Now, I have had some experience in this field. They are not always more expensive than the others although we have had complaints about their costs; but the consumers were afraid of insecticides in

market vegetables. They are not aware that the organic grown vegetables could contain these also. I believe organic grown vegetables have been given undue virtue. We also have stone ground products and some of my good friends make stone ground meal. I don't object to it as such but when I made the statement this does not impart any additional value, that reminds me of a conversation that I had with a lady and she seemed to think that stone ground meals give her a "Live germ." It did not deter her faith when I pointed out that baking would destroy it even if it survived milling.

Another thing that has popped up in a number of instances has been "natural foods." Not long ago we had one of these swallowed wholesale by one of our reputable creameries in which they had hired a new advertising agency who took a large three-page ad in Reader's Digest in this area. It recommended one tablespoon of raw sugar with cottage cheese as "physiologically burning off the calories of other foods." When I objected and contacted some of the people, one of their employees said, "Well, but the diet works." She had not noticed it was only a 1,200-calorie diet and this would work in any instance. I was able to run this down and get the advertising agency to cease and desist from using this misleading statement on television and radio.

Another instance of this sort followed the statement quoted in Reader's Digest as saying raw sugar can't contain anything more of importance than does white sugar except a little bit of dirt. Some gentleman telephoned and objected to the statement and I said you think it contains a lot of things and you don't even know what they are. He said it was natural food, but I pointed out that it was processed from sugarcane, the same as any other sugar. Then I said, "Do you eat all of your apple cores and potato peelings?" He said no, and I said that he was throwing away all of that nutrition, what was he throwing that away for, and clinging so tenaciously to a bit of unknown matter in raw sugar.

One of the fads that I found was quite expensive and that was the sale of safflower oil in capsules after Teller's "Calories Don't Count" became popular. I went to the health store to price these and I asked why they were so expensive and the clerk told me they were concentrated. I didn't see anything about that on the label but of course she was right because all oil is concentrated and doesn't contain a bit of water. It was \$11 for a pint of oil when they were put up in capsules. The same store sold the same oil at 59 cents for a pint.

Another thing that is rampant is the use of special dietary foods and especially food supplements. A more recent one is the one-to-one eggs, (but I haven't seen the price of those in Los Angeles); the use of fertile eggs which supposedly are more nutritious than the infertile eggs; the use of a new type of egg called the rainbow eggs which supposedly contain more protein. I had one of my students analyze these and they were larger eggs but per weight they were not higher in protein. These are some of the food fads.

They could, of course, run into money particularly with the supplements. One type of supplement urges the use of packages of pills of protein which amounts to 55 cents a day for just the supplementary protein pills.

Now, the problems involved are multiple and one of them is that since food is not an exact science we cannot come out with, "Well,

it is thus and so." It is not always black and white. There might be a little bit of gray in between.

Another is that our bodies are individuals and they respond differently to different stimuli, both mental and physical. Another, of course, is the trend on the part of the public, gullibility, they wish to believe in something dramatic and perhaps not a sufficient amount of attention has been given by our physiological scientists to the behavioral science in this aspect.

What have we been doing? In 1955 the Nutrition Council was organized to disseminate factual nutritional information. Since we are a voluntary body of full-time professional people we have become quite aware of our weakness. We don't feel that we have been able to accomplish very much. We do have meetings to which we invite the public.

We have speakers of national reputation and we sponsor a series of lectures. One that we were rather pleased with was held at Pasadena City College. The homemakers in the area sponsored an annual series of nutrition lectures. However, I don't know what impact they might have had.

We have compiled bibliographies of approved books. These have been distributed and a list of approved books have been put in the libraries. However, we have been a little cautious to advertise the books that we would not approve because of the advertising value.

We participate in Health Day for the distribution of a little leaflet like the one you have in front of you in which we have a nutshell nutrition course and we do get cooperation from television and radio whenever possible. At the moment we are cooperating with the city schools in a production of a TV series that will be given primarily for elementary teachers.

(The leaflet referred to follows:)

RECOMMENDATIONS

The greater Los Angeles Nutrition Council, Inc.—

Recommends that overnight fasting be ended when the day begins. It is wise to have a good breakfast to start a good day. This starts the flow of nutrients into the bloodstream and helps alert the mind.

Recommends your local food market for the biggest and best variety of foods anywhere in the world. You can choose from a bountiful supply and by using something from each of four types of foods daily, you obtain all needed nutrients. Choose several kinds of grain foods, some milk or cheese, some green or yellow vegetables as well as citrus fruit, and some meat, fish, or eggs. Prepare them in your favorite dishes for your eating pleasure. Expensive so-called "health foods" or "organically grown foods" are unnecessary; infertile soil means limited yield per acre but no inferiority in makeup per plant. Variety and balance of ordinary foods is your best protection against deficiencies.

Recommends that homemakers protect nutrient values and eating qualities of foods by being stingy with the water used for washing and cooking, by minimum exposure to air, and by prompt refrigeration of "perishables"—even coffee flavor needs protection after the can is opened. Use the least heat and the shortest cooking time possible for vegetables; cook in covered pans to exclude air.

Recommends this simple reducing exercise as a sure cure for obesity: Exercise of commonsense and "won't power" in the eating of a variety of foods daily in small enough quantities to use up the stores of energy in the fatty deposits of the body. These were accumulated slowly by too liberal an intake so it is only commonsense to use them slowly by a decreased food intake.

Recommends taking care of your body by—

1. Moderate physical exercise—daily.
2. Well-balanced food intake in controlled amount at regular intervals.
3. Sleep and rest routinely.

Recommends seeking information about health and nutrition from qualified professional people: Health departments, county extension services, colleges and universities, and some associations of food growers and producers employ specially trained staff who will give considered opinions based on research that has been published in professional journals.

We also serve as resource people for Dial-A-Dietitian who handle the information as it comes to them. Do you know about this program? A number of cities have instituted this with individuals serving as the dietitian of the day. Anyone with a question may call a telephone number—answering service—ask the question, and within 24 hours someone will call her back with a full answer. People who serve as dietitian of the day often say there are considerably more questions answered after they have called the person back than the original question. This is widespread throughout southern California now and has taken hold in other cities. It started, I believe, in Detroit.

Now, what more can be done? I would like to see nutrition courses strengthened at least at the high school level if not earlier with the possibility of required courses so that at the college level we would have to give nutrition and health and possibly physiology courses to both men and women. It is surprising how many people leave college without knowing the workings of their own body.

I would like to see more shock technique used in this area. As an example the dangers of crash diets and possibly overvitaminization although there is as yet little evidence on the latter.

Perhaps we should ask also that the terminology of a doctor be revised so that the Ph. D.'s are not confused with the chiropractors and M.D.'s.

I share with one of the previous witnesses the frustration produced by the minute slap on the wrist that the courts are giving offenders when all of the evidence is brought in and they are found to be guilty of fraud. The fine is generally so minute that they recoup fines in only a few days' business.

I will have a written statement for you later on.

Senator NEUBERGER. Thank you, Dr. Miller. Are there any boys or men in these courses in home economics that you teach?

Dr. MILLER. Occasionally I have some from the physical education department but generally the men, when they are interested in food, go to food science and I hope that their courses there include some nutrition. They at least have to take animal nutrition.

Senator NEUBERGER. Unfortunately the education along that line usually goes only to girls.

Dr. MILLER. Since they have the great amount of the family food to plan. However, for families it is perhaps much more important that girls get it than the men.

Senator NEUBERGER. So that the husband may come home after having heard some advertisement and say, "Why don't you feed me better or give me this wheat germ or additive." This relates to the story you told about the larger egg having the more protein and that reminded me of the case where the bread was advertised to have fewer calories and that was because the slices were smaller.

Dr. MILLER. Along that line they advertise the bread as containing "more protein." One slice has 3 grams and what significance is 3

grams in the requirement of 70 grams per day when we have such huge intakes of meat and dairy products.

Senator NEUBERGER. Your testimony has been very interesting since it deals with the excessive dollars it costs the householder by subscribing to some of these fads.

Dr. MILLER. Yes; that can accumulate over a number of years into quite a sum of money.

Senator NEUBERGER. Actually there probably is no harm done to anybody's physical being or is there?

Dr. MILLER. There is a possibility of over mineralization and vitaminization. I have had three persons in my classes who have had excessive vitamins.

Senator NEUBERGER. In other words, we need really a good education program to try and inform people of the foolishness of adhering to some of these fads.

Dr. MILLER. Yes. What I hope is that soon the dose for supplements will be limited to possibly only one MDR or recommended allowance per day. I have had advertising agencies approach me to request a dietitian who will testify to the greater efficacy of their product because it was of higher potency. I said I couldn't give you a dietitian who could say that. Why don't you get on the bandwagon and advertise, "no more than 100 percent of recommended allowance," but he said they weren't able to sell it under that.

(The statement referred to by Dr. Miller follows:)

STATEMENT BY DR. CORA MILLER, IMMEDIATE PAST PRESIDENT, GREATER LOS ANGELES NUTRITION COUNCIL RE HEALTH FOOD FADS AND NUTRITIONAL PROBLEMS

I. Some of the problems with which educators are faced in persuading the individuals to rationalize and make their choices of food items on a factual rather than fallacious basis include:

Food values cannot be stated exactly because of variety, climate, environment, and treatment affecting the constituents of the food;

Factors affecting the individual are complex and responses vary; and

People are generally apathetic and gullible, and there is always someone willing to capitalize on the gullibility of others.

II. Some of the popular fads include:

Organically grown foods—Aware Inn advertises that even the beef is organically grown;

"Natural foods" and even "natural vitamins and minerals," for example: one food company advertised that "raw sugar would physiologically burn off calories from other foods;"

Capsules of oil to follow advice in "Calories Don't Count" which increased the cost of safflower oil from 65 cents a pint bottle to \$11 for the same amount of oil put into capsules;

Fertilized eggs, rainbo eggs because they have more protein, one-to-one eggs with no cholesterol; and

Vitamin and mineral supplements advertised as "highest quality" or "higher potency," or "with bioflavonoids" or others.

III. The Greater Los Angeles Nutrition Council, Inc., was organized in 1955 to disseminate facts and information and serve as resource people. There is no office and it consists of volunteers already fully employed. Some of the projects in the educational line include:

1. Six or more general meetings during the year usually open to the public during which the membership is brought up to date on current research.

2. Members are generous in giving time for talks to various groups; during 1 year this might total 25 to 30 talks with an average attendance of 50 people. We have just organized a speakers bureau and will actively seek speaking engagements.

3. Sponsored lecture series for adult classes at Pasadena City College titled "Nutrition for a Lifetime." This is continuing.

4. Participated in Health Day with an exhibit and distribution of leaflets such as "Food Facts and Fallacies," "Recommendations for Good Nutrition," and "Bibliography of Recommended Reading."

5. Furnished a nutritionist for several days for shoppers in a Glendale supermarket.

6. Have made and continues to make attempts to use mass media.

7. Served as resource people in the Dial-A-Dietitian project sponsored by the local dietitians.

IV. What action can be taken:

1. Perhaps one could use the shock technique and cite examples of illnesses arising from over mineralization or vitaminization.

2. Enlarge the scope of education through required courses at the secondary level and through mass media.

3. Obtain more facts regarding costs; if a person pays only \$10 a month for unnecessary and sometimes dangerous "specialties," in 10 years there is an outlay of \$1,200.

Senator NEUBERGER. Dr. Briggs, are you going to add to this testimony and give us some information?

STATEMENT BY DR. BRIGGS

Dr. BRIGGS. Thank you, Senator Neuberger. My name is George M. Briggs, professor of nutrition, biochemist in the agricultural experiment station, and chairman, Department of Nutritional Sciences, University of California, Berkeley.

I have been associated with the science of nutrition for 23 years as a researcher, educator, and administrator at all times with State or Federal institutions. I received my B.S. degree in 1940, M.S. in 1941, and Ph. D. in 1944 all in biochemistry at the University of Wisconsin, Madison. Before coming to California to my present position in 1960 I worked for the U.S. Government as biochemist at the National Institutes of Health in Bethesda, Md., for 9 years as Chief of the Nutrition Unit in the National Institute of Arthritis and Metabolic Diseases and, the last 2 years, as Executive Secretary of the Biochemistry, Pharmacology, and Nutrition Training Committees of the Division of General Medical Sciences of the National Institutes of Health.

I am a member of a number of national scientific organizations and served as secretary of the American Institute of Nutrition from 1957 to 1960. I am author or coauthor of over 100 publications on nutritional subjects in scientific journals, and in 1958 received the Borden Award.

I speak today as an individual, and my opinions do not necessarily represent those of the University of California.

I welcome this opportunity to describe a highly successful course of nutrition education which the university gave as an experiment in the spring of 1963, primarily for health food store operators, and to give my views on a positive approach to the education of health food store operators. A copy of the 1963 program has been given to you as well as a list of recommended reading distributed as part of the course.

(The program and bibliography will be found in the committee files.)

Dr. BRIGGS. The course, "The Nutrients in Our Food," presented as a special evening course X-106, over a 6 weeks' period—April 25 to June 6, 1963—for one unit of credit, was administered by the university extension division. It was developed and sponsored by the department of nutritional sciences in cooperation with the family

and consumer sciences program of the agricultural extension service, and the Division of Nutrition, School of Public Health, University of California, Berkeley. The faculty consisted of myself as coordinator and 14 leading and distinguished nutritionists and biochemists in the university and the bay area. The program consisted of six Thursday evening lectures for 2½ hours on such subjects as the nutrients in our foods, vitamins, amino acids, minerals, carbohydrates, polyunsaturated fats, cholesterol, chemical additives, toxins in our foods, nutrition and disease relationships, nutrition history, special dietary foods and their composition, food labeling information, a discussion of "who is a nutrition authority?", nutrition of infants, children, adults, and older people, and sources of nutrition information and misinformation.

We used as our textbook the excellent U.S. Department of Agriculture Yearbook for 1959 on food. Each evening session consisted of two to four lectures by different persons, plus a half-hour panel discussion with the "experts" answering and discussing questions from the floor. We developed as strong a program as possible so that there would be no question at any time by members of the audience as to who were authorities. In other words, we "led through strength."

The program proved to be highly successful as well as popular. We enrolled 140 persons—each of whom paid a \$30 registration fee—and had to turn down more who could not be accepted because of the capacity of the meeting room. Two examinations were required for the 80 persons taking the course for credit—the rest were auditors. Attendance and interest kept up very well throughout the series.

Of the 140 persons attending, about 40 were health food store owners or operators and an additional 40 were health store employees. The rest of the persons were interested laymen, chiefly older adults, from all walks of life including several dentists and chiropractors.

I should add at this point that much of the success of the program was due to the good cooperation we had at all times with the health food store operators, who were all members of Northern California Nutritional Food Retailers, Inc., representing about 150 health food stores in northern California and, I would estimate, with at least 100,000 customers or more. A special committee of food store owners was appointed by this association, which made the initial proposal for holding this program.

Throughout the planning of the program their suggestions were considered by the university planning group which always made the final decision, of course. Leaflets describing the course were distributed in over 30 health food stores within 100 miles of Berkeley and/or mailed to their customers. Officers of the association worked hard to get their members to attend.

At the conclusion of the course we had a number of unsolicited favorable comments, with no unfavorable ones. There were many who expressed a wish for an additional program this year, and we had requests to repeat the course in other parts of the State.

To me, this was an excellent example of how food quackery can be attacked by a strong, positive program of nutrition education. I am of the opinion that operators of legitimate health food stores—or dietary food stores, as I would rather call them—have as much interest in combating food quackery and as much right to be in business, and to receive special education, as do owners of any other stores where food items are sold—say a grocery store, drugstore, liquor store, or

department store—as long as the products sold are not misrepresented, are properly labeled, and are legal in all other respects. They stay in business only as long as customers come to their stores and make purchases, and as long as they offer for sale what the customer wants and what he usually cannot obtain at the corner supermarket. They specialize in such widely diverse items as special dietary foods—low-sodium foods, low-sugar foods, allergy-free foods, et cetera—unusual breads and grains, rare fruits and nuts, foods raised without pesticides or without inorganic fertilizers, a wide variety of types of honey, nutrition books, and many different types of vitamins, mineral, and protein supplements available on a nonprescription basis.

No matter what laws are passed against food quacks—and I'm as much against food quacks as anyone—legitimate dietary foods are going to be sold in one type of store or another as long as there is a demand for them and as long as a small percentage of our population have special dietary needs. One cannot legislate against the "medicine man" any more than against immorality. In my opinion it is far better to educate the seller of these products so that they become more responsible for what they sell, and to educate the consumer—the unformed, the aged, the poor—so that they can buy wisely, if they need to buy these special foods at all. The great majority of persons have no need for special dietary foods.

Better labeling laws are urgently needed for food products, including those sold in the corner supermarket. The older person who is interested, or instructed by his physician, often wants to know how much protein, or sodium, for instance, is in a food product that he buys. This information is not given on most regular grocery store items and many items hide under the "standards of identity" law and have no information as to their contents on their labels, such as ice cream and other dairy products, bread, mayonnaise, and soft drinks. Thus, the customer who wants this information goes to the health food store to buy these products, usually at a higher price.

It seems strange to me that we have laws in this country that make it necessary to give this information—ingredients and proximate analysis of protein, fiber, ash, fat, et cetera—on manufactured foods we buy for our cats, dogs, chickens, pigs, and cattle, but we do not get this information on food packages for our people except, in part, certain prepared breakfast foods. In other words, I can buy food more wisely for my cat than for my family. Thus, the interested person has to buy dietary foods to get products with this type of information on the label.

Senator NEUBERGER. How would you label honey to show it is better than other honey?

Dr. BRIGGS. If it is pure honey, you label it as honey. This isn't a processed food to which things have been added.

Senator NEUBERGER. You have nothing here in talking to these health-store managers that would encourage them to tell people that you don't need to buy these expensive health foods?

Take honey as an example. In one of these stores there were about 25 honeys from different sources or plants with different flavors. A supermarket wouldn't have that many flavors. This shows a health-food store is a luxury-food store.

Dr. BRIGGS. In that case that is what it would be; yes.

Since the older person can't get this information in the grocery store he will go to a health-food store because they will volunteer the information and will give it to him.

Senator NEUBERGER. It seems strange to me that we have laws in this country that make it necessary to give this information such as you mentioned on dog and cat food and we know what we feed our chickens and our farm animals but we don't have the ingredients on the packages for our people.

Dr. BRIGGS. In other words, you can get this information in the food you buy for your family cat but you don't usually know what is in the processed foods you buy for your family at the grocery store. The labels generally do not show how much protein or how much minerals are present and will not list the ingredients.

Senator WILLIAMS. By what authority is that on the can?

Dr. BRIGGS. By State and Federal laws.

Senator WILLIAMS. Only a few food labels, such as food cereals, and breakfast cereals, volunteer information where we can find out the components in it.

Dr. BRIGGS. I feel strongly that standards of identity of food items should be abolished and that more information about the contents of a food should be put clearly on the label. How much sugar does a particular product contain? salt? protein? fat? The average grocery-store manager or owner has shown very little concern for such matters of nutritional importance.

I feel, too, that our various programs of nutrition education in this country need much strengthening in all areas and at all levels—from our elementary schools, through high schools and colleges, and on through adult education. Buying good food economically is not a difficult subject to learn but people need some education to be able to do this wisely. Many professional groups are doing this to the best of their facilities and abilities—the home adviser of the agricultural extension service, the public health nutritionist, the dietitian, the home economics teacher, the biology teacher, medical doctors, colleges and universities, school lunch persons, newspaper columnists, and others, but there is a great need for more of this type of education to reach all people, especially our aged persons. Much more support for the training of these persons needs to be available at the State and Federal level.

We are doing what we can in the department of nutritional sciences toward the education of professional nutritionists. Our limited time is much better spent when we wholesale information to professional groups rather than retail it to individuals or the layman. We have sponsored or cosponsored three workshops in the past 3 years for professional nutritionists and nutrition educators. Last year, our "Calories Count" conference, cosponsored by a number of State agencies, attracted over 700 professional persons in northern and southern California.

Senator WILLIAMS. Who are these nutritionists employed by, hospitals, institutions, and so on?

Dr. BRIGGS. There are home economists, teachers, dietitians in institutions, and so forth.

Senator WILLIAMS. How about the agricultural industry, canners, and packers?

Dr. BRIGGS. In a few cases; yes. It is pretty rare.

Senator WILLIAMS. It might be a good idea for them, isn't that right?

Dr. BRIGGS. Yes; it would.

There is more that can be done to combat food quackery. Research in nutrition needs to be strengthened considerably, including research on nutritional requirements, on dietary habits, and on factors which motivate people to eat wisely. Again, I must admit that far more effort has been expended in this country in developing nutrition facts for farm animals—the chicken, pig, and cow—than for human nutrition.

There are a number of good reasons for this but it is important now to enlarge our research programs in human nutrition in State institutions and in the U.S. Government in the USDA (which, I understand is being done) and at the National Institutes of Health (where exceedingly little work is carried on or supported in human nutrition). Support of graduate training of nutritionists and nutrition educators needs to be expanded.

There is urgent need to upgrade the education of dietary food store operators, since I am convinced they are going to play an important role in our economy in the future (whether in health food stores or as divisions of supermarkets or drug or department stores.) We might set up State or Federal standards for their education, just as we now do for pharmacists in the present drugstore. I believe that it should be mandatory that each dietary food store have a qualified dietitian or nutritionist present at all times in the store.

I do not wish to ignore the physician's important role in the prevention and cure of nutritional disorders and diseases or the dentist's special interest. My remarks today include only advice to aid the normal, healthy person with an interest in the food he eats or in his pocketbook, and there are large numbers of such persons.

In summary, we know by experience that it is possible to develop highly successful programs of education for health food store operators and personnel, and interested lay persons. Presenting a strong, positive program of education is, in my opinion, the best way to combat food quackery and misinformation.

I believe protection against food quackery could also be aided by new legislation at the State and/or Federal level concerned with protection against misrepresentation and the labeling of foods, concerned with nutrition research, concerned with educational and professional qualifications of those who sell health foods, and concerned with opportunities of nutrition education for people of all ages.

Thank you very much for this opportunity.

Senator WILLIAMS. Well, Dr. Briggs, I am sorry I wasn't here for your entire statement but I will certainly read it later. I, of course, know the work you are doing and want to commend you and we appreciate this excellent statement for our committee's records.

I am wondering now, and maybe this isn't a question for you, but if we get into itemization of contents of food, first of all, it would be limited to canned or packaged food?

Dr. BRIGGS. Yes; processed foods.

Senator WILLIAMS. There is a fair labeling bill that is getting a great deal of attention in the legislative committee and it deals with unfair or misleading labeling and you, I am sure, know something about this area?

Dr. BRIGGS. Yes.

Senator WILLIAMS. Food preparation and so forth.

Dr. BRIGGS. The proposed bill does not include a requirement for the listing of ingredients. I am not asking for the percentage of ingredients or the secret formulas, but only for what ingredients have been added and what nutrients are present.

Senator WILLIAMS. I wonder if it would be reasonable to think in terms of this additional information within the contents of that legislation that is going through?

Dr. BRIGGS. I think that would be a fair place for it. There may be others here who want to comment on this later on.

Senator WILLIAMS. Well, this is certain, something we can develop and think about. It might make a lot of sense. The first thing I think we had better do is find out how it developed that cat and dog food has these requirements and human food doesn't.

Dr. BRIGGS. There are strong controls at the State level with State feed officials, and national laws covering the labeling of food produced for our farm animals in interstate commerce traffic.

Dr. MILLER. As human beings we have the possibility of 150 foods to choose from and how many different things can the cat and dog choose from. They only get what you give them.

Dr. BRIGGS. Persons who buy animal food have the right to choose from many different brands.

Dr. MILLER. But he only gets one or two items whereas we give to our human beings quite a variety of items.

Dr. BRIGGS. That is why it is more important to know what we are giving to ourselves when feeding our families.

Senator WILLIAMS. I think the problem developed from the farmers with their powerful persuasiveness in insisting that they know what they feed their animals and in fact asking for their animals more than they ask for themselves.

I want to thank you very much for appearing here today and we certainly appreciated your testimony.

Now, we will hear from Dr. Harold Cornacchia, chairman, Health Education Department, San Francisco State College.

We are certainly richly endowed with the academic community here today. Nobody can say the Congress of the United States downgrades the educator.

STATEMENT BY DR. HAROLD CORNACCHIA

Dr. CORNACCHIA. Senators Williams and Neuberger, I am Harold J. Cornacchia, chairman of the Department of Health Education, San Francisco State College, and I wish to present this testimony.

A number of persons have commented on education and I would like to be considerably more specific in my remarks. I believe that one significant way to solve the tremendously difficult and complex problem of medical quackery and health frauds of the aged in the United States is through an expanded and improved ongoing program of health education that emphasizes consumer health.

Consumer health is a phrase commonly used, or is an area of concentration, in the broad field of health education. It includes quackery and health frauds but is broader in scope and also refers to health fads, superstitions, health advertising, the selection of medical and

dental services, health insurance, health budgeting, health laws, health products, self medication, health organizations and agencies protecting the consumer and reliable sources of health information.

Thus, consumer health may be considered to be those health services and health products available to and used by the public. The extended continuous educational program in health that I advocate should be designed to reach not only the elderly members of society but also the children, youth, and adults who will be the aged individuals of the future and who have parents, relatives, and friends who are, or will be, senior citizens.

An intelligently informed total public is better prepared to withstand the variety of enticing appeals of quacks, pseudomedical practitioners, and others for the purchase of needless, useless, and frequently harmful health devices, products, and services.

The Nation's schools are in a unique position to assume some responsibility for and can make a contribution to consumer health education. At San Francisco State College I have attempted to prepare some 500 teachers, school nurses, and school administrators to improve health instruction programs in elementary and the secondary schools throughout workshops that I have conducted for the past 5 summers in Modesto, Stockton, San Leandro, and Concord, Calif.

A portion of the course offered in these locations was devoted to consumer health. Those in attendance viewed exhibits and films of fraudulent health devices and practices, received a variety of available printed materials, were introduced to reliable sources of health information and had opportunity to listen to a panel of experts critically analyze health advertising. They learned the functions of the California State Department of Public Health, Bureau of Food and Drug Inspections, the Federal Food and Drug Administration, and the Federal Trade Commission, and in addition prepared instructional material for use in their classrooms and schools.

On campus all students completing teaching credentials in health education and physical education, approximately 50 to 100 teachers a year, take a health education course in which time is devoted to consumer health.

In the fall of 1964 semester, my department of health education plans to offer a course for two units of lower division credit to be called consumer health.

It will cover the many topics previously outlined including medical quackery and health frauds and will be required of teaching credential candidates in health education. It will be available as an elective course for everyone interested and should be intellectually stimulating and valuable to a large number of students.

My meager educational endeavors to help health consumers act more intelligently and prudently as well as to improve school instructional programs undoubtedly have had favorable results on the small segment of the population reached. However, three important needs must be fulfilled if a massive assault on the consumer health problem is to occur:

1. Educational programs must be greatly expanded and increased not only for schools but also for the general public including the aged.

2. Improved and increased ways of communication must be found for more effective education and because the constantly emerging scientific health information makes its dissemination to individuals extremely difficult.

3. Professional, voluntary, and governmental health agencies and organizations must unify their efforts to plan a coordinated and co-operative approach to the problem of medical quackery and health frauds as well as consumer health and the total area of health education.

The following suggestions are ways to implement the needs mentioned:

1. A survey of the books, pamphlets, films, and other such materials related to consumer health should be completed and a publication listing these items together with their sources should be prepared.

2. A reference textbook or document should be produced containing pertinent information on such topics as health frauds, medical quackery, laws, protective agencies and organizations and their functions, and other material for schools and those involved in educational programs.

3. Additional and possibly improved publications should be made available to the lay public as well as educators in those needed areas revealed by the survey of publications.

4. A variety of portable, traveling exhibits should be developed and constructed to be available for public meetings, fairs, school, and community events.

5. The improvement, the increase, and the establishment of programs in schools including adult programs should be encouraged and supported.

6. Training programs for teachers, senior citizens and others who will have responsibility for educational programs should be started.

7. Television programs for use on educational and other stations throughout the Nation should be prepared.

8. Additional films and possibly filmstrips covering a variety of areas in consumer health may need to be developed.

9. A constant flow of information relating to consumer health should appear in lay magazines, including publications for the aged, and in professional journals.

10. A recurring program of research to determine the effectiveness of the various materials distributed and the activities conducted in consumer health on the health behavior of the public should be initiated.

Reference was made earlier to the behavioral sciences. We know that information by itself does not change behavior. I think we have evidence of this fact in the present smoking campaign. We do not have the answer how to do this.

Some psychological research indicates that attitudes have to be involved. Whether this is the fear approach, whether it is a positive approach, whatever the approach, we need much more evidence that we don't have. Solely equating a program based upon 10,000 or 15,000 documents distributed in my opinion is a very poor way of judging its value.

11. Increased consultative and technical services in health education should be developed and be available to schools and community organizations and agencies in the development of educational programs.

12. A program of continuous lectures, forums, discussions, seminars, workshops, and the like should be encouraged and increased in order to aid in the dissemination of information about consumer health to groups of people including the elderly.

13. A regional center to establish a pilot program that would attempt to coordinate and prepare a cooperative attack by the professional, voluntary, and governmental health organizations and agencies on the suggestions outlined should be started. The complexity of the problem facing this subcommittee is such that an organizational pattern different from any that now exists which uses the combined efforts of the community resources is necessary to provide new dimensions and greater emphasis on consumer health in the community. Such a pattern is in the early stages of developing in the San Francisco Bay area. Representatives from the California State Department of Public Health, the San Francisco, Contra Costa, and Marin County Health Departments, the San José City Health Department, the University of California Medical School, Stanford University Medical School, San Francisco State College, and others have been convening for the purpose of establishing a health information, education, and exhibit program. The problem of medical quackery and health frauds for the elderly, or consumer health, could well be an area of emphasis and development by this center. If the Federal Government deemed it advisable and useful to appropriate funds to help initiate such a program, the center's first effort might be devoted to the problem being explored by this subcommittee.

The comments and suggestions that I have presented do not represent all the action procedures necessary to improve the health of the consumer of the United States. However, I believe that they will provide directions that will lead to the solution of the problem of medical quackery and health frauds of the elderly.

Senator WILLIAMS. Have you heard anything of a world health and nutrition center to be established at the World's Fair, in New York?

Dr. CORNACCHIA. No, I am not familiar with that.

Senator WILLIAMS. I notice that you suggest information material to be vastly improved and education stimulated in this area and to find all the ways possible to disseminate the information.

Certainly it sounds reasonable. Of course, I rather agree attitudes area part of effect and attitudes and information aren't always the same, are they?

Dr. CORNACCHIA. No.

Senator WILLIAMS. You mentioned smoking.

Dr. CORNACCHIA. I think the approach that we are attempting to develop in the bay area which is in its very early stages of development and, therefore, has not been publicized, this approach, I think, makes a unique contribution to health education because there are so many needs in the educational field.

Health education as it is now visualized is a relatively new subject area. The directions that health education is now taking really only has occurred since World War II. School and public health education is growing in emphasis but still has a long way to go in the United States and I am sure in California, too.

Senator Neuberger, you were reflecting on the fact that we have had educators for quite a long while. Unfortunately, previous emphasis has been placed on the imparting of information and this has not brought about the changes in the people's activities and actions that we need.

Look what had to be done to persuade the 70 to 85 percent of the public to obtain the polio vaccine. We never did obtain 100 percent

despite the massive educational approach used in this community health effort.

I think it points up the tremendous problem that we are facing unless we begin some kind of a pilot project which begins to look at the health education program massively. I question that the present piecemeal educational approaches now in progress are going to enable us to achieve the kind of results that are necessary particularly in the area of medical frauds and quackery.

(See p. 162—for supplementary information furnished by Dr. Cornacchia.

Senator WILLIAMS. Thank you very much.

Our next speaker is Mrs. Helen Nelson, consumer counsel to Governor Brown. We are pleased to greet Mrs. Nelson and welcome her to the committee table.

Governor Brown of the State of California has contributed to my activities out here. Just at lunch time he sent one of his top officials to confer on problems of migratory workers and help us with some of the legislation that we are in the process of enacting.

The Governor responds to all of these problems magnificently and he does have a constitutional limitation of two terms, doesn't he?

Senator NEUBERGER. Don't you remember that Governor Warren was Governor in California for infinitum?

Senator WILLIAMS. Well, sometimes when that happens the State legislature changes the rules.

STATEMENT OF MRS. HELEN E. NELSON, CONSUMER COUNSEL TO GOV. EDMUND G. BROWN, OF THE STATE OF CALIFORNIA

Mrs. NELSON. Senator Williams and Senator Neuberger, Governor Brown certainly is very sensitive to the welfare of families and many of the programs he has inaugurated as Governor give evidence of that.

One of those programs is the office of consumer counsel, which he promised the people when he first became a candidate for Governor. It has existed since September of 1959 and it may be helpful to spell out briefly the responsibilities of this office.

The consumer counsel office was created by the California Legislature. It is a statutory office. My responsibility as consumer counsel is to advise the Governor on matters affecting the interest of the people as consumers and to recommend to him and to the legislature legislation deemed necessary to protect and promote the interest of the people as consumers. We are charged with making studies of consumer problems and reporting on them to the Government and with appearing before governmental commissions and agencies to testify in behalf of the consumer interest.

I am happy that I was invited to appear before you today as a consumer spokesman and I certainly want to thank you Senator Williams, and Senator Neuberger for your concern about the hazards of consumers in today's very complex and very enticing marketplace.

As consumer counsel, having been charged now for more than 4 years with investigating problems Californians have as consumers, we have seen many a family brought to the brink of financial ruin by quacks masquerading as practitioners of the healing arts, crooked gamblers masquerading as financiers, confidence men masquerading as subdividers, and bunco artists masquerading as salesmen.

A part of our job is to counsel the unfortunate persons who have been so victimized, put them in contact with the proper enforcement agency—if there is one—and advise the Governor and legislators on their problems.

You have heard today from several State agencies responsible for providing Californians with police protection from these criminals. After hearing their reports there can hardly be any doubt that Governor Brown's administration is attempting aggressively to provide police protection against the quack and white-collar criminal in California.

Neither can there be any doubt that frauds and misrepresentations upon the consumer continue. They continue to such an extent that they cripple hundreds of thousands of family budgets and affect the Nation's economy like a virus in the bloodstream.

No age group is excluded from fraud and misrepresentation. Victims range in age from the 8-year-old child who is victimized by the misrepresentation of a toy advertised on his TV set to the 80-year old who is buncoed out of the home he has spent his lifetime of work acquiring. The quack and the bunco artist do not discriminate in seeking their prey.

Yet, the older person is more vulnerable to fraud and misrepresentation because, by and large, in our society his plight is more desperate, his economic and physiological needs are greater and his yearnings are more openly revealed to be exploited.

Moreover, his numbers are sufficient to mark him out as an easy and attractive market to the defrauder. One out of seven adults (age 21 and over) in California is 65 years or older. The total persons 65 or over now exceeds 1½ million in California. By 1980 this total is expected to grow to over 2½ million. A net "take" of \$1 from each of these persons will easily make any entrepreneur, legitimate or illegitimate, a millionaire. A net "take" of \$10 from 1 out of 10 would do the same.

The older person is also least able financially to suffer exposure to fraud and misrepresentation. What little we know about the finances of our older members of society suggests that they can ill afford to risk exposure to the unscrupulous and unethical practices in the marketplace which our society permits.

In California half of our older couples have cash incomes of under \$3,000 per year, and one-third have cash incomes of less than \$2,000 per year. Of single persons 65 and older in California, almost half (48.5 percent) have incomes of \$1,200 or less. Thus, in our so-called affluent society, every other single person in California 65 or over has not more than \$100 a month to house, feed, clothe, and care for himself and contribute to church and community.

That these older members of our society, some barely able to maintain existence, must also contend with fraud and misrepresentation aimed at their particular vulnerability, is more to society's shame than theirs. I hope and I trust that all conscionable persons are grateful to the members of the Special Committee on Aging of the U.S. Senate because of your concern for the older individual in our society.

Ironically, it is oftentimes the older person's anxious striving to protect what little economic security he has that renders him particularly vulnerable to fraud. You have heard today of efforts being

made to curb health and medical quackery, deceptive investment schemes and promotions of retirement acreages miles from water or human habitation. There are more unscrupulous practices to which the older person is vulnerable.

"YOUTH AND BEAUTY" RACKET

We have the case of the woman who with her husband had worked long, hard years building their restaurant business in which she served as hostess-manager. Conscious of the premium our society places on youth and beauty, her fear that an aging appearance would be detrimental to the family enterprise made her vulnerable to and then victim of luring advertisements for face lifting without surgery. The carbolic acid that was applied to her face when she succumbed to the lure disfigured her horribly and forever. She sued, of course. But it was a futile effort. The practitioner had moved and created a new corporation across the State line.

We have the case of the man exploited by a hearing-aid salesman—just one illustration from many. The report came to us on the letter-head of an accountant whose sense of justice was outraged by the exploitation. He wrote:

Mr. ——— is a spry 82, a retired employee of the ——— department of water and power and he still gets around very actively under his own power. I can buy an electric typewriter or the best adding machine for less than he was charged for a "hearing aid."

Mr. ———, according to the photostatic copy of the contract, was sold a binaural hearing aid costing \$700.

In letters like this one to our office the brand names mentioned are usually nationally advertised. In this particular case, the name signed on the purchase contract in the space designated for the seller was also printed at the top of the contract form followed by the designation "audiologist."

"REFERRAL SELLING" RACKET

Another consumer bunco that is outrageously widespread and often financially ruinous has grown in prevalence as the number of homeowners has increased. This racket rests for its success on the desire of the homeowner to keep his home in good repair and, when victimized, on his determination to hold on to his house. Among the elderly a home is usually the greatest asset. And certainly the greatest source of security. An elderly couple approached by a smooth-talking young man introduced by friends or relatives are told by him how they can have their modest home surfaced by aluminum siding so they will never have the expense or worry of painting it again. This prospect is very appealing to one whose joints are becoming stiffer with the years. It is particularly appealing when the couple is promised by the young man that they can probably earn enough to pay for the siding job by showing their home as a model or by accepting the company's offer to enroll in an advertising program and receive \$100 for each prospective customer referred.

Part of the masquerade of this bunco is that its practitioners call it "referral selling," attempting to give it an aura of respectability. This is how it works. The smooth-talking salesman makes an appointment to call at the home when both husband and wife will be there.

He uses the name of another couple, friend or relative as an introduction. These friends have "referred" him. Sometimes the friends write or phone ahead of his visit. The salesman may pay the couple to listen to him give them a demonstration. He may tell them he is selling nothing but is advertising in the home instead of on TV or in a magazine. He offers to pay them a certain sum for each new friend or relative they refer to him as a potential customer.

By this means, he urges, they can make some money—maybe enough money—maybe more than enough money to have for themselves without cost whatever product they are going to help advertise: Aluminum siding, water softener, vacuum cleaner, hi-fi set, or whatever.

Of course the couple will have to sign some papers, the salesman explains. And when they do, they have signed a conditional sales contract promising to pay several hundred—or in the case of aluminum siding, several thousands of dollars—at high interest rates. The salesman's promise to pay for their friends' and relatives' names will be much less binding than their promise to pay for the item being purchased. The fact is they do pay or lose their home because the installation establishes a lien against their property.

The referral racket is widespread across the country. Law enforcement officers in many States, including California, are seeking legal weapons to stamp it out. We tried in the last session of the California Legislature to outlaw it, and we will keep on trying until we succeed.

Senator WILLIAMS. On what basis did they beat them; what was the counterattack? What do people who stand up in the legislature say against this type of thing? I have never figured this out.

Mrs. NELSON. I think we will make it next time. It went through the lower house and was passed by the lower house. It was passed out of committee with a favorable recommendation by the upper house but we had a great many bills and it was late in the session and we couldn't bring it to a final vote.

Senator NEUBERGER. Somebody has seen to it that they don't come to a vote and that is what concerns me.

If it is protecting private enterprise or legitimate business or salesmanship, that is one thing. But you wonder how they have the nerve to oppose this legislation.

Mrs. NELSON. Those people had spokesmen there and some of these people have now become million dollar businesses. This is not an occasional handout, an occasional wild idea.

These people are advertising. One of the companies which practices this system is a publicly owned company and you can go down and buy their stock.

Senator NEUBERGER. It is a matter then of big business. I don't have to comment but I will comment. It is big business or a lot of money or a lobbyist has been hired to keep this bill from being passed or his business from being regulated. I will watch with interest what happens in the next session.

Mrs. NELSON. One of the greatest vulnerabilities of the older citizen is created by stripping him of his health insurance when he retires from his job. The older member of our society today can hope to pay while he is working and drawing wages for a home which will shelter him during his retirement years, but society does not as yet permit him similarly to buy during his working years the health care he will need when he retires. The fear and insecurity of the older member

of society is so great when he is cut off from his health insurance at the same time he is retired from the payroll that his exploitation by the swindler and the unscrupulous is almost inevitable. Without adequate insurance protection against the economic hazards of either catastrophic or chronic illness our older citizen presents a large market for exploitation by the panacea peddler, the pill promoter, and the hard-sell health insurance salesman.

Governor Brown's administration has taken many steps to control and reduce unscrupulous exploitation of the health insurance needs of our older citizens. But the basic problem remains.

As a society we must provide the means by which the right to health care can be purchased during our working years so that in retirement it can be obtained as an earned right when needed. The longer Congress waits to provide health care insurance financed during the employee's working career by the employee and his employer, as called for by President Johnson in his state of the Union address last week, the longer will this rich market of fearful older consumers remain to be exploited.

Now, I want to say something about the day-to-day purchases of our necessities which is an area not without fraud or misrepresentation. For the prudent consumer of any age it is important to be able in shopping for food and household necessities to know the basic price per pound and to be able to compare prices. Especially for the older consumer, living on a fixed and oftentimes meager income * * * the ability to compare prices and shop economically is tremendously important. But in our supermarkets today the manner in which food and household items are packaged in odd weights and fractional quantities makes it virtually impossible to compare prices.

The one-third of all older couples in California living on incomes of less than \$2,000 a year—less than \$170 a month—need to be able to tell whether a package of rice is 19 or 33 cents a pound. A shopping test made by my office, where experienced college-educated shoppers attempted to compare prices in a typical supermarket in Sacramento, proved it is next to impossible for consumers to know the price of even so staple a commodity as rice as it is packaged today in odd-size quantities. In the supermarket where our test was conducted there was not one simple pound package of rice.

The members of this Special Committee on Aging concerned with the problems of our older citizens could render them a great service by urging the passage of the truth-in-packaging bill authored by your colleague, Senator Philip Hart, of Michigan. The enactment and enforcement of this measure would do much to end the deceptions practiced against older consumers—and all consumers—by packagers of food, drugs, and household goods.

The practice of fraud and misrepresentation is not confined to the confidence man or bunco artist.

To the extent that the food package is deliberately a bit short weight.

To the extent that the representation of the salesman reaches heights of claims the product cannot deliver.

To the extent that the gilt-edged guarantee which comes with the appliance guarantees nothing but serves only to limit the liability of the manufacturer to the consumers.

To the extent these and similar practices occur in the daily dealings between buyer and seller of everyday needs, fraud and misrepresentation are present in the everyday marketplace. It is necessary to strike down misrepresentation and fraud in the everyday marketplace with no less vigor than we strike out against it in its more bizarre forms. To take such action will not only reduce fraud and misrepresentation upon the elderly but will preserve and strengthen the free economy which is fundamental to our way of life.

Senator WILLIAMS. Thank you very much.

Senator NEUBERGER. I am interested in one comment. You would think it would be the older people rather than the younger people who would be more cognizant of the buying practices in the grocery stores. They grew up in a generation when they were not packaging foods, when many of them had to buy carefully, and you would think they would be more sensitive to it; while with young people, a lot of them never knew anything else but meat that came all wrapped up and they just take it.

Yet, we are concerned with the victimizing of these people. I think what you are saying is that selling practices today are such that even if they are concerned with it there is no way for them to know?

Mrs. NELSON. That is right.

The women who tested the ability to compare prices in the supermarket, in the little test that we made, they are all college trained. They spent about twice as long in their efforts as the average shopper does according to the Dupont survey. I feel just about as often as they succeed in comparing prices they fail.

One thing that we find very common is that consumers and particularly older consumers are a little shy about their own ability. There is an assumption that other people can figure it out and they don't want to come forward and say they can't.

Senator NEUBERGER. I think there is a lack of education in consumer purchasing, that is, men do not get the education and they shop at the store on the way home. They may walk in the picket line to get an increase in their wages and stop at the supermarket and give all of it away by buying imprudently.

Mrs. NELSON. I think your point is borne out by some surveys that indicate the average bill where the couple go together is higher than when the wife goes by herself.

Senator WILLIAMS. Well, we will have to put in some kind of complaint here. My complaint is about women and clothing sizes and the failure to standardize. Everything I bought for Christmas didn't fit. I think you'd better educate the women to some better standard of measuring themselves for clothes.

Senator NEUBERGER. We now have Mrs. Nelson's counterpart in the Federal Government in the appointment of Esther Peterson as consumer counsel.

Senator WILLIAMS. This is a good time to mention that Mrs. Nelson is a member of the President's Consumer Advisory Council. I consider having her here indeed as good news for us all as we expect so much from that Council.

You know, this referral selling business is insidious in many ways. Just before coming to Congress 10 years ago I represented an elderly couple who bought a name dishwasher, one of the best names, one of the conditional contracts. If they got 12 people to come in then they got this washer.

Well, the first breach of contract was that it wasn't the name washer. The second breach was that they got the name but were still under an obligation to pay and then the complexities of the law come in.

This outfit not only got them to sign a contract but a promissory note and they took the promissory note and sold it. Really the defenses we had were not applicable to a promissory note but I got a jury and a friendly judge and he let it go to the friendly jury. We won. But if they had gone on appeal, we would have lost; because this was an error in law involved here, but I think that little error was justified because this was a clear taking of this people's money.

Mrs. NELSON. This whole principle that we have today of the third party that buys negotiable paper not being accountable produces most of these schemes.

Senator WILLIAMS. You are right and that is why the common law is not adequate protection for these folks.

They need statutory law in addition.

Mrs. NELSON. You are so right.

Senator WILLIAMS. One final question, Mrs. Nelson.

I am sure you are familiar with the health programs that are offered as part of the deal in retirement housing villages?

Mrs. NELSON. I am somewhat familiar. I am not as familiar as I probably will become.

Senator WILLIAMS. I think you will. I have heard some of the plans offered with retirement home. They are attractive indeed and a followthrough would be most helpful to elderly people.

Mrs. NELSON. If I may add this for your information, in this State, and I would expect in many other States, although we have an insurance commissioner who has some regulatory authority over the insurance-type program, health insurance to be sold, we, as yet, have no regulatory authority whatsoever over the so-called benefit kind of plan.

This is a completely different situation. In other words, "sue me if you don't get what I promise."

Senator WILLIAMS. You have been very helpful, Mrs. Nelson. Our final witness today is Mrs. J. B. Bramer who has some experiences other than what we heard about this morning.

She is a resident of San Francisco and, Mrs. Bramer, we are very grateful for your coming here today.

STATEMENT BY MRS. J. P. BRAMER

Mrs. BRAMER. Good afternoon. At this point I feel like the ugly example of everything that has been talked about today.

Senator WILLIAMS. You look charming to us.

Mrs. BRAMER. I have been subjected to or victimized by almost all of these things except facelifting, which you may recognize I have not yet had. I remember men who came to my house, not selling aluminum siding but a kind of an asbestos coating. They made use of well-known names and were really quite insulting when I didn't take this chance to have my house used as an illustration, an example to sell others. They claimed they were giving me a very special rate because my house had been selected as a model.

Other salesmen wanted to photograph my children, telling me their pictures would be used in advertising and I would get paid for that. I paid for the pictures, and that was the last I heard of them.

But I am here to talk about the arthritis quackery because I do know something about it in the bay area and something about it in other areas of California. First, I want to explain why we people with arthritis are not quite the gullible halfwits that we sometimes appear to be.

If we fall for the phony, and, sooner or later, most of us do, it is because the pains of arthritis are something that you just can't describe. Arthritis is a mysterious disease because nobody knows why it comes or how or when it goes. When someone tells you he has been completely cured, he is sure to believe it was due to whatever he was doing at the time. Another person may say, "My uncle threw away his crutches because he took cod liver oil." But there is no proof that is what made the arthritis leave for it frequently remisses.

I think pain is the only excuse for the quackery that I fell for. Later I did investigate some that other people fell for, and they had the same reason.

After examination and X-rays at the Stanford Hospital in 1952, I was told I had osteoarthritis in both hip joints. I put myself in the hands of a recommended M.D. who told me only, "We're holding our own with arthritis." Some months later he moved his office to Stonestown. As I had a full-time job it was difficult for me to go there, so I went to the clinic which the Arthritis and Rheumatism Foundation informed me was being conducted on certain days at the Polyclinic Hospital on Pine Street. I was given medication, including cortisone injections, and physiotherapy treatments, was told by one of the doctors, "We'd do more if we could but we don't yet know enough about joint diseases." None of the doctors could say definitely what caused me to have arthritis, nor predict how successfully it might be controlled. One doctor said surgery was a possibility.

I was the sole support of two young sons, so the advance of the disease and the possibility of being incapacitated was alarming. The weariness and pain, those ever-present symptoms, undermined my patience and must have distorted my judgment. For I listened to a man who spoke as if he knew all about what caused arthritis and how to cure it. His voice came over the radio, about 10:30 at night, when I was tired but unable to sleep because of pain. He called himself doctor—Dr. A—and conducted interviews, usually "by proxy" with patients who claimed to have been freed of every ache and pain and restored to health. His voice was confident, persuasive; I heard it many times before I decided, "It can't hurt to try—since no one knows why I got arthritis, it just might yield to some simple treatment—this man may have found the answer."

I told no one I was going to Dr. A for I was ashamed of falling for something which I knew was offbeat since I know that ethical members of the medical profession do not advertise in this manner. But this man spoke of representing, "My sponsor, the ——— Food Products Co.," so I squelched my qualms and went for the "consultation without cost or obligation." This consisted only in being told that I needed a complete examination and new X-rays which he would take. When I went for this I gave Dr. A my case history,

emphasizing that the diagnosis had been osteoarthritis. As I remember, he charged about \$20 for the examination, more than \$40 for the X-rays. He said almost nothing about my arthritis symptoms, but upon examining the X-rays declared triumphantly, "You have a spastic colon" as if he were sure he had found the seat of all my trouble. No other doctor had found any such trouble and I have never had problems relative to my digestive tract or colon. Dr. A advised me to drink alfalfa tea, take his formula, keep a strict diet which involved never eating protein and carbohydrates at the same meal.

I was also to plunge my hands alternately into hot and cold water for about 20 minutes twice a day and repeat the process with my feet. As some of my work has been in the field of nutrition, I knew that carbohydrates and proteins are so mixed in many common foods that they cannot be separated and that, if they could, eating them separately and drinking alfalfa tea could no more help osteoarthritis than plunging my hands in cold and hot water. When I tried to get Dr. A to send the X-rays he had taken to another doctor I had to threaten legal action before he would release them. He explained that he was involved in some lawsuits, and his attorney had advised him to release nothing. I have noted that his diploma had designated him as a "Doctor of Physical Medicine" but could not tell from what school it came.

After being in the desert for the past 4 years, I returned to San Francisco a few months ago and was startled to again hear Dr. A's voice on the radio, relating the same persuasive "answers to your problems," speaking, so he said, for the same sponsor. Not revealing that I was once a patient, I called to ask if he treated arthritis. He replied enthusiastically that he did, asked how long I have been afflicted, and urged an immediate appointment for a consultation. I evaded this, later called his office to ask where the ——— food products could be purchased and what they were. I was told they could be obtained only at his "Health Center" (which he continues to advertise as "three blocks from city hall") and that they consisted of formula No. 1, No. 2, and No. 3.

Now that I know some of the dangers involved in any treatment which keeps a patient from getting the best help available I am concerned about the type of advertising Dr. A is permitted; I wonder how a station justifies it in the light of present-day codes, and I question such a use of so persuasive a means of mass communication. I was asked by Dr. A to which station I listened, so apparently he uses more than one. I also wonder why chiropractic doctors are permitted to advertise treatments for arthritis and rheumatism in such media as the telephone books.

At the insistence of friends, as well as to obtain more material for a book, I have gone to several chiropractic doctors. Two (one of whom had my type of hip disease) were honest enough to tell me that chiropractic treatments would be of no help whatsoever. One, Dr. F, seemed completely confident he could help me. The converted home on the outskirts of Oakland which he uses for a treatment center was festooned with all manner of antenna. During the long wait to see the doctor I was given an electrical treatment by a nurse. A kind of a belt was strapped around me which gave off heat and a sun lamp turned on overhead. The treatment lasted about 20 minutes. Dr. F

gave no examination, made crosses on a chart as I described my symptoms, gave me a brief massage on the back of the neck and solar plexus, said I would walk much better and turned me over to an assistant. He had me put my hands on a glass-topped table with electrical connections to a board which had flashing lights. I noticed no help from the treatments or the vitamins Dr. F sold me. But I have met many persons with various afflictions who claimed to have been helped by this man. They seem to believe that he cures by some special, mystical power—personal or electronic. One woman told me that she gets a successful treatment by calling Dr. F on the phone.

Dr. J was another chiropractic doctor to whom I went in Palm Springs—out of curiosity, because I had heard of the crystal ball method he uses with another device for discovering allergies. His theory seems to be that once the allergy is known and avoided all one's health problems vanish. His device consists of a box containing numerous little bottles with lavender caps, a kind of battery with connections which the patient and he hold. In his other hand he holds a small ball, apparently of clear plastic suspended by a light chain. He held the ball over each bottle in turn. (The bottles contain, he says, substances to which a person may be allergic). If the crystal ball swings in one direction all is well; if it swings in the opposite direction it has discovered the culprit. I watched the ball closely, but could not notice any differences in its movements, but Dr. J suddenly announced with exultant finality, "This is it; you are allergic to all poultry—you must never eat chicken, turkey, any fowl or eggs." (There has never been the slightest evidence in my health history that I am allergic to any of these foods.) Dr. J wanted to sell me one of the crystal balls for \$5, also his packaged vitamins at a price about three times that of the average price of standard brands.

I have had treatments by another chiropractic doctor in Palm Springs, the inventor of a device which makes use of ultrasound waves, called the Harmonizer. As I had received ultrasound treatments at the clinic I did not think this treatment, which used much lower frequency, would do any harm. I have been informed that this doctor has been the subject of Government action—has been fined and restrained from further use of the device on the grounds of misrepresentation, but I do not have details.

I have met many, many other arthritics who have been given useless treatment—in some cases it appears to have been harmful—and have purchased useless devices.

Still others who have acted on the advice of well-meaning persons who have recommended various folk cures—such as copper bracelets and cod-liver oil—some of which appear to have been harmful. One woman suffered severe liver trouble from taking too much cod liver oil.

People fall for these things because there is a woeful lack of public education on the entire subject of arthritis. I think California has been successful in eliminating in this State all of the uranium quackery which was directed toward arthritics. Uranium ore was brought in from other States in bags and used to line a room, and people paid to sit there to get the "radiation." Uranium mines are mostly in other States and continued to operate at a huge profit, drawing customers from California as well as other States.

There must be an exchange list of arthritic victims because if you get on one list you receive material advertising all manners of devices, items such as vibrators, whirlpool baths, salves, uranium mitts, and things of that sort.

I finally did more investigating. While I am appearing on my own behalf, not as a representative of any organization, some of the things I have done and some that I have learned about from other arthritics I have put in a book which will be published by Random House under my writing name, Faith Perkins.

Senator WILLIAMS. When?

Mrs. BRAMER. They haven't set the date, but gave me permission to testify if I wanted to, so some of this material is from that which appears in the book. Regardless of whether or not the arthritic people will tell their experiences publicly they are still being victimized in many, many different ways. Some instances I relate in the book have taken place in Mexico but most of them in this country.

Senator WILLIAMS. Thank you very much.

We will reconvene and get into the other part of the hearing in 5 minutes.

We have some people who want to make some brief statements who were not included on the witness list. Mr. McKay McKinnon of the Food and Drug Administration here in San Francisco will be our first witness when we reconvene.

(Short recess.)

Senator WILLIAMS. Mr. McKinnon.

STATEMENT OF MCKAY MCKINNON, JR., DISTRICT DIRECTOR OF THE FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE OF THE U.S. GOVERNMENT

Mr. MCKINNON. I am very grateful for this opportunity and if I seem to be an oversized yo-yo hopping from here to there you will understand that it is because I would like to touch on a number of points to which I have listened with a great deal of interest.

I would like to mention first the firm plans which the people representing State and local government have given you today. I am certain it would be of interest to the committee to know that the \$300,000 which was allowed the Food and Drug Administration by the Congress to make a study of overall national enforcement capabilities is now being used in large part on a nationwide survey by the Public Administration Service of Chicago which we hope will come forward with the answers to many questions as to how we can work together most wisely to enforce the law at both Federal and State levels. This study has long been recommended by the Association of Food and Drug Officials of the United States.

The views of the Department of Health, Education, and Welfare and its Food and Drug Administration with respect to needed legislation were largely set forth in Secretary Celebrezze's letter of May 29, 1963, to the Speaker of the House with which he forwarded a draft bill subsequently introduced by Congressman Harris as H.R. 6788. Essentially, many of the recommendations had been made by President Kennedy in his messages to the Congress in March 1962 and February

1963. Other recommendations were designed to extend various aspects of the Food, Drug, and Cosmetic Act which time had proven to be inadequate or which lack of experience or omniscience had resulted in failure to incorporate such requirements in the statute as passed in 1938.

Thoroughly needed and presently needed, I believe, would be authority to deal with therapeutic devices in the same way in which we are now able to deal with prescription drugs; to require showing of safety and effectiveness before these devices may be marketed.

I was very impressed with the statement made on behalf of the State department of public health with respect to its work on devices. We have participated in several of those investigations. One that I remember quite clearly was a cleanup which was initiated in the State after the Supreme Court had affirmed the worthlessness of one rather expensive device.

Within the State practitioners who were using these devices in their office practice were asked if they preferred voluntarily to turn their devices into the State department of public health for destruction or whether they would have them formally seized by court order with attendant publicity in their local communities.

I believe 45 practitioners embraced the chance to give up the \$850 devices for destruction by State department of public health officials.

We have had within the area included by the San Francisco district, at least one case involving a so-called cancer cure which has been included in the State cancer program report. We took one organization into court, the John Beard Memorial Foundation, for the illegal commercialization of a new drug called pangamic acid. The court rendered a judgment for the Government. In sentencing the foundation and the individual defendant, Ernst T. Krebs, Jr., the court also included as a condition of probation cessation of all new drug activity until all State and Federal requirements were satisfied. In this condition of prohibition was included a new drug heretofore distributed for the treatment of cancer, Laetrile. The foundation has been dissolved, but I believe the probation with respect to the individual defendant is still in force.

There was mentioned earlier today the need for more informative labeling particularly on special dietary foods. The original dietary food regulations were promulgated under the authority of the Food, Drug, and Cosmetic Act in 1940. An attempt was made last year to update these regulations and we ran into a storm of protest by way of a number of communications both to the hearing officer and to Members of Congress; a great many of which seemed to have a central point of origin; namely, members of the National Health Federation.

The National Health Federation is an organization that was created by and has been promoted by Fred J. Hart and others known to us through earlier violation of the food and drug law. Fred J. Hart was president of the Electronic Medical Foundation which put out a number of what I would call quack devices that were put under injunction some 10 years. Since that time the foundation ceased to operate. However, Mr. Hart, who was also enjoined, was subsequently charged and found to have violated the terms of the injunction. He was fined, and thereafter an old repairman of the Electronic Medical Foundation was enjoined from repairing any devices which

currently exist. Possibly in good time these things will fall by the wayside. I have submitted a résumé of Hart's activities to the subcommittee.

I have prepared also a very brief statement for the committee augmenting and bringing up to date a statement made by our Commissioner of Food and Drugs before the full Committee on Aging in January of last year.

In that statement the Commissioner gave a number of examples of abuses under the Food, Drug, and Cosmetic Act. As part of the testimony he also provided to the Special Committee on Aging a tabulation of charges involving products and firms where formal action had been taken for the period July 1, 1961, through December 1, 1962.

In a statement which I have provided to staff director, we provided some additional examples of this type of violation on products which have come within our enforcement range since that time. The Los Angeles district director, Mr. Gordon Wood, supplied some of the examples which we used in that material.

In his messages to Congress requesting corrective legislation the President asked all agencies of Government to develop information useful to older Americans. The Food and Drug Administration produced a series of consumer memos which are available. It also produced a booklet called "Your Money and Your Life," which covers many current frauds with specific references. I have provided specimens for the subcommittee. The Consumer Education Branch, FDA, has added a specialist whose primary activity will be to provide informational material for older groups. In the interest of saving time, I will not attempt to go into detail on the material which has been submitted. Thank you very much.

(Transcript continues on p. 139.)

MEMORANDUM FROM U.S. FOOD AND DRUG ADMINISTRATION

The Commissioner of Food and Drugs made a statement before the Special Committee on Aging of the U.S. Senate on January 17, 1963. In his main statement, the Commissioner gave a number of examples of abuses under and outright violations of the Food, Drug, and Cosmetic Act directed particularly to elderly citizens. As part of his testimony the Commissioner also provided to the Special Committee on Aging tabulations of charges involving products and firms against whom formal enforcement actions had been taken from the period July 1, 1961, through December 31, 1962. The purpose of this memo is to add to the basic list, some, but not all, of the examples of this type of violation involving products especially promoted to the elderly people, which have taken place since the appearance of Mr. Larrick before the special committee. The director of our Los Angeles district, Food and Drug Administration, Mr. Gordon R. Wood, supplied some of the examples used in the material which is attached hereto.

In his May proclamation declaring that month to be Senior Citizens Month, the President requested all agencies to provide information useful to older Americans. FDA produced a series of three "consumer memos" issued under the general title "Your Money and Your Life." These covered successively the subjects of "Nutrition Nonsense," "Drug and Cosmetic Quackery," and "Mechanical Quackery" with special reference to false promotions addressed to the senior citizen population group. Specimens are attached hereto.

Further, the Consumer Education Branch of FDA added a specialist whose principal activity will be to develop channels of communications and information materials for the older population groups.

FDA MEMO FOR CONSUMERS FROM THE FOOD AND DRUG ADMINISTRATION
 U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., May 13, 1963.

YOUR MONEY AND YOUR LIFE

1. Senior citizens and nutrition nonsense

By Presidential proclamation, May has been designated Senior Citizens Month. Federal agencies have been asked to provide information specially useful to older Americans.

The Food and Drug Administration has many programs of direct importance to older people. This is one of a series of three memos of special interest to this group.

The senior citizen population group has become the target of many health swindles.

One of the most expensive is simply the promotion of various foods for the prevention and treatment of ills ranging from arthritis to high blood pressure to "lost manhood."

It is estimated that over \$500 million—half a billion—is spent each year on vitamins, minerals and other so-called "health foods" that are not needed and, too often, misrepresented.

True—at certain levels, and under certain conditions—infants, youngsters, and adults may need extra vitamins and minerals. But the only safe, sure, economical way to know what and how much to take is to see your doctor. If you do need them, most vitamin products can be bought at reasonable prices without a prescription.

Remember this: There is no substitute for a well-balanced diet as a basis for good health. Pills cannot take the place of food.

Of course, there are many "special dietary foods" for people suffering from certain diseases. For example:

1. Low sodium and salt-free foods prescribed for heart conditions and high blood pressure.
2. Special foods for diabetics.
3. Special geriatric foods to help solve the eating problems of the aging.
4. Special foods for people with allergies.

These legitimate products should never be confused with the many products promoted as dietary cure-alls.

Today many people attempt to treat themselves with these so-called "health foods" and "supplements" which are often promoted in much the same way as the oldtime patent medicines. As a matter of fact, the very term "health foods" is misleading. It implies that the products have special health-giving properties—when all they really contain are the very same nutritional qualities found in other common, less expensive food products. For example:

1. Yoghurt may be recommended for certain intestinal conditions—but nutritionally it is the same as milk, which costs much less.
2. The "minerals" in blackstrap molasses are mainly impurities that get in during the sugar refining process, and have no health importance.
3. Kelp tablets or sea salt are unnecessary. The iodine in them is adequately supplied by seafoods and iodized salt.
4. Wheat germ is a useful cereal food, but it does not perform any nutritional miracles.

The nutritional needs of older persons are much like those of any other age group. They do not have special requirements for vitamins, minerals, proteins, etc., that cannot be supplied by inexpensive everyday foods. The American food supply is the best in the world. Eating regularly such common foods as vegetables, fruits, milk, eggs, meats, fish, and enriched bread and cereals will supply all nutritional needs of the older person.

It simply is not true that the American food supply is nutritionally deficient, that everybody is suffering from some kind of vitamin or mineral deficiency, and that everyone, therefore, needs to take food supplements and "health foods."

There are no pills or "miracle foods" which can substitute for sensible eating and regular medical checkups.

Do-it-yourself dietary medicine can be an invitation to trouble—even disaster.

Remember: The modern medicine man may peddle his wares door to door, or he may be on radio or TV, or he may rent a hall and hold "health" lectures, or he may write books.

Be on the lookout for him.

Don't fall for his "con" game.

Save your money—and maybe your life.

(For more information about nutritional nonsense, write for FDA's leaflet "Food Facts Versus Food Fallacies." It's free.) Write to Food and Drug Administration, Department of Health, Education, and Welfare, Washington, D.C.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., May 22, 1963.

FDA MEMO FOR CONSUMERS FROM THE FOOD AND DRUG ADMINISTRATION

YOUR MONEY AND YOUR LIFE

2. Senior citizens and drug and cosmetic quackery

By Presidential proclamation, May has been designated Senior Citizens Month. Federal agencies have been asked to provide information specially useful to older Americans.

The Food and Drug Administration has many programs of direct importance to older people. This is the second of a series of memos of special interest to this group.

This half century has been called "The Golden Age of Medicine." There have been more medical advances in the past 50 years than in all the previous years of recorded history. Many diseases have been conquered; many more brought under control. Yet, fakes and swindles in the health field still continue to rob the American public of at least \$1 billion a year.

It is easy to believe in medical fakes if you are sick, frightened, or alone. It is just as easy to "fall" for phony cosmetics that promise wonders in restoring youth and beauty.

Here are some facts about ailments which often affect older people, and the phony remedies offered to this group.

1. *Arthritis and rheumatism.*—The severe pain of these diseases makes the sufferer an easy target for the charlatan. Early treatment by a competent doctor is a "must" for arthritis—it can help prevent crippling. And the doctor will also prescribe the most effective pain relievers. But there are as yet no drugs which can truthfully be labeled as a cure.

Be wary of weasel-worded promotions that don't actually promise a cure—but nevertheless imply it.

A source of authoritative information: The Arthritis and Rheumatism Foundation, 10 Columbus Circle, New York, N.Y.

2. *Cancer.*—Surgery, X-ray and radiation cure many cases of cancer when they are diagnosed and treated in the early stages. Beware of unproved remedies. Loss of time can have fatal consequences.

Cancer research is making great progress. Your doctor keeps up with this research and will direct you to a specialist if necessary.

Beware the phony who promotes his product to the public and claims the medical profession is against it. He will lead you only to blasted hopes, wasted savings, and disaster.

An authoritative source of information: The American Cancer Society, 521 West 57th Street, New York, N.Y.

3. *Heart disease.*—There are many kinds of heart disease—now often called "cardiovascular disease." Proper diagnosis is essential to proper treatment. There is no single treatment.

One good rule for helping to prevent a "heart attack": avoid overweight. Your doctor will help you choose a diet suited to your needs.

Garlic is not good for high blood pressure. Nor are safflower oil capsules a preventive for heart diseases and strokes.

An authoritative source of information: The American Heart Association, 44 East 23d Street, New York, N.Y.

Here are some facts about youth and beauty nostrums:

1. Wrinkles are the gift of time. There are many good, inexpensive creams and lotions on the market today to help lubricate the skin and alleviate dryness.

But there are no creams, lotions, masks, or plasters that will prevent, correct, or remove wrinkles. Quack products usually bear extravagant names and slogans like "Eternal youth oil," "Magic wrinkle remover," "Miracle hormone cream for an ageless you." The promise to restore or preserve youth is false. Don't waste money on them.

2. Baldness: The most common form of male baldness is hereditary. There are no drugs or treatments that can bring dead cells back to life—or that "feed" hair roots and scalp.

3. Lost manhood cures are one of the oldest swindles in the book. A recent example of the fountain-of-youth type of quackery is the "royal (bee) jelly" fad. Vitamin E is another worthless product that has been promoted for sexual rejuvenation. Here again, ask your doctor.

How do you recognize quackery? Here are some guides:

Is the formula or treatment "secret"?

Does it promise a quick cure?

Is it advertised by case histories or testimonials?

Does the sponsor clamor for medical investigation and recognition?

Does the sponsor claim medical men are persecuting him or fear his competition?

Are the recognized treatments belittled?

If the answer to any of these is "Yes"—investigate before you invest.

Save your money—and maybe your life.

If you are interested in receiving the other two consumer memos in this special series, write to the Food and Drug Administration, U.S. Department of Health, Education, and Welfare, Washington, D.C.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
Washington, D.C., May 23, 1963.

FDA MEMO FOR CONSUMERS FROM THE FOOD AND DRUG ADMINISTRATION
YOUR MONEY AND YOUR LIFE

3. *Senior citizens and mechanical quackery*

By Presidential proclamation, May has been designated Senior Citizens Month. The White House has asked all agencies of government to provide information especially useful to older Americans.

The Food and Drug Administration has many programs of direct importance to older people. This is the last of a series of three memos of special interest to this group.

In an age when a machine whirls a man around the earth 22 times in 34 hours, it is easy to believe that a machine can do anything—if only one can find the right machine.

Medicine, like space science, does have its miracle machines. The electrocardiograph helps the doctor to study the action of the heart. The X-ray in the hands of experienced practitioners has saved millions of lives, both in diagnosis and treatment.

But the real miracles of scientific medical instruments have given the charlatan many new ideas for his fake machines, and made it easier for the public to believe in them. Older people with chronic diseases are particularly apt to be taken in by this type of medical swindle.

Here are some of the common types of fake medical gadgets.

Diagnostic and treatment machines.—Fake diagnostic machines often look impressive, with dials, flashing lights, flickering needles, charts, and impressive console cabinets. They may be deliberately designed to look like an X-ray machine, or an electrocardiograph, or some other genuine scientific device.

Be wary of the practitioner who has a machine for diagnosing or treating almost any kind of disease simply by turning dials and applying electrical contacts to the body. Such devices are fakes.

Your doctor's good judgment and experience is essential to proper diagnosis and treatment. There is no shortcut.

Radiating devices.—Radio waves and other forms of radiation are mysterious to most of us. We know just enough about medical X-rays and atomic energy to make us gullible for the swindler with a new form of medical "ray." The important facts: A home use gadget giving off enough radiation to have any medical effect would be very dangerous. And if it doesn't give off enough to have an effect, it's worthless. Effective radiation can be safely used only by the doctor.

Electricity and magnetism.—Various kinds of fake machines that produce electric shocks or generate magnetic force have been promoted for many years. The horse collar "electric belt" demonstrated at county fairs was just as "scientific" as some of the more impressive-looking gadgets in use today. One of these was represented to treat all kinds of diseases by means of electric current passed through the body. Such uses of electricity are worthless for any therapeutic purpose.

Light and sound machines.—One of the most infamous and spectacular fake devices—the Spectrochrome—was essentially a machine for shining lights of various colors onto the body. There was a lot of hocus-pocus and ritual to make the process seem very mysterious.

Another—the Sonus Film-O-Sonic—applied the electric current from tape recordings of popular music to the surface of the body through moistened pads. "Smoke Gets in Your Eyes" was claimed to cure cancer; "Holiday for Strings" to cure arthritis.

They were equally worthless.

"Air purifiers" and negative-ion generators.—Promotion of so-called "air purifiers" for preventing or treating respiratory infections and other types of diseases is one of today's most prevalent health swindles. Equipment is available for effective air purification but it is far more expensive than the small units commonly sold in retail stores. The latter do not have sufficient capacity for removing dust and pollen which may aggravate allergic conditions such as hay fever, and no air purifier can truthfully be promoted for treating viral or bacterial diseases such as colds, influenza, pneumonia, tuberculosis, etc.

The best advice here is to check with your doctor or the local better business bureau before you buy.

Vibrating devices.—These come in all shapes, sizes, and forms from hand units to pillows, rolling pins, chairs, and even mattresses. Vibration is produced by an offcenter drive shaft geared to an electric motor. Some have a heating element.

False claims have been made for effectiveness of vibrators in treating a wide range of ailments, for reducing weight, for "recontouring" the figure, or "spot reducing." If you like the sensation provided by a vibrator gadget, well and good. But do not expect medical miracles. Vibration cannot cure arthritis, rheumatism, circulatory ailments, or nervous conditions.

Devices for "erasing" the ravages of time.—Many of these have been taken off the market as cruel hoaxes. Recent examples are the facial stimulators—using electrical current to produce muscle contractions. They were claimed to improve face and neck by "erasing" wrinkles, sagging muscles, and bags under the eyes.

No machine can turn back the calendar.

There are more older citizens today—living longer, enjoying better health and higher income—than ever before in our history. And every year brings new breakthroughs.

Here are some reliable sources of information on medical devices sold to the public or used by practitioners:

The Food and Drug Administration, Washington, D.C.

The American Medical Association, 535 Dearborn Street, Chicago, Ill.

National Better Business Bureau, 230 Park Avenue, New York, N.Y.

Your State or local health department.

RECENT FOOD AND DRUG ADMINISTRATION ACTIONS

PROSECUTION ACTION

Lecturer: William L. Abt, naturopath and itinerant health food lecturer.

Abt, a U.S. citizen who lives in Windsor, Ontario, Canada, conducted a series of lectures at a Detroit hotel in June 1961. At the time he sold so-called "health foods" to the audience along with a book titled "The Key to Good Health and Longevity." He offered his products for the treatment and prevention of many ailments including cancer, glaucoma, arthritis, heart conditions, and ulcers.

Some \$9,000 worth of misbranded vitamin and mineral preparations were seized in Abt's possession at the time of his lectures. He consented to a court decree providing for the destruction of the products. The decree contained a provision ordering him to halt the future manufacture and sale of any and all food supplements.

Last March, Abt returned to Detroit to give another series of lectures. FDA inspectors learned of Abt's appearance, and caused a six count criminal information to be filed with the court, charging that the "health foods" were misbranded as a result of statements made at the lecture. Filing of the information resulted in Abt's immediate arrest before he could return to Canada. Abt refused to speak at his arraignment, and the court entered a plea of not guilty. Abt later changed the plea to guilty.

SEIZURE ACTION

Seized at: Clinton Wheat Shop, Bountiful, Utah.

Product: Foods for special dietary uses—Dried Swiss whey.

Charges: False and misleading health claims at a Bountiful, Utah, establishment owned by Clinton H. Miller, Washington representative of the National Health Federation.

It was misbranded while held for sale after shipment in interstate commerce because its labeling represented falsely that it is effective to promote health, intestinal management and growth of friendly bacteria, to suppress putrefaction in the intestinal tract, promote normal elimination without laxative action, promote digestion, counteract acid stomach, sweeten the intestinal tract, and that it is an intestinal tonic.

Whey is a byproduct of the manufacture of dairy products and is sometimes used as an ingredient in other food items. It is a source of protein but has no special value as a dietary supplement.

SEIZURE ACTION

Product: Device—Dr. Scholl's foot exerciser sandals.

Shipped by: Scholl Manufacturing Co., Inc., Chicago, Ill. The sandals were seized in possession of the Dr. Scholl Foot Comfort Shop at Denver, Colo.

Charges: False claims for the treatment of varicose veins, flabby foot and leg muscles, and for relief of tired, aching, and weak feet.

Also seized were accompanying promotional leaflets and a newspaper advertisement mat containing claims for the sandals.

SEIZURE ACTION

Product: Cosmetic—Lovelight Facial Pack.

Shipped by: Lovelite Cosmetics, Inc., of Las Vegas, Nev.

Charges: Misbranded in that its labeling contains statements which imply that it is effective as an aid in the reduction of minor skin disorders and blemishes; for smoothing out tired lines and wrinkles and activating circulation.

SEIZURE ACTION

Product: Drug—Estomarol.

Shipped by: Seized in possession of Estomarol, Inc., Clovis, N. Mex.

Charges: Misbranded because display placards make false and misleading claims that it is effective in treatment of ulcer pains and nervous stomach, and also label fails to bear adequate directions for such use.

SEIZURE ACTION

Product: Drug—Impotex, choroionic gonadotropin (powder); Impotex, diluent.

Shipped by: Manufactured for and repackaged by Whittaker Laboratories, Inc., Peekskill, N. Y., and seized in possession of that firm.

Charges: Labeling (leaflet "Impotex for the Male") contained references to symptoms of the male climacteric, decreased libido, impotence, and male sterility. Misbranded because labeling bore inadequate directions for use (adequate directions cannot be written if the product is ineffective for its intended uses) and also failed to bear the statement: "Caution: Federal law prohibits dispensing without prescription."

SEIZURE ACTION

Product: Drug—Jettup B Complex with B/12.

Shipped by: Seized in possession of Charles Yancy, Dallas, Tex.

Charges: Containing below labeled amounts of thiamine hydrochloride and pyridoxine hydrochloride; and misbranded by labeling claims for relief of nervous tension, inability to sleep, swelling of face and ankles, blurred vision, and other conditions, which claims are charged false and misleading.

SEIZURE ACTION

Product: Drug:

Magic Youth Cream.
Ex-Cel-Cis 3 Star Youth Set.
Magic Youth Crystals.
Foot-Ez.

Shipped by: Ex-Cel-Cis Beauty Products, Inc., Salt Lake City, Utah.

Charges: Misbranded by false and misleading claims for rejuvenating facial appearance by reducing wrinkles due to aging, treatment for teenage acne, skin blemishes, blackheads, whiteheads, and skin discoloration (Magic Youth Cream, 3 Star Youth Set, Magic Youth Crystals), and for preventing foul odors and as a treatment of athletes foot (Foot-Ez).

SEIZURE ACTION

Product:

Drug and cosmetic—Sta-Free Deodorant-Antiperspirant.
Airborn Cleansing Treatment.
Airborn Night Treatment.
Ageless Moisturizing Hormone Oil.
Airborn Complexion Make-Up.

Shipped by: Rilling Dermetics, Inc., Division of Turner Hall Corp., Bridgeport, Conn.

Charges: Misbranded as follows: (Sta-Free Deodorant-Antiperspirant) labeling required by law not sufficiently prominent and conspicuous; (Ageless Moisturizing Hormone Oil) the name "Ageless" and labeling claims for preventing the aging processes are false and misleading, and the labeling does not contain directions limiting the application of the article; (the other products) labeling claims for rejuvenation of the skin and treatment of blemishes are false and misleading.

SEIZURE ACTION

Product: Drug—Coty Medicated Foam Wash Dermacare.

Shipped by: Coty, Inc., New York, N.Y.

Charges: Misbranded by labeling claims for pimples, acne, and blackheads, which were charged false and misleading; and further misbranded in that labeling did not give the necessary instructions for use of a keratolytic agent (a substance which dissolves or removes the outer layer of skin) with the article and other instructions necessary in the treatment of acne pimples.

HISTORY OF ACTIVITY OF FRED J. HART ¹

Fred J. Hart was a farmer who, at one time, operated a California radio station. He has no license in any of the healing arts.

The College of Electronic Medicine was established in San Francisco, Calif., by the late Albert Abrams, M.D., a highly controversial practitioner. After his death, this institution continued to operate as an alleged nonprofit organization, devoted to the distribution of expensive, but worthless electrical devices represented for curing practically all diseases. Mr. Hart, with Colson, Pfluger, and others perpetuated the Abrams' theories, manufacturing various devices and undertaking to do diagnoses on the basis of specimens of dried blood delivered or mailed in by practitioners of various types.

In 1946, the College of Electronic Medicine became the Electronic Medical Foundation. By 1953, Food and Drug Administration had developed sufficient information on the various devices manufactured and marketed by the foundation and on the system of diagnosis which it used, to support the filing of a complaint for injunction to deny the channels of interstate commerce to these worthless devices.

Consent decree of injunction was entered in the District Court of the Northern District of California in March 1954. The injunction was made permanent in May 1958.

While the Electronic Medical Foundation was active, promotional material was carried largely to the public through the firm's magazine called the Electronic Medical Digest and through the traveling lectures of Fred J. Hart.

¹ Prepared by McKay McKinnon, Jr., San Francisco district. Food and Drug Administration, for Subcommittee on Frauds and Misrepresentations Affecting the Elderly, Special Committee on Aging, San Francisco, Calif., Jan. 13, 1964.

With the inactivation of the Electronic Medical Foundation, Mr. Hart conceived and organized the National Health Federation which was chartered by him in January 1955. It was also alleged to be a nonprofit organization. Its headquarters offices throughout the lifespan of the Electronic Medical Foundation were at the same address.

The major publication of Hart's new activity was the National Health Federation bulletin. Listed as members of the board of governors of the federation were Royal S. Lee, against whom we have a number of terminated and pending actions; John Minder of the Christian Medical Research League, the organization which took over the distribution of Koch cancer injections after Koch fled the country; V. E. Irons, convicted of violating the Food, Drug, and Cosmetic Act and sentenced to jail.

Later directors and Federation officers include Roy F. Paxton, a twice convicted promoter of "Millrue," a worthless cancer remedy. He is serving out a 3-year prison sentence for the second offense; Andrew G. Rosenberger, listed as the federation's "nutrition chairman," was convicted of misbranding dietary food products with his brother, Henry, operating as Nature Food Centres, Cambridge, Mass. Each of the Rosenbergers was fined \$5,000 and their firm was fined \$10,000 in Federal court in Boston. In addition, the individuals received suspended prison sentences and were put on probation.

Typical of the text of the bulletin is the following quotation from the July-August 1957 issue: "In Cleveland, the members of the federation, in cooperation with the Cleveland Better Health Bureau, under the leadership of Harold Edwards (a member of the board of governors of the National Health Federation) staged a mammoth meeting for the purpose of hearing Dr. Hoxsey give the truth regarding the accusations of the medical monopoly and its tool, the Federal Food and Drug Administration." The Mr. Hoxsey mentioned is the notorious cancer quack who was driven successively out of business in Texas and in Pennsylvania. He carried a record of convictions in several States for practicing medicine without a license and was the subject of formal action under the Food, Drug, and Cosmetic Act. In the same bulletin on page 7, the following comment appeared:

"The last week of June marked the U.S. Government's blackest day of infamy since Franklin Roosevelt engineered the slaughter of 3,000 Americans at Pearl Harbor.

"In that period two of the American Food Consumer's greatest benefactors were railroaded to prison after two of the most vicious mock trials ever engineered by the U.S. Food and Drug Administration, aptly called the food and drug bandits in informed circles.

"Earl Irons, producer of 'Green Life,' was sent to the Federal prison at Danbury, Conn., to serve a year and a day.

"Adolphus Hohensee, a lecturer and distributor of other natural vitamins, was sent to the Lewisburg, Pa., hoosegow on a similar rap.

"Neither of these two victims of drug trust greed and administration infamy violated any Federal or State laws. Both judges showed unjudicial bias and prejudice. In order to get a conviction they reversed all known rules of evidence * * *. The scofflaws on the U.S. Supreme Court refused to review either case * * *."

Despite the fact that Hart and the Electronic Medical Foundation were under injunction issued originally in 1954 and made permanent in 1958, Hart continued to distribute worthless devices on which the injunction was based and on July 27, 1962, was fined by the district court in San Francisco on a charge of criminal contempt of the injunction.

With the dissolving of the Electronic Medical Foundation in June 1962, Hart then turned his full time to an attempt to work and promote food, drug, and device quackery on a national basis. The alleged principles of nutrition and health espoused by the National Health Federation supposedly for the benefit of the public are not supported by present-day scientific knowledge. The organization has gone all out to support completely discredited medical treatments. It consistently opposes all forms of organized medicine, fluoridation of water supplies and injections to stamp out polio, yet campaigns for educational efforts to provide the public with allegedly accurate and unbiased information on health matters.

Members and the federation's publication have registered violent opposition to proposals to update the dietary food regulations of the Food, Drug, and Cosmetic Act. In the January 1964 issue National Health Federation bulletin there appeared a listing of the resolutions approved by the so-called "Health Monopoly Congress," sponsored by the National Health Federation and held in Washington in October 1963. Copy is attached.

Within a few months of this conviction of criminal contempt of the injunction in force against Electronic Medical Foundation, Hart, and others, Mr. Hart moved from San Francisco Bay area to Monrovia, Calif., where he continues to publish the National Health Federation bulletin as editor-publisher.

INJUNCTION STOPS REPAIR OF WORTHLESS MEDICAL DEVICES

Harry T. Saine, assembler and repairman for an extensive line of worthless diagnostic and therapeutic devices formerly distributed by the Electronic Medical Foundation, signed a consent decree of permanent injunction March 27 prohibiting further activities in repairing the machines for practitioners using them.

Saine, of Morgan Hill, Calif., was associated with the foundation and its predecessor the College of Electronic Medicine, San Francisco, for over 30 years assembling and repairing such worthless medical machines as the Oscilloclast, the Depolaray, the Depolatron Chair and others.

The Electronic Medical Foundation and Fred J. Hart, its president, were permanently enjoined by a Federal Court from distribution of 13 types of medical devices falsely claimed to diagnose and treat hundreds of diseases. Last July Hart pled guilty to contempt charges for violating the injunction and was fined \$500. He then dissolved the foundation.

FDA said Saine continued to repair these devices for health practitioners who make use of them until Judge George B. Harris of the Federal district court at San Francisco issued the consent decree of injunction.

FOOD AND DRUG ADMINISTRATION.

[From National Health Federation Bulletins, January 1964]

RESOLUTIONS APPROVED BY HEALTH MONOPOLY CONGRESS

Following are the resolutions as approved and referred to the National Health Federation for appropriate action.

RESOLUTION CONCERNING "TRIAL BY PRESS RELEASE"

RESOLUTION NO. I

Whereas the Federal Food and Drug Administration has adopted a practice of issuing press releases announcing civil and criminal actions brought by FDA in Federal courts charging certain business organizations and individuals with alleged violations of food and drug laws; and

Whereas such press releases containing derogatory and prejudicial statements have been issued prior to the filing in the appropriate Federal courts of complaints by the Government, and before defendants have had an opportunity to analyze the complaints, to file answers thereto, or defend themselves or their products; and

Whereas a Citizens Advisory Committee appointed by the Secretary of Health, Education, and Welfare approximately 1 year ago condemned such tactics by the FDA as "trial by publicity," a condemnation that has been ignored by FDA to date: Now, therefore, be it

Resolved, That the Secretary of Health, Education, and Welfare promulgate an appropriate order forbidding the issuance by FDA of such derogatory or prejudicial press releases concerning lawsuits charging certain business organizations and individuals with alleged violations of food and drug laws; and be it further

Resolved, That this resolution be presented to the board of governors of the National Health Federation to take any and all action which they deem needful to carry to a successful conclusion the intent of this resolution.

RESOLUTION CONCERNING USE OF FEDERAL FUNDS TO PROMOTE MEDICAL MONOPOLY BY MEANS OF THE NATIONAL CONGRESS ON MEDICAL QUACKERY

RESOLUTION NO. II

Whereas the U.S. Department of Health, Education, and Welfare and in particular its constituent agency, the Food and Drug Administration, using taxpayers' money, participates jointly with the American Medical Association in arranging and managing the "National Congress on Medical Quackery"; and

Whereas the "National Congress on Medical Quackery" systematically excludes from participation in its meetings parties and their representatives interested in health matters, and whose views are not those of the AMA, thus publicly discrediting such interested parties and their representatives who believe in freedom in health matters: Now, therefore, be it

Resolved, That the Secretary of Health, Education, and Welfare direct that its officials and employees, including those in the Food and Drug Administration, cease participation in the "National Congress on Medical Quackery" unless and until the "congress," partially financed by U.S. taxpayers, opens its meetings to all parties, and their representatives, interested in health matters; and be it further

Resolved, That this resolution be presented to the board of governors of the National Health Federation to take any and all action which they deem needful to carry to a successful conclusion the intent of this resolution.

RESOLUTION CONCERNING FDA EFFORTS TO INFLUENCE THE DIETS OF AMERICANS

RESOLUTION NO. III

Whereas the Food and Drug Administration of the Department of Health, Education, and Welfare is engaged in a campaign, the effect of which, in some cases, is to dictate to the American people what foods they should eat and what drugs they may use; and

Whereas a campaign (supported by taxpayers' funds and the prestige of the Government of the United States) favors vested interests which share very substantially in the multi-million-dollar food business in the United States: Now, therefore, be it

Resolved, That the Secretary of Health, Education, and Welfare order the Food and Drug Administration to cease advising, by any form of communication, American citizens with respect to products used in their diets, unless such products are adulterated, dangerous, or deleterious; and be it further

Resolved, That this resolution be presented to the board of governors of the National Health Federation to take any and all action which they deem needful to carry to a successful conclusion the intent of this resolution.

COOPERATION BETWEEN THE FOOD AND DRUG ADMINISTRATION AND THE AMERICAN MEDICAL ASSOCIATION SUPPORTING A MONOPOLY IN THE HEALING ARTS FIELD

RESOLUTION NO. IV

Whereas the American Medical Association has established itself as a medical monopoly in the United States; and

Whereas a history of cooperation exists between the Food and Drug Administration and the American Medical Association, the effect of which is to prevent or restrict therapies not approved by the AMA, and the consumption of so-called health foods for special dietary uses: Now, therefore, be it

Resolved:

1. That the U.S. Department of Justice be requested to initiate an investigation designed to study the question of the extent to which the American Medical Association is maintaining a medical monopoly in the United States.

2. That the United States Department of Justice take appropriate action against a conspiracy which apparently exists between the Food and Drug Administration and the American Medical Association designed to destroy all therapies not approved by the AMA, and all purveyors of health foods and foods for dietary uses not approved by the American Medical Association and which products are not recognized by FDA policy as having nutritional significance in the average daily diet; and, be it further

Resolved, That this resolution be presented to the Board of Governors of the National Health Federation to take any and all action which they deem needful to carry to a successful conclusion the intent of this resolution.

RESOLUTION CONCERNING "BOOK BURNING" IN CONNECTION WITH BOOKS DEALING WITH HEALING MATTERS

RESOLUTION NO. V

Whereas the policy of the Food and Drug Administration of the Department of Health, Education, and Welfare and the U.S. Post Office Department is to seize an unnecessarily large number of books, and in some cases as many as 1,500 copies

of one edition of books dealing with health matters, on the ground that such books contain statements which allegedly misbrand products, even books which have been written by authorities in the field, including doctors of medicine; and

Whereas the Government need seize no more than five such books in order that it may examine them with a view toward prosecution; and

Whereas the Food and Drug Administration places such books on exhibit for ridicule at meetings and conventions (such as the National Congress on Medical Quackery) throughout the country: Now, therefore, be it

Resolved:

1. That no more than five such books on health matters, which the Government considers contain statements which constitute labeling and thereby allegedly misbrand certain products on which prosecutions may be initiated, be seized.

2. That the Food and Drug Administration be ordered by the Secretary of Health, Education, and Welfare to cease placing such books on display for purposes of ridiculing such books and the authors thereof; and be it further *Resolved*, That this resolution be presented to the Board of Governors of the National Health Federation to take any and all action which they deem needful to carry to a successful conclusion the intent of this resolution.

RESOLUTION NO. VI

Whereas the right of a duly licensed physician to treat a patient as he sees fit has been repeatedly held sacrosanct in past judicial opinions in this country; and

Whereas the recent extension of the authority of the Food and Drug Administration under the Kefauver-Harris bill to supervise the effectiveness of therapies, as well as their safety, directly threatens this right: Now, therefore, be it

Resolved:

1. That Congress enact immediate legislation to modify the existing Kefauver-Harris bill, removing from the Food and Drug Administration this extension of authority and restoring it to its original purpose of guarding the safety of foods, drugs and cosmetics in this nation; and be it further

Resolved, That this resolution be presented to the Board of Governors of the National Health Federation to take any and all action which they deem needful to carry to a successful conclusion the intent of this resolution.

RESOLUTION CONCERNING ENFORCEMENT BY POLICY OF PROPOSED FOOD SUPPLEMENT REGULATIONS WHICH ARE NOT LEGALLY EFFECTIVE

RESOLUTION NO. VII

Whereas the Food and Drug Administration has adopted a practice of requiring special and different labels and labelings on foods for special dietary uses which have been subject to "Notice of Hearings," than those required on similar products which are in competition but which have not been subject to hearings, the effect of which, in some cases, is to require restrictions and limitations in labels and labeling based upon FDA policy and not upon the provisions of the Federal Food, Drug, and Cosmetic Act and the regulations relating to foods for special dietary uses; and the further effect of which is to enforce the provisions of the "new food supplement regulations" issued July 1962, and published in the Federal Register, notwithstanding the fact that such regulations have not become legally effective; and

Whereas such practice described above creates unfair competition among the manufacturers and distributors of competitive products: Now, therefore, be it

Resolved, That the Secretary of Health, Education, and Welfare promulgate an appropriate order forbidding the enforcement of labeling policy by FDA based upon proposed food supplement regulations which have not been made legally effective; and be it further

Resolved, That this resolution be presented to the Board of Governors of the National Health Federation to take any and all action which they deem needful to carry to a successful conclusion the intent of this resolution.

Senator WILLIAMS. You have been very helpful to us. Thank you very much.

We have a request from Mr. Clinton Miller who is a Washington representative in the health federation just referred to a moment ago by Director McKinnon.

STATEMENT BY CLINTON R. MILLER

Mr. MILLER. Mr. Chairman and Senator Neuberger. We wish to compliment this committee, as we complimented the committee on January 15 last year, for being on the job before any of the Senate committees.

We are on the job 2 days earlier than we were a year ago. We also compliment you because of the courage you have to tackle a problem which we have avoided far too long in America.

We agree with one statement of Mr. Miner. He stated earlier that he felt more people are killed by quacks than by all other kinds of criminal activities put together.

We respectfully disagree with the previous witnesses in their method of finding the quacks who are doing the unnecessary killing. The purpose of our testimony today is to suggest you a more fair set of rules by which we can decide who the criminal quacks are. A dignified Senate subcommittee hearing should not be used as a platform to smear the second largest healing art as has been done for 2 years now, to smear all unorthodox approaches to health.

We believe a better quack detection method should be introduced. It is called the experimental scientific method, not science by decree, not science by smear, but experimental science by the plain old fair test. We have heard today almost entirely from American Medical Association dominated spokesmen.

It is important after we have generalized about quackery to settle down on a few specific targets.

Dr. Annis who is president of the AMA has publicly labeled Krebiozen as one of the greatest frauds of the 20th century.

It would seem proper, therefore, that this committee concern itself first with the AMA and what they would have us believe is the greatest fraud of the 20th century.

For 13 years the Krebiozen controversy has raged and during this time millions of Americans have died and billions of dollars have been spent on surgery, drugs, and X-rays.

This year, 1964, is destined to be the showdown year for Krebiozen. This committee can do no better service for mankind than to hasten the showdown by scheduling public hearings at its earliest possible convenience.

Chicago is the logical place for such field hearings. It is the headquarters of the American Medical Association. It is also the home of the Krebiozen research foundation. It is the home of Dr. Annis, Dr. Durovic, and Dr. Ivy. They claim that two Chicago businessmen and former treasurer of the AMA tried to gain commercial control of Krebiozen 13 years ago.

Failing to gain control, the AMA treasurer engineered the placement of a falsified article in the Journal of the AMA in October of 1951. This evaluated as dead or dying five Krebiozen users who had been listed as alive and living by Dr. Durovic and Dr. Ivy.

At the present time Dr. Ivy and Dr. Durovic claim these five cancer victims are surviving on Krebiozen and are alive today.

The AMA still informs its members that they are dead.

A doctor cannot be blamed too severely if he makes a wrong decision on the efficacy of Krebiozen based on false reports from AMA officers.

We urge this committee to use its subpoena power to see if these five Americans are alive or dead. If they are alive 13 years after they

were reported as dead or dying by the AMA, then a fraud against all Americans and all humanity has been committed, not by Dr. Ivy or Dr. Durovic as claimed by the president of the AMA, but by the American Medical Association officers (as distinguished from their members) themselves.

If these five patients are dead and were dead at the time or soon after October 1951 as claimed by the AMA article, then Drs. Ivy and Durovic are guilty of fraud.

It would seem proper after more than 3 million Americans have died during these 13 intervening years that we should demand that before the public gaze of newspapers and of television and of radio that Drs. Durovic and Ivy produce these five cancer survivors which they allege are alive on Krebiozen or that the AMA produce proof that they have died.

In the committee's determination of how soon to hold the suggested Krebiozen hearings we draw the committee's attention to the fact that an American dies every 2 minutes with cancer.

We are urging that these hearings be scheduled at the earliest possible convenience of the committee. We are aware as we make this request that the Food and Drug Administration has recently claimed that Krebiozen is only creatine. This is doubtful. Two of America's largest drug companies have offered \$1,600,000 for what the FDA says is less than \$1 worth of creatine.

These two companies were Abbott Pharmaceutical Co. and Lilly Pharmaceutical Co. On December 6, Senator Douglas inserted into the Congressional Record their letters offering to buy Krebiozen. I believe at that time, Senator Neuberger, that I was in the gallery and as I remember it, in that same congressional record you made the statement which I believe had the implication of the headlines that we read yesterday as far as the tobacco report is concerned.

As I remember it the AMA had come out and indicated a proposed action in reference to the forthcoming tobacco report which might have changed completely the type of headlines we saw in the San Francisco Chronicle last night.

I was tickled to death when I came back to San Francisco to see the San Francisco Chronicle properly report a Government committee, but if it hadn't been for your remarks on December 6, that may never have happened.

We have watched you, Senator, warn America as a voice crying in the wilderness on the health hazards of smoking. We never hoped or anticipated that we could have been this far along so early. It will take some time to stop people from doing things that cause cancer. In the meantime we should give Krebiozen a fair test.

I should like to draw attention of this committee to the incredibly harsh standards that were set up by the National Cancer Institute of the National Institutes of Health to prevent the testing of Krebiozen.

Under these unfair standards the National Cancer Institute has refused to test Krebiozen and have said that they would continue to refuse to do so even if Drs. Ivy and Durovic could hypothetically take every cancer patient in America and stop their pain with Krebiozen.

Further, if by using Krebiozen they could take every single cancer patient in America and stop the growth of every single cancer and, what is more if they were able to reduce the size of every single cancer

by 49 percent, the National Cancer Institute would refuse to test Krebiozen. These are the harsh standard National Cancer Institute applied when their so-called jury met in Bethesda. They disregarded every case of pain relief only. They said if it only reduced the pain that it didn't mean anything.

They disregarded every reported case that had arrested the growth but not reduced the size of the cancer. They threw those cases out. Unless a patient had a cancer that had reduced in size by more than 50 percent they didn't consider it.

There were 504 cases which were submitted. Even under these incredibly harsh standards there were still several Krebiozen cases which passed.

It is interesting also to note the built-in bias of the so-called NCI jury. They were all on the NCI payroll, directly or indirectly.

I believe that the Senator from New Jersey, as an attorney, has had experience with a jury. The most important prerequisite of a trial by jury is to be sure we have eliminated bias or conflict of interest among any of the jurors.

This is the first thing that has to be eliminated before a jury is impaneled. The word "jury" is a sacred word in America and we know if a man sits to determine the life or death on one person, let alone 250,000, we allow attorneys to argue and challenge at great length to be sure jurors have no bias.

Let us examine the bias of this NCI jury. Half of them were employees of the Food and Drug Administration or the National Cancer Institute and the other half had received or were receiving grants totaling millions of dollars.

During the time that this so-called jury was impaneled and was sitting out in the motel, it was not locked up like most juries. While the jury deliberated the Food and Drug Administration came out and announced to the world that Krebiozen was nothing but a cheap chemical creatine. They said the body produces 1 gram every day. This prejudiced the jury. How could they find justification to test Krebiozen?

If a similar situation were to happen in a criminal trial with only one person's life at stake it would be recognized by all Americans as a miscarriage of justice.

I should like to submit for the record some charts that were not put in the Congressional Record not because nobody wanted them, but because the Congressional Record doesn't print charts.

(Attached but not reproducible.)

Mr. MILLER. Senator Douglas presented this material December 6, 1963, but he was not able to have it printed in the Congressional Record. The Food and Drug Administration announced to the world they had, by spectrogram analysis, proved that Krebiozen and creatine had identical spectrogram fingerprints. It must be noted that Durovic was asking \$175,000 for a gram of his product.

He was using only one one-hundred-thousandth of a gram per ampoule.

This was the ampoule that Abbott and Lilly offered to buy for \$8 when they offered to buy 200,000 of them for \$1,600,000. Yet the FDA said that they had discovered Krebiozen had "identical fingerprints" with creatine which cost less than \$1 a gram.

Senator Douglas got a medical adviser to put the charts on top of each other properly and if you do that you will notice a significant

difference in those two charts. You can show this to any high school student and take off the name and any other identifying signs and they can pick out the fingerprints of Krebiozen and they can pick out the fingerprints of creatine every time.

What the Food and Drug Administration did was to slip these two charts down so that in the area of the greatest difference it canceled it out. This deceptive FDA chart was published in Life magazine and recently in Saturday Evening Post.

Both magazines have had the opportunity to publish a corrected copy but they chose not to. It is a standard procedure in comparing spectrograms to mark a chart to see if there is any variation. No variations or "identical fingerprints" will produce a straight line.

See figure 4. This is a straight line as pronounced by a decree of the Food and Drug Administration.

Senator WILLIAMS. Could you pause there, Mr. Miller. We do have a few others who want to speak and it is getting very late. If you want to amplify your statement put it in writing and we will put it in the record I assure.

Mr. MILLER. I certainly will.

Senator WILLIAMS. I want to identify the National Health Federation; who are the members?

Mr. MILLER. The members of the National Health Federation are people who believe in freedom of choice in matters of health where the exercise of that freedom doesn't endanger their neighbors, and thereby deny them an equal freedom.

Senator WILLIAMS. Are they individuals?

Mr. MILLER. Yes.

Senator WILLIAMS. Is there a membership fee?

Mr. MILLER. Yes, we charge members \$5 a year. They receive a monthly bulletin which we publish. We are opposed to monopoly in health matters. The National Health Federation on October 25 and 26, 1963, in Washington, D.C., held a congress to focus national attention to the AMA's health monopoly activities. It was our first National Congress on Health Monopoly. A competing congress was held by the AMA and FDA at the same time. They called their congress the second National Congress on Medical Quackery. It was here that Dr. Annis called Krebiozen the greatest health fraud of the 20th century. Six M.D.'s on our program warned against America's growing medical monopoly. They charged that the AMA was using the FDA and NCI to extend their monopoly.

STATEMENT OF THE NATIONAL HEALTH FEDERATION

(By Clinton R. Miller, assistant to the president)

Mr. Chairman and members of the committee, the National Health Federation is a nonprofit, health rights corporation with its main offices at 211 West Colorado Boulevard, Monrovia, Calif. Our Washington office is in the Continental Building, Suite 303, 1012 14th Street NW., Washington, D.C.

The NHF is a national organization, composed of thousands of members who believe in freedom of choice in matters of health where the exercise of that freedom does not violate the equal freedom of another.

NHF PRIMARILY CONCERNED WITH FRAUD-FINDING PROCEDURE

The National Health Federation is more concerned in our testimony today with the procedure, by which the State and Federal Governments determine if a cancer treatment is a fraud, than we are with the answer. If the procedure is right, the

answer will be right; but if the procedure is wrong, any right answer would be accidental, certainly not predictable, and the hazard to the welfare of the people and to a legitimate discoverer of a new treatment is incalculable. We wish to make it clear that the NHF does not in any way endorse Krebiozen, Laetrile, Mucorhizin, X-ray, radium, surgery, or any other specific cancer therapy under discussion.

The NHF simply challenges the presently established procedure being used by both Federal and State governmental agencies to determine the truth or falsity of claims of unproved or unorthodox treatments for cancer. While we have limited our arguments before this subcommittee primarily to the cancer problem, the same principles we argue here will apply to all facets of the fraud-detection problem.

RIGHT AND WRONG METHOD

There is a right and wrong way to expose frauds and quackery. We charge that the American Medical Association influences State and National health authorities to use a method which is not only wrong, scientifically, but favors the AMA policy of setting itself up as the only arbiter in medical science, eliminating all other competition in the healing arts, thus misusing the Government to further medical monopoly.

The reason the AMA fraud-detection method is wrong is that it is not based upon actual experimentation. Briefly, the AMA depends upon experts who have never used the treatment.

TESTING COSTLY; PRONOUNCEMENTS CHEAP

The expert may be perfectly honest when he says, "I know of no evidence that proves X agent effective in the treatment of cancer." He can further, truthfully say, "I do not believe that substance X could be beneficial in the treatment of cancer." Etc., etc., etc. Expert testimony of this kind is not a way to test the efficacy of any new agent or substance. It is only a device whereby a court or commission can record what orthodox medicine presently believes and practices. The expert simply announces the consensus of medical opinion.

How much does it cost to test a potential cancer cure and find out whether or not it is a fraud? According to testimony given earlier to this committee, it costs California one twenty-fifth as much as it costs the United States.

I noted with interest Senator Neuberger's surprise at the limited size of the California budget for the cancer commission. As I recall, it was \$50,000 for 1 year. It is worthy of note that for this sum five alleged cancer agents were pronounced worthless, and hence banned in California. This is \$10,000 per edict.

Senator Neuberger also asked about Krebiozen. The witness avoided this question, but I would like to go into it. Seventeen U.S. Senators, and 32 U.S. Representatives have cosponsored a resolution which would appropriate \$250,000 for a controlled test of Krebiozen. While the Senator from Oregon didn't express the thought, she may have wondered how California can test an alleged cancer agent for one twenty-fifth the amount it costs the Federal Government. The question bothered me, so following Mr. Miner's testimony, I asked him about Krebiozen. He said it should be banned. I asked him how he would go about banning it in the California courts. He said "By expert testimony, it's the only way."

EXPERIMENTAL SCIENCE VERSUS SCIENCE BY EDICT

The real issue today is whether or not we should bring experimental science to solve fraud charges in health matters.

The founder of modern experimental science, was Galileo (1564-1642), an Italian astronomer and physicist who was persecuted for insisting that actual experiments, not pronouncements of experts, must determine scientific truth.

At the age of 25 Galileo was made professor of mathematics at the University of Pisa. During this period he discovered a famous law of falling bodies. He reasoned that gravity pulls all bodies to earth at the same speed, regardless of their weight. To prove this he dropped a 10-pound and 1-pound weight from the top of the leaning Tower of Pisa. A crowd of students, professors, and priests looked on.

The success of his experiment resulted in bitter opposition from the followers of the Greek philosopher, Aristotle. That wise man had said that if a 10-pound weight and a 1-pound weight were dropped at the same time, the heavier weight would fall 10 times as fast as the lighter one. The people were suspicious of anyone who dared question the word of Aristotle. Galileo was forced out of the university.

The opposition Galileo faced, appears to be very much the same kind of opposition which the sponsors of unorthodox drugs face today.

It would seem that with this page of history behind us, anyone who claimed to be a scientist in 1964 would insist that any contested cancer treatment be proved by actual experiment.

The startling fact is that many citizens, and most Congressmen have assumed that we were living in the era of experimental medicine, and that the actions of the Food and Drug Administration, American Medical Association, California Medical Association, and California Cancer Commission in banning certain unorthodox cancer treatment methods were first based on experiments carefully and objectively testing the treatment in question. It comes as quite a shock to find out that this just is not so.

A careful reading of the language of the 1959 California Medical Association report that follows this statement indicates that there is no claim that the discredited cancer treatments were ever experimentally disproved.

The report is entitled "Unproved Cancer Treatment Methods." The word "unproved" is not at all synonymous with "disproved." In none of these has the treatment been given, figuratively speaking, the leaning Tower of Pisa test.

In all of them they have been unproved because the defenders of orthodox methods have persuaded the courts to prosecute rather than to experiment. The orthodox experts have then been called to testify and give their expert testimony and reveal the consensus of medical opinion so that the court could then do what the AMA or the California Medical Association could never legally do by themselves.

The courts have not determined what was true. The courts have allowed themselves unwittingly to be cast in the same incredibly unfair role that the church found itself playing at the time of Galileo. In 1632, Galileo's masterpiece, "A Dialogue on the Two Principal Systems of the World," was published. He was immediately summoned before the holy office, or inquisition. After a long trial he was forced to say that he gave up his belief in the Copernican theory (that the earth circles the sun) and was sentenced to an indefinite term of imprisonment. During his last 5 years, Galileo was constantly watched by the inquisition in his own home.

The National Health Federation does not defend any of the unproved cancer treatment methods listed in the accompanying paper, or discussed before this distinguished subcommittee. But it deplors calling them frauds before a fair test is run.

Our members insist that experimental science, not science by edict, is the proper way to establish a truth. We demand fair tests before condemnation for the "more prominent unconventional cancer treatment methods that have come to the attention of the (California) Cancer Commission." Krebiozen is the logical place to start at a Federal level.

The Chicago Krebiozen hearings urged by the NHF in our San Francisco testimony will reveal to this subcommittee and to the Nation whether the condemnation of Krebiozen by the AMA and certain governmental agencies is based on an experiment or on an edict.

I respectfully request that at the end of my written statement that the attached pamphlet be included into the record of this committee hearing. This short pamphlet is entitled "Unproved Cancer Treatment Methods." It was originally published by the Cancer Commission of the California Medical Association. It has been reproduced by the NHF to help State and Federal legislators see the defects in the legislation which set up the Cancer Commission of California. Its language substantiates our testimony.

Senator WILLIAMS. Thank you very much. You have come a long way to see us. Our next speaker will be Mr. Leaf Champagne from San Francisco.

STATEMENT OF LEAF CHAMPAGNE

Mr. CHAMPAGNE. I have had arthritis so bad that I was in St. Joseph's Hospital, and they were to operate on me and another person said to me: "Why don't you consult another doctor?" So I did.

The other doctor said he would take me home and know within 2 weeks' time if I would be all right. So, I was; and he told me what to

eat and that arthritis is caused by chlorine deposits in the joints and—that was calcium—and for me to keep away from these foods. Since that time I have been perfect.

Of course, had I stayed there another few months I would never have been able to recover.

Senator WILLIAMS. Thank you, Mr. Champagne.

STATEMENT OF CHARLES ORLANDO PRATT

Mr. PRATT. My name is Charles Orlando Pratt. I am a practicing attorney in Washington, D.C. I am a former legal adviser to the Federal Food and Drug Administration and former general counselor to a select committee of the House of Representatives and I have practiced before the highest courts of this country.

I sat here throughout this hearing today and I was impressed with the stories. It seems to me that there is no need at this time for any new law in connection with the protection of aged people involving quackery or quackery cures, for the reason that the Federal Food and Drug and Cosmetics Act of 1906 as amended in 1938 and again modified in 1940, plus the regulations and interpretations by the court decisions, plus the Drug Act of the Harris-Kefauver Act, have given us sufficient laws to enforce everything that was described here that goes into interstate commerce.

For anything that doesn't go in interstate commerce, the State laws, I am sure, are adequate and can handle it through the various laws relating to fraud, deceit, or misbranded items.

The Government has standards for food and for special dairy use. We have narcotic laws, drug laws, and in addition to that we have many other laws dealing with these things.

You have the Federal Trade Commission laws and the Post Office laws relating to fraud, and I say perhaps that the Federal Food and Drug Administration, and perhaps the U.S. Department of Health, Education, and Welfare needs more money to carry out the functions that they now have.

Perhaps some grant should go to the States to assist them in the enforcement of this law, but I am sure there is not a crime that isn't covered by the present statutes of the State of California and by the Federal laws. I say that we should get more money to these agencies if they need it.

The FDA says there is no special nutrition for the aged and that the same nutrition applies to everybody. If that is true there is no particular quackery for them. There should be laws to protect those that are not mentally competent to protect themselves.

I was invited to go before the Legislature of Missouri in connection with a law to stop the sale of foods for special dietary use. Then I found out the reason the law was introduced—it was because a constituent of one of the members had asked her representative to pass a law keeping her from spending \$15 a month for a food supplement.

There is a State food and drug law in existence and since I was back there more States have adopted these laws; so, I would suggest not more laws but perhaps more efficient administration of the present laws and perhaps a greater apportionment of money. I think that will solve the problem and save the additional money perhaps for

hospitals or for the care of those in the nature of grants, for the institutions that can take care of those people who can't afford it.

Thank you.

Senator WILLIAMS. Thank you very much, sir.

STATEMENT OF HARRY STUVER

Mr. STUVER. My name is Harry Stuver of San Francisco. I am here in the interest of the senior and junior of the Golden State. I want to say that in my experience and study and following of the law it isn't a question of how many laws we have but it is a question of enforcement.

Today we treat under the law every man equally. Every man is innocent until proven guilty. You cannot prove him guilty. There is no possible way to prove him guilty unless you catch him in the act.

Unless the law is changed, you cannot prove him guilty so every change is a suspicious criminal until proven innocent. We aren't really going to get anywhere. I agree with one of the former speakers that there is no way possible where anybody regardless of age can determine the quality and quantity of the merchandise in the self-service stores. More elementary education is needed in the fundamental facts of life from the first grade on up for children and the basic needs of life. As an illustration of what I mean, I gave to you Senators a package at noon. It had a little piece of meat in it. I am speaking of this as an illustration of law enforcement.

My wife and I bought a piece of a sirloin tip roast last Saturday, and we put it in the oven and it came out in a little roll like this [indicating] that would not cook.

Today I tried to find out what was wrong with the meat. I have spent 25 years behind the meat counter as a butcher and I never had that experience in all my life, but that is the second experience I had of that kind because we attended one night a banquet in one of the night clubs and the meat was served to some of the people at our table. That meat was similar to what I handed to you. It was soft and tasted like liver.

Today I called the Federal Bureau of Meat Inspection. They said they couldn't handle it, that they would either have to contact the State food and drug department—I called them and they couldn't do a thing—or that I would have to call the city sanitation department.

I contacted the city sanitation department and they said they couldn't do a thing. They said they would send an inspector out and he could look around the room and see if the room was clean. If I would come in and file a complaint against the market they would investigate it.

Well, my wife got pretty sick after dinner so we were not sure whether this was the meat or something else. At any rate that is the trouble with law enforcement. I could not present that meat anywhere today and ask about the quality, whether there was anything wrong with the meat, whether it had been treated or not. That was my complaint—that this law enforcement isn't a question of how many laws or books we have, but how we use them.

We have too many books now that take up the time reading them and does not leave enough time to act. That is my complaint,

Senator, and I would like for you to consider that every man isn't dishonest until proven that way.

Senator WILLIAMS. Let me ask my friend Mr. McKinnon about this.

Mr. McKINNON. His approach in this case should have been to the bureau of animal industry of the State department of agriculture, who would have taken immediate action had there been anything wrong with the meat which happened while this was in their jurisdiction.

I hope his oven was working properly.

Mr. STUVER. I have the meat here.

Senator WILLIAMS. Well, why don't we give it to Mr. McKinnon and let him see what he can do about it.

(Mr. McKinnon later said the meat was frozen when cooked.)

STATEMENT OF MARION CONRAD

Mrs. CONRAD. My gripe if you want to call it that, has to do with a hearing aid problem. I have been wearing hearing aids for about 30 years and in that time I have never come up against this particular type of trouble.

I turned in a hearing aid here in San Francisco because I couldn't get anybody to take care of it in San Jose. The man has gone out of business. On several occasions they had a new man, and they never informed me when they put a new man in, so I came looking for one and found one in San Francisco.

He took it and sent it back to the company for repairs. They kept it for 3 weeks. In the meantime I was supposed to get along with my left ear, which wasn't as good as the right ear.

I went to a local San Jose man, and he fitted me out with another type of hearing aid. I got along quite well with that aid. In fact, I did better than with the repaired one that came back to me. I objected to the man in San Francisco because the hearing aid was not functioning properly.

I decided that they mustn't have done much to it except to repair the broken tubing, which would have been a minor repair. They were charging me \$90 for the whole repair job.

They said that they repaired it. I wrote to the company in New York, and they didn't reply except to find out what my old hearing aid had wrong with it.

This took place back in July, and right now I am at the point of being sent to court to defend my rights. I am not paying my \$90 because I didn't get an itemized bill. If you had a radio repair shop or TV set or any other repair job you would get a bill which would state exactly what the person did to the object you were having repaired including the labor costs.

I got no such bill and I still demanded one and I will not pay the \$90 even if I have to go to small claims court.

Senator WILLIAMS. Thank you very much.

STATEMENT OF IRENE GROSZ

Mrs. GROSZ. I am here to see why or if you Senators will be kind enough to look into the racketeering in the clinics, and also the AMA, and a good many doctors here in San Francisco.

If we are over 65 and are on welfare we are pushed from one doctor to another. If we are quite bad they will give us medicine that will perk us up for a week or so, and we will feel fine. We go back for our appointment and tell them how we feel, and they say: "You don't need that medication but I will give you a prescription for another kind." And then they knock you out where you are sick for 2 weeks, and you can't stand up and then they send you to another doctor.

Chairman WILLIAMS. What clinics are you speaking of?

Mrs. GROSZ. The one I am speaking of in particular now—they are all the same at various times.

Senator WILLIAMS. Who runs them, whose responsibility are they?

Mrs. GROSZ. They are all in the hospitals like Mount Zion, Presbyterian.

Senator WILLIAMS. You are talking about private hospitals?

Mrs. GROSZ. Yes. These are practicing doctors. They have licenses and they are on Post Street and various places. I know of a man who got sick about a year ago. He was referred to this doctor—the doctor he had before went back east but he was practicing here. After 8 or 9 months the doctor was gone and he went to the other doctor and the other doctor asked him how he felt and he gave him some medicine, some pills.

He went back and said he felt good and didn't need these pills. The doctor told him he wanted him to see this other doctor. He went there two or three times and he wrote him out a prescription. He took the medicine, and on a Thursday he found out he was breaking out in a rash. He went back and told the doctor he was breaking out in a rash but the doctor told him to go ahead and take it. On Saturday morning the hotel sent for me and said the man was sick and in pain. When I went in there he was swollen from the top of his head to his toes. The blotches were this big [indicating] all over his body.

There was no place that he didn't have any. I tried to get the doctor, and after an hour and a half he said he couldn't come over but he was going to send somebody.

From 10 o'clock Saturday morning until 3:30 Saturday afternoon I didn't see anybody, but they finally sent a doctor over.

He said he had never seen anything like it in his life. He wrote out a prescription, \$3.50; and I found out it was only 4 ounces. It took that much to cover the entire body.

The next morning I went to the drugstore and got 4 ounces more. I came to find out I could be using baking soda and water and it would have done the same thing, but I didn't know that.

He couldn't stand the pain. Then he wouldn't go back there anymore, and he went to the clinic. The clinic called and two or three interns and another doctor and you never saw anything like it in your life. How the man lived through this I don't know. He wasn't given any medication and they told him to go home and the next week he had him come back four times and finally sent him to somebody else.

They wanted X-rays, and he had X-rays taken at the clinic—chest X-rays, abdominal X-rays, blood tests, urinalysis—and the clinic had it all done over again.

He wanted a week or two off and he went back and they said that they would have to have more X-rays. They took X-rays all over again and he said that he wanted to be helped, that he was in pain, and why did he have to go through all of this again and spend this money.

They asked him why did he care because the Government and the State pays for it. What did he care about the cost for? He said, "What do you care; it costs you old people nothing. You come up here and complain because it costs money, but you ate out a dime." He told them that that was the way the racket goes in the State on old age. If he wanted \$5 more a month he couldn't get it, but the doctor can write out any order and any prescription. When they have you sign the paper they won't tell you what the cost is.

They tell you to never mind; just sign it; it is none of your concern what the cost is. Why doesn't the patient know what the cost is just the same if they were paying it themselves? Do you know the millions of dollars they spend because they have a doctor on their name?

If we buy medicine, bromo quinine, the welfare won't refund us a dime. This is a racket and I went to welfare two or three times and tried to explain to them and tried to explain it to the people there and I went upstairs and we all know it is a big racket but there is nothing you can do about it. I wish to God they would do something about it and do a better job. It is just like when they built the housing a few years ago, we haven't got into it yet.

They built two but we aren't in it. Everybody who has a baby is in there but the older people haven't got in there. Is there ever going to be a project built for us old people?

Senator WILLIAMS. I would think so.

Mrs. GROSZ. They spent \$22 million on Golden Gate Avenue, but there are no older people there.

Senator WILLIAMS. I know they have some programs, and I hope the city of San Francisco avails themselves of them.

Mrs. GROSZ. They are pulling the belt buckle and we simply cannot exist.

STATEMENT OF MRS. MARY I. LEIGH

Mrs. LEIGH. My name is Mary I. Leigh. My address is 2836 Fulton Street, Berkeley. I want to say a few words in defense of the chiropractors. There have been several comments today against them, and I want to say something in defense of the chiropractors.

There are many ethical and honest and able chiropractors, just as there are medical doctors. I see that no representatives of the chiropractor profession were invited to attend this meeting. In defense of them today I would like to know why they haven't a right to be invited or told about this so that they could come in as their own defense.

Senator WILLIAMS. I think the testimony was just as you have expressed it. There are chiropractors who abuse their licenses as well as chiropractors who honor it and do a good job.

We didn't know what direction the testimony was going to take in this hearing. Of course, this does not close our hearing by any means.

Here it does, but there will be other sessions.

Mrs. LEIGH. About 35 years ago I was in an automobile accident, and due to that arthritis formed on my right spine. One of the medical doctors whom I interviewed at the time told me after the X-rays that I had one of the worst cases of arthritis of the spine he had ever seen.

He and other doctors I interviewed could not help me, except for giving me aspirin and more aspirin. I want to say that after taking treatments from three different chiropractors over a period of years I have been able to do office work and also selling. I know if it hadn't been for them that I would either be in a wheelchair or 6 feet under at this time.

That is why I am here today in their defense.

Thank you very much.

Senator WILLIAMS. We appreciate that very much.

STATEMENT OF EDWIN A. VERNER

Mr. VERNER. I am a private practicing civil and structural engineer. I am here as a private citizen. I have one question that I had hoped to raise on a point that the deputy district attorney, John Miner, brought out this morning. The point as I understand it and as it stands on the record now is this, that out of many billions of dollars that have been collected from unsuspecting citizens in our country today 80 percent is taken from the aged, that is, people over 65 years of age and in the amount of \$5 billion.

It is my feeling that the figure \$5 billion taken from people over age 65 is important enough that it should be documented, catalogued, or in some manner listed in detail as to just what the sources of those frauds are.

I shouldn't say the sources, but the ultimate resting places of those large sums of money. One of the sources of this is the health food stores which have been mentioned, but there are probably many other ultimate resting places: Drugstores and possibly chiropractors, possibly properly licensed M.D.'s, and also as I understand the testimony, it referred to people purveying these mechanical devices of questionable effectiveness.

It is my belief that if the documentation of this \$5 billion is as it should be it would seem to me that the evidence should therefore be available for prosecution and it would seem that there would be \$5 billion worth of prosecution if our present laws are being effectively administered.

My question is addressed therefore to Deputy District Attorney John Miner with a request that he, if possible for the benefit of your committee, gentlemen, document in a little better detail all important figures concerning the \$5 billion.

Senator WILLIAMS. It is a good suggestion. I didn't hear the figure \$5 billion. I know that the people of authority have mentioned a billion dollar figure but the \$5 billion figure is a new figure to me. I do think it important that we find those who can help us break down the overall figures and the various components as well as can be established.

Mr. VERNER. Thank you very much.

STATEMENT OF MARSHALL T. PATEY

Mr. PATEY. My name is Marshall T. Patey, P-a-t-e-y. I live at Hotel Senaca, 34 Sixth Street. I am 74 years of age or thereabouts. I came to this meeting as I have previous meetings because I am interested in such meetings. I was deeply, or, rather, keenly impressed with the words of the two ladies who spoke this morning: Mrs. Tibbs and Miss Tomlinson. The question that was propounded to one of them was this: Why do these people go to these quacks? I consider that a very important question. I can speak only with observation and experience as apart from any scientific knowledge.

There is no prefixes or suffixes attached to my name. I am a layman, and I am proud of the fact.

Senator WILLIAMS. What is your occupational background, Mr. Patey?

Mr. PATEY. Originally when I was a young man, which is many years ago back, I taught schoolteachers. Later I got into business for myself. I also worked for the railroads during World War I and later landed in San Francisco about 40 years ago. I resided there a good part of the time and was in culinary work.

Without further discussion on that, unless you wish, I will continue with my discussion. The question of why they go to quacks. It has been aptly said that the greatest of all faults is to be conscious of none. May I paraphrase that and say that the greatest of quacks, it appears to the speaker, sometimes end up in the medical profession.

There are many able doctors. I have the greatest respect for the profession but I certainly do not have any respect for those who don't try to get the unworthy ones out of the profession and as they try to keep these people they call quacks from practicing in their art.

Senator WILLIAMS. I know what you mean.

Mr. PATEY. That is just as imperative as anything else to me. These words may seem a little bit harsh to the medical profession and I am very sincere when I say them.

I like a good doctor and an intelligent doctor, a sincere doctor, one that I can put trust in. It comes to pass, in the last few years, that the public has lost confidence in the medical profession and therefore they seek other avenues.

If the doctor wants the people to trust him, then he has to keep a clean house so to speak and be fair with people when they come to him. Kindness and patience are two inseparables that have no substitute when the sick seek aid, yet some have been turned away with a frown rather than a patient look.

When I mention these things about doctors it is nothing but right that I should mention a few of their characteristics. I shall refrain as much as possible from personalities.

A few years ago the American California Medical Association selected a man over at the University of California—a psychologist—to find out why there were so many malpractice lawsuits. He found out through investigation that 16% percent of those that he had investigated were mildly or severely psychotic. Can you blame the people from backing off and going to doctors that are supposed to be of good repute and still go to these quacks? They are inviting it themselves.

A few years ago, less than a year ago, I think the State of California hired a chief doctor for one of the institutions and there was quite a writeup in the paper, the Call Bulletin, March 7, 1961, about this man; but I think he is still on the job.

There was a psychiatrist who was held as a thief about December 7, 1960, Call Bulletin. People read these things. There was a doctor held for wiretapping and was finally convicted of that, if I am not mistaken, November 7, 1961. They got Dr. Henderson on tax evasion, a fine and probation is what he received, San Francisco Examiner, August 5, 1961.

I am not dealing with these. I am just telling you where you can find them if you doubt it. Another doctor committed suicide. This is the San Francisco Examiner.

They also state that 3,000 people are sent to institutions annually and they should be taken care of here in our own community. The greater part of them should be, I feel.

Do you want to go to a doctor who has been convicted of trying to poison his wife? I know there are some of these charges that are magnified and erroneous, but sometimes a person who is accused has a greater problem than the accused.

This you will find in the Call Bulletin, October 10, 1961. The doctor claims he has vengeance. Maybe he does but if you and I claim vengeance we have a persecution complex. Sometimes that is true but many times the accuser is wrong also. There was another doctor arrested for dope. How can people, how can we, trust these people?

Examiner, December 15, 1961: Now, here is another article in the paper concerning faith healing, and this was in the paper and I want you to listen to this carefully. More than 100 proven incurable cancer victims have successfully recovered without reason; perhaps prayer cured them. The Lord works in mysterious ways, and that is too mysterious for anyone, even if you are a doctor. I am not upholding that as a doctor, but that is a cure for some people because as you feel confidence in the thing you are better toward being cured.

"Dr. Cox arrested for extortion, trial January 16, 1962."

It is all here, and you can read it for yourself. Some people have had fear put into them by doctors to the extent that one girl here in San Francisco jumped out of the window and committed suicide because she was afraid of doctors. A doctor should be your best friend but you are not going to incur the good will of the doctor or him the good will of the patient if you are not kind and thoughtful and use the advice he gives you.

I might mention that a doctor was convicted of uxoricide. This was down in Los Angeles a few years ago and he is now serving time in the penitentiary. We all know this dirty story about the doctor in San Jose, Dr. De Kapalny.

Senator WILLIAMS. Is this all right for the record?

Mr. PATEY. It suits me. He is serving time now.

Senator WILLIAMS. We will take a chance with it.

Mr. PATEY. He got convicted and according to my opinion if there is such a time as hanging being right, he should receive that. Chronicle, May 15, 1963, "M.D. Jailed for Drugs."

Now, this is why people go to quacks. I think they are becoming disgusted with the doctors. Let the doctors get white and we the people will go to them and show them this kind of respect.

This kind of respect is the beginning of wisdom. So said Mr. Emerson, and I think it is true.

Senator WILLIAMS. I certainly appreciate your remarks.

Mr. PATEY. I sympathize with this man sitting over there and I don't know the heart of his case but I think he is telling the truth.

Senator WILLIAMS. Thank you very much. It was an exceptionally good ending for this hearing. We will keep the record open for 2 weeks for any other items that anyone wishes to submit. I will express publicly and I certainly want this to be spelled out in the record. I want to commend all of the members of the staff who have worked ever so long and ever so successfully for one of the most informative hearings I have ever enjoyed. While I wasn't here earlier in the afternoon I know Bill Oriol and the others had everything in hand.

Thank you very much.

(Whereupon, the Senate subcommittee adjourned at 6:50 p.m. of the same day.)

(The following information was supplied in accordance with the above instructions:)

APPENDIX

CALIFORNIA HEARING AID DEALERS ASSOCIATION,
Beverly Hills, Calif., January 25, 1964.

Re Subcommittee on Frauds and Misrepresentations affecting the elderly—held at
San Francisco, Calif.

*U.S. Senate,
Special Committee On Aging,
Washington, D.C.*

(Attention of Senators Williams and Neuberger):

The California Hearing Aid Dealer's Association (CHADA) was represented at the subcommittee's meeting in San Francisco by Leon Strauss, vice president, and Edward J. White, director, on the board of CHADA. We felt that a written answer to the questions raised would be more satisfactory, as the subcommittee could review this answer at its convenience.

CHADA feels that the majority of hearing aid dealers are ethical, honest, and hard-working individuals, who give considerable time, service, and help to the hard of hearing. The average hearing aid dealer is as much concerned with the welfare of the hard of hearing, as he is his own.

It cannot be denied that there are unethical dealers, just as there are unethical persons in every profession, be they doctors, attorneys, dentists, optometrists, judges, lawmakers, laborers, or what have you. Our dealers would not have any more unethical persons in their numbers than any other profession. As a whole, our dealers are civic minded individuals, and rank high in the respected members of the community.

CHADA works unceasingly to upgrade the merchandising of hearing aids. Every member of CHADA signs a pledge for ethical business performance. CHADA also has two judicial committees, one in southern California and one in northern California. It is the duty of these committees to cooperate with all better business bureaus, to investigate and settle all complaints brought to the attention of CHADA, or the better business bureaus.

In the past 5 years, approximately 300 complaints have been filed. All but about 15 of these cases have been settled. Over half of them merely by making a phone call. The complaint is made in writing to CHADA, and the judicial committee visits the dealer, and goes over the case with him. A satisfactory solution is worked out for each case handled. The committee has done an outstanding job, and this is acknowledged throughout the State of California.

The small number of these cases in ratio to the number of hearing aids fitted represents an interesting and assuring performance by the California hearing aid dealers. There are some 2,500 hearing aids sold and fitted each month. This adds up to 30,000 hearing aids per year. Out of these 30,000 fittings, there has only been an average of 5 complaints per month, or 60 complaints per year. Percentage-wise this amounts to 0.002 percent who have seen fit to file complaints with the State Retail Association, CHADA. Two thousandths of 1 percent is an almost nonexistent percentage. This only serves to point out that the hearing aid dealers as a whole do endeavor to give good, wholesome, honest, and ethical service to their users.

The name of Eleanor Roosevelt was brought up during the hearing, and the fact that she thought the price of hearing aids was higher than some people could afford. We would like to point out two things, or thoughts in connection with this statement.

1. Unfortunately this is true of other things besides hearing aids, and include many necessary products and services. This writer could easily find many people in the course of an afternoon that are being denied things essential to their health and well being, because of a lack of funds. These people need special foods for their diets, surgical operations, cataract surgery and lenses, physiotherapy, specially built shoes, and a host of other products and services, all of which are denied to them because of a lack of funds. Even people on welfare cannot obtain all the drugs prescribed by their doctors, because some of these drugs are not on the prescribed approved welfare list.

We sympathize with these unfortunate people, and recognize that some of these vital services are beyond their reach. We, too, are a part of the free enterprise system of this country. As our economy is based on a sound financial free enterprise system, it is necessary that hearing aids be dispensed in a sound merchandising manner. Unless the various segments of business operate in a sound financial manner, business will collapse, and with its collapse the economy of the country will go down the drain.

2. This writer would also like to point out that Mrs. Roosevelt did an extensive amount of advertising for various hearing aid companies. It is my understanding that this advertising was not donated, but paid for by the several companies she advertised for. Advertising is a necessary part of the merchandising cost of any product. Merchandising is an established part of the American free enterprise system.

Mrs. Lucelia Moore from the Metropolitan Hearing Center of Los Angeles submitted a written report, which she read to the subcommittee. We thought she did an excellent job, but her report was colored by her own individual hearing loss. There are many different losses, and shades of losses, and not necessarily the same as hers. She was wearing a body aid, and her remarks were confined to this type of aid, and not applicable to the behind the ear, and eyeglass type of aid. Her statement, "Most hearing aid repairs are minor, and can be accomplished within a few minutes (removal of corrosion, replacement of batteries, cords, new ear molds)" is subject to examination. This type of service is confined to body type aids. I shall outline what I mean.

1. These are services that she has outlined and not repairs. These services are performed in the office by hearing-aid dealers, and in the home by consultants.

2. Conventional body type aids are easily serviced in the office. As they are not sealed they can be opened for removal of dirt, corrosion, cleaning of battery contacts, tightening of battery contacts, broken cords replaced, defective receiver buttons replaced, and either defective batteries, or exhausted batteries replaced. However, when some component part of the hearing aid circuit has failed, this aid must be sent in to the factory repair depot for the necessary repairs. Only large dealers in large metropolitan areas are able to maintain a repairman on the premises, and even then these dealers have to solicit repairs from smaller dealers to keep their repair shop open.

3. On ear level aids, we have a different service and repair problem. These aids consist of the behind-the-ear and eye-glass models. These aids have internal microphones and receivers, which vibrate within a thin rubber insulating boot. Eventually, this thin rubber boot will wear thin from the vibration. This in turn allows the vibration to be directly transmitted to the plastic hearing aid case, and this produces an internal feedback through the microphone. This is one of the most common ear level aid repair. As the plastic cases are sealed, they must be split, in order to make the repair. This means that cases must be available to replace a case half which breaks in the splitting process. This means an availability of parts for these various aids. Because of the technical work, the equipment necessary to split and seal these aids, it is not practical for most dealers to even attempt to accomplish these repairs in their respective offices. So this type of repair is done at the repair depots maintained by the various manufacturers.

The repair depots are not self-sustaining. While they must of necessity be maintained for the servicing of hearing aids, year after year they operate in the red. The operation of these repair depots must also be included in the cost of the aids.

Mrs. Moore states that she thinks a nonprofit center should be established to handle repairs. The law requires that all hearing aid dealers have an established place of business, where the hearing aid user may obtain service. This is only just and right. However, a majority of these offices operate at a loss. My office, for instance, is a good example of what we are talking about. My wife runs the office whenever I am in the field servicing our customers, and developing new ones. The profit derived from the sale of hearing aid batteries will just about pay my telephone bill. We frequently do not charge for repairs on aids, (aids that have been returned to the depot for additional repairs in a short time). Because of this, we do not show a profit on repairs. We do not charge for cleaning battery contacts, tightening contacts, cleaning and polishing of ear molds, replacement of tubing on ear molds, and a host of other services. We have people that just don't have the funds to pay out any extra, and we manage to have a few batteries (which are new and unused) which we tell them have been used for

a day and cannot be sold. We furnish loaner hearing aids to customers with no charge (we have to pay for these and maintain them in repair). We have frequently loaned a person a hearing aid, because we knew that in from 1 to 3 months a new model was coming out that would serve them better. It is in this writer's opinion that we already do have a nonprofit organization to serve the public with service and repair. Perhaps what we need to do is to tell the things we do in the name of humanity and charity.

For instance, I have kept a family in hearing aids for 2 years. There are a mother and three children with hearing losses. They landed in town broke, and I kept all of them going for 6 months, and then we were able to fit the mother with a new aid, at a considerable discount, I gave the oldest boy an aid, and have maintained it at no cost to them for 2 years. He's in high school and must have an aid. We are hoping that the Crippled Children Society will get him a new aid one of these days soon. We repaired the aids for the other two, until there was nothing left to repair. So I gave the smallest one an aid, and she paid me for the repair bill on the aid. We helped the mother get the other boy an aid through Crippled Children, and the aid was supplied by my competitor even though I also carry this aid. Taking a good look at this picture, I think I can say this has not been a source of profit, but rather money out of my own pocket.

I have another young mother whose aid cannot be repaired. I talked to both her and the husband before Christmas. They are in such a financial bind, it just isn't possible for them to purchase her a new aid. He asked if he could rent an aid for her until summer, when he'll be out on top of his debts. I told him that I'd lend her an aid, and did. She'll use it until summer with no charge, and at that time I'll fit her with a new aid. As they came from the Midwest, and were wearing a competitive aid, and all I've ever done with them is to sell them a few batteries, I wouldn't say that I've made money from these people. I am behind at the present moment, except for good will.

The above two incidents are current. I could tell you of many more, but feel that these two examples should be sufficient. What I am saying here is that the stories that have been circulated about hearing-aid dealers do not tell the complete story. Most of us do not shout about the good things we do from the roof tops—perhaps we should.

It is always easy to find someone to throw stones, and make disparaging remarks. For some reason these people always seem to make themselves heard. With a record of only sixteen ten-thousandths of 1 percent of the fitting in California winding up as complaints either with CHADA or the Better Business Bureaus, it is this writer's opinion that the derogatory statements made about California dealers as a whole are out of place, and completely out of proportion to their real status quo.

Last but not least, we come to the pricing of hearing aids. Much is said about the price, but little or nothing is said about the services we give, the expenses involved in merchandising, the hours spent talking to these people helping them with their hearing problems (and just because they have no one else to talk to). The M.D.'s offices are full of people who go to talk about their personal problems, under the guise of illness. We have the same thing, and help many of them with personal problems. A hearing aid dealer, is also a free counselor.

The State of California allows \$175 for a hearing aid for a recipient of old age assistance, unless the examining otologist recommends a higher priced aid, and then they will go to \$300. The \$175 is recognized as being an unrealistic figure, and the State will probably increase this allowance in the near future.

The charge was made that \$600 was too much for a binaural pair of hearing aids, and this was completely out of proportion pricewise. Now if the State of California will pay \$300 for a hearing aid, and one-half of the binaural costs \$300, this cannot be out of line. It only follows that if it is realistic for California to pay \$300 for one aid, then it must again be realistic for an individual to have paid \$300 per side.

The Veterans' Administration completely bypasses the hearing aid dealer, and fits the veteran themselves. Their aids are purchased wholesale from the manufacturers. According to the various available sources, it costs the Federal Government over \$400 for each aid fitted by the Veterans' Administration. This \$400 is more than the \$300 on one side of the binaural aid. In spite of this, no cry is heard over the country that the Veterans' Administration is wasting the taxpayer's money, which they are. Truthfully, a better and less expensive job is being done by private industry, than the Veterans' Administration. Yet our lower prices are subject to attack as being unrealistically high.

Bureau of Medicine Manual 24-25 pertaining to active and retired naval personnel sets the price of aids as follows: "Maximum price of the hearing aid shall be \$285 or no more than the going price to the public, or whichever is lower." This would mean that the Navy's price of \$285 is only \$15 less than the \$300 price tag of one-half of the \$600 binaural, which was quoted as being totally out of reason. Again I say, if this is an acceptable figure for the Navy, why isn't it for individual sales? In conclusion about these charges I would say:

1. Hearing aids are not unrealistically priced. The purchaser not only receives the aid, but the counseling and servicing necessary to give him satisfactory usage of the aid.
2. The fact that many people are not blessed with unlimited funds is not controlled by the hearing-aid dealers. This is a social problem.
3. Various State and Federal agencies substantiate our pricing structure.
4. Statements have been and are being made by people that know nothing about the hearing-aid industry. Most of these are half truths and not real facts.
5. Half truths do not present factual evidence, or reliable sources of information.
6. Hearing-aid dealers on the whole are honest, hard working, and ethical people.
7. The California complaints which represent only two-thousandths of 1 percent of the business done in California (and investigated by California Hearing Aid Dealers Association and Better Business Bureaus) serves to point out that the hearing-aid dealers as a whole are honest, hard working people, that do a magnificent job of serving the hard of hearing.

Yours truly,

EDWARD J. WHITE,
Director on the Board of CHADA.

P.S.—I am including an application for membership in CHADA. You will see that our membership signs a pledge of ethical performance. CHADA insists that this pledge be kept to the letter. I have also included a copy of the code of ethics of the hearing aid industry.¹ Our membership is also bound by these rules of ethics.

P.P.S.—I would add only one last comment. I have never met a wealthy hearing-aid dealer, but I have met wealthy doctors, dentists, and other professional groups.

¹ Filed with the committee.

CALIFORNIA HEARING AID DEALERS ASSOCIATION, INC.
404 North Roxbury Drive, Beverly Hills, California

APPLICATION FOR MEMBERSHIP

NAME _____ (Please print or type)

FIRM NAME _____ Phone _____

BUSINESS ADDRESS _____ City _____

HOME ADDRESS _____ City _____

LENGTH OF TIME IN THE HEARING AID BUSINESS _____
Years Months

THREE CHARACTER REFERENCES AND THEIR ADDRESSES:

1. _____
2. _____
3. _____

* * *

CHADA "PLEDGE OF ETHICAL PERFORMANCE"

RECOGNIZING that the continued respect of the hearing aid dealer depends largely upon public confidence, and

REALIZING that this confidence can be maintained only by evidence of moral responsibility as well as technical ability, and

DESIRING to evidence my acceptance of moral responsibility to the public,

NOW THEREFORE, I, as a member of the California Hearing Aid Dealers Association, Inc., do pledge myself as follows:

I shall conduct my business affairs fairly and equitably, guided by principles of client satisfaction;

I shall abide by the trade practice rules for the hearing aid industry as set down by the Federal Trade Commission;

I shall, at all times, provide the best possible service to those with impaired hearing, offering counsel, understanding and technical assistance which will assist them in deriving the maximum benefit from their remaining hearing.

(more)

Page 2

I have read and agree to abide by the provisions of the CHADA PLEDGE OF ETHICAL PERFORMANCE and the HAIC and SHAA CODE OF ETHICAL PRACTICES, and I will do everything within my power to promote the best interests of the industry. I hereby agree that if for any reason, voluntary or involuntary, my membership is terminated, I will cease and desist from displaying or using the California Hearing Aid Dealers Association in the promotion of my business. I further agree that in the event of such termination of membership to fully meet any and all financial obligations incurred by me in the Association, including any unpaid portion of my membership dues for the balance of the then current year.

Enclosed is my INITIATION FEE	\$ _____
DUES	\$ _____
TOTAL	\$ _____
BALANCE DUE FOR THE CURRENT FISCAL YEAR WHICH COMMENCED ON JULY 1	\$ _____

(I understand this is Page 2 of a 3-page document. I have initialled Pages 1 and 3 to signify that I understand and agree to abide by their contents.)

DATE _____ SIGNED _____

PROPOSED BY: _____
(name) (address) (city) (state)

WITNESSED BY: _____
(name) (address) (city) (state)

TO BE FILLED IN BY THE SECRETARY:

Date of Receipt _____ Date of Approval _____

(more)

FEBRUARY 5, 1964.

Mr. JOHN W. MINER,
Deputy District Attorney,
Los Angeles, Calif.

DEAR MR. MINER: William Boquist, the San Francisco Examiner science writer, reported January 14, 1964, that you estimated the cost of the quackery racket as \$10 billion.

Were you correctly quoted by Mr. Boquist?

He stated, "A \$10 billion death-peddling racket that preys on the fears and frailties of the elderly was described here yesterday to a special U.S. Senate subcommittee. * * * The \$10 billion estimate came from the day's most flamboyant witness, Los Angeles Deputy District Attorney John W. Miner."

Respectfully yours,

CLINTON R. MILLER.

COUNTY OF LOS ANGELES,
OFFICE OF THE DISTRICT ATTORNEY,
Los Angeles, Calif., February 13, 1964.

Mr. CLINTON R. MILLER,
National Health Federation,
Washington, D.C.

DEAR MR. MILLER: I wince at being described as flamboyant, but I cannot complain too vigorously because I was in error. The amount involved in the cost of medical quackery should have been in excess of \$1 billion, not \$10 billion. In my presentation to the Senate subcommittee, I used estimates and accredited them to the proceedings of the National Congress on Medical Quackery. Unfortunately, inadvertently the estimate of the Congress of \$1 billion was misread.

Thank you for calling this error to my attention. I am notifying Senator Harrison A. Williams, Jr., of the mistake.

Sincerely yours,

JOHN W. MINER,
Deputy District Attorney, Chief, Medicolegal Section.

CALIFORNIA CHAPTER,
SOCIETY OF HEARING AID AUDIOLOGISTS,
Los Angeles, Calif., January 29, 1964.

Hon. HARRISON A. WILLIAMS,
U.S. Senate, Special Committee on Aging,
Washington, D.C.

DEAR SIR: Thank you for your invitation to attend the hearing of your subcommittee, held January 13, 1964, in San Francisco. Because of the lateness of the hour, and the large number of the audience who wished to participate in the open "town meeting," I did not feel that I should impose further on your time.

As you no doubt know, we in California are working diligently on the problem of proper care of the aged in regard to the fitting and supplying of hearing instruments and services. This is a cooperative effort on the part of the State of California Department of Social Welfare, professional and educational groups, and the hearing aid dealers through their organizations. The problem of correction and hearing impairment is one of great complexity, and we feel that this combined approach will be fruitful and rewarding.

Presentations made before your committee were primarily concerned with improper fittings and service to hearing-aid users, together with what appeared to be excessive prices for the instruments and services. It is our contention that most of the complaints are caused by a very small percentage of the hearing-aid dealers. Specified procedures for the evaluation of hearing aids will tend to eliminate a great many of these complaints. It may very well also result in more uniform and acceptable price structure, inasmuch as the hearing aid dispensee will be obliged to conform to the requirements for competence and procedures, and will be subject to supervision. There has never been, to my knowledge, any concerted effort to determine the number of hearing instruments sold yearly in this country, and to further determine the percentage of complaints. Information such as this should be of great value.

The Society of Hearing Aid Audiologists was founded in 1951, and I am enclosing herewith a brochure which is a statement of the purposes and principles of this organization. Since the brochure was printed, the society has also established a "Basic Home-Study Course in Hearing Aid Audiology." Since the introduction of this course in January 1961, 1,001 home study courses have been distributed through the society's executive offices. Comprised of 18 lessons followed by an examination, this course is a prerequisite for certification. It is available to anyone interested in learning the practical techniques and methods used in modern-day fitting of hearing aids. Our California chapter was established under a charter from the national society in 1959.

In 1960 the society and the Hearing Aid Industry Conference, Inc., planned and adopted a code of ethics for our industry. This code was revised in January 1963, and we are enclosing herewith a copy of the revised code.¹

The Society of Hearing Aid Audiologists publishes a quarterly journal entitled "Audecibel." This journal is mailed to all United States and Canadian otologists, audiology clinics, speech and hearing centers, schools for the deaf and hard of hearing, teachers in university speech and hearing departments, medical libraries, hearing-aid retail and manufacturing firms, and certified hearing-aid audiologists. A copy of the latest issue of Audecibel is enclosed, also.¹

Yours truly,

ROY R. ZUMBRUNNEN,
President, California Chapter,
Society of Hearing Aid Audiologists.

[San Francisco State College Information Sheet—H. J. Cornacchia]

CONSUMER HEALTH

Consumer problems

1. The consumer as a "sucker".
2. Nostrums, self-medication, quick cures, charlatans, quacks, testimonials and claims, false health advertising, fads, cults, superstitions, mind cures, rackets, magic.
2. Buying a health product: Guides to purchasing a product; official drugs, proprietary medicines (registered pharmacist, legal protection, Federal agencies, professional groups, others: Better Business Bureau, Consumers Research).
3. Selecting a doctor:
 - (a) Local sources of reliable health information.
 - (b) Preparation and licensing of a medical doctor.
 - (c) General practitioner and his services.
 - (d) Medical specialists: dermatology, internal medicine, ophthalmology, pathology, pediatrics, radiology, surgery, obstetrics, etc.
4. Selecting a dentist:
 - (a) Local sources of reliable health information.
 - (b) Preparation and licensing of a doctor of dental surgery.
 - (c) Family dentist and his services.
 - (d) Dental specialists: orthodontist, oral surgeon, periodontists, etc.
 - (e) Dental ethics.
 - (f) Dental societies.
 - (g) American Dental Association.
5. Selecting a hospital:
 - (a) Local sources of reliable health information.
 - (b) Hospital standards.
6. Selecting a registered nurse and a physical therapist.
7. Choosing voluntary insurance for health protection.
8. Workmen's compensation laws.
9. Federal social security law.
10. Retirement plans.
11. Individual responsibilities:
 - (a) Annual medical examination.
 - (b) Annual dental examination.
 - (c) Annual chest X-ray.
 - (d) Hygienic daily living.
 - (e) American Red Cross first aid.
 - (f) Knowledge of services rendered by local: health department, voluntary health agencies, community welfare groups, clinics and guidance centers.
 - (g) Functions of World Health Organization.

¹ In committee files.

Unreliable sources of health information

1. Superstitions and customs not based upon scientific evidence.
2. Ignorance and prejudice.
3. Information from a quack (a faker or incompetent person who practices medicine).
4. Information from commercial advertising where the purpose is to sell a product.

Reliable sources of health information

1. Physicians, dentists, scientists, educators, and such competently trained individuals in the field of health.
2. Governmental and professional agencies and organizations such as the Food and Drug Administration, the American Medical Association, and the like, who are interested in protecting the health of community and not in the sale of products.
3. Scientific books, magazines and pamphlets that are produced by any of the above people or groups.

An intelligent health consumer

1. Buys only those products prescribed by his physician.
2. Doesn't buy health products prescribed by pharmacists, druggists, and store clerks.
5. Reads the label on health products.
3. Doesn't buy drugs or devices that claim to be cure-alls for serious diseases such as cancer, heart disease, etc.
- c. Is critical of health products advertised and analyses the authenticity of the claims made.
6. Contacts the local Better Business Bureau of the Food and Drug Administration when frauds are discovered or suspected.

SOME ORGANIZATIONS AND AGENCIES PROTECTING THE CONSUMER

Governmental

1. Federal:
 - (a) Food and Drug Administration: Protects consumer from impure or falsely labeled food, drugs, cosmetics and therapeutic devices.
 - (b) Public Health Service: Controls and standardizes biological products.
 - (c) Federal Trades Commission: Maintains supervision over false advertisement of food, drugs, cosmetics and devices.
 - (d) Department of Agriculture: Controls marketing and labeling of poisons preventing or destroying fungi, rodents, etc.
 - (e) Post Office Department: Prevents use of mails to sell nostrums and the promotion of fraudulent schemes.
2. State:
 - (a) Public health department: California has legal action for the control of food, drugs, and cosmetics.

Professional

1. American Medical Association: Conducts investigations of patent medicine, quackery, medical fads, and the like.
2. American Dental Association: Standardizes materials used in dental practice.
3. Better Business Bureau: Concerned with advertising accuracy and prevention of fraudulent claims in business.

Magazines

1. Good Housekeeping and Parents Magazines: "Seal of approval" guarantees that the advertising of a product is correct.

SOME FEDERAL LEGAL PROTECTION

1. Food, Drug and Cosmetic Act.
2. Caustic Poison Act: Certain caustic and corrosive substances must be clearly labeled with the name of substances, name and place of manufacturer, name of packer and seller and word "poison" clearly marked. Also directions for treatment, if taken internally, must be on label.

SOME RESOURCE MATERIALS

Books

Consumer Reports Editors, "The Medicine Show," New York: Simon & Schuster 1961.

Gardner, Martin, "Fads and Fallacies in the Name of Science," New York: Dover Publications, Inc., 1957.

Packard, Vance, "The Hide Persuaders," New York: Pocket Books, Inc., 1958. (Originally published by David McKay Co., Inc., 1957.)

Cook, James, "Remedies and Rackets: The Truth About Patent Medicines Today," New York: W. W. Norton & Co., Inc., 1958.

Fielding, W. J., "Strange Superstitions and Magical Practices," Philadelphia: The Blackiston Co., 1945.

Smith, Austin, "The Drugs You Use," New York: Revere Publishing Co., 1948.

Johns, Edw., et al., "Health for Effective Living," second edition, New York: McGraw-Hill Book Co., 1958. (Chapter on Selecting Health Products and Services.)

Holbrook, Stewart H., "The Golden Age of Quackery," New York: C. Uier Books, 1959.

Pamphlets

Better Business Bureau, "Facts You Should Know About Health Quackery," New York: National Association of Better Business Bureau, 1957.

Food and Drug Administration, "Federal Food, Drug and Cosmetic Act and General Regulations For Its Enforcement," Revision 4, U.S. Department of Health, Education, and Welfare, 1953.

—, "Read The Label on Food, Drugs, Devices and Cosmetics."

The Association, "Food Facts Talk Back," Chicago: The American Dietetic Association, 1957.

American Medical Association:

"How To Choose a Physician"

"Selecting Health Insurance"

"Food Faddism"

"Mechanical Quackery"

American Medical Association, "Beware of the Healer Who Guarantees a Cure: He May Be a Quack."

Cameron, Chas. S., M.D., "Cancer Quacks," Public Health Service No. 559, Washington, D.C.: U.S. Department of Health, Education, and Welfare, 1957.

Magazine articles

Larrick, George, "50 Years of Food and Drug Protections," Public Health Reports, 71: 557-559, June 1956.

Mintener, Bradshaw, "The Food and Drug Administration," Public Health Reports, 70: 1099-1103, November 1955.

"Protecting the Food Supply," Consumer Report, 21: 409-410, August 1956.

Slowin, Glen G., "Pure Foods—Safe Drugs: The Food and Drug Administration's role in Public Health," American Journal of Public Health, 46: 973-977, August 1956.

"Medical Men or Quacks," Today's Health, May 1953, pages 40-41.

"What Does Quack Mean to You," Today's Health, April 1955, pages 56-57.

Bell, Joseph N., "Let 'Em Eat Hay," Today's Health, September 1958, pages 21-25, 66-68.

Millman, Max, "The Reducing Racket," Today's Health, January 1954, pages 18-19, 50-55.

Wilson, Anna May, "When Advertising Tells the Truth," Today's Health, March 1953, pages 30-31, 62-63.

Goulding, Peter C., "Bootleg Dentistry," Today's Health, pages 20-21, 42, 45-56.

American Association for Health, Physical Education and Recreation Journal.

"Quackery Can Kill You," March 1954.

"The Teacher vs Quackery in Nutrition," April 1954.

"The Teacher vs Quackery in Medicine," June 1954.

"Protect Medical Progress," June 1953.

"Health Facts, Fads, and Frauds: A Unit for High School Students," December 1956.

Journal of the American Public Health Association:

"Does Advertising Need a Godfather," March 1956.

"New and Old Food and Drugs," June 1956.

Nutrition Reviews: "Food, Fads, and Fancies," October 1954.

Magazines

Consumer Reports.
 Today's Health.
 Journal of the American Medical Association.
 Journal of the American Dietetic Association.
 Journal of the American Association for Health, Physical Education, and Recreation.
 Journal of the American Public Health Association.
 Public Health Reports.

THE NATIONAL HEALTH FEDERATION,
 Monrovia, Calif., January 20, 1964.

Senator HARRISON A. WILLIAMS,
 Senate Special Committee on Aging,
 Senate Office Building,
 Washington, D.C.

DEAR SENATOR WILLIAMS: I appreciated having the opportunity to attend your recent hearings in San Francisco. Mr. Miller and Mr. Pratt having made oral statements in behalf of the federation, I thought this letter would be more appropriate.

To supplement testimony given by Dr. W. Edward Naugler, you might be interested in knowing that health foods are not always "more expensive." Some very interesting specifics are as follows:

Item	Health food store	Drugstore
Vitamin A, 1,000 capsules of 25,000 international units.....	\$1.00	\$4.85
Brewers' yeast powder, pound, type 600.....	.98	2.50
Gelatin, pound.....	1.25	2.50
Dextrose, pound.....	.35	.80
Lactose, pound.....	.75	2.10

The same differences are prevalent when comparing many brands of vitamin B complex, vitamin C, vitamin D, vitamin E, calcium, etc.

In your opening statement to the audience in San Francisco you asked about the California cancer legislation. This legislation is in effect a finding by a council working under the jurisdiction of the Department of Public Health. We firmly believe that their arbitrary ruling is unconstitutional (September 20) and intend to pursue the matter in court at the earliest possible convenience. It is a known medical fact that the methods summarized in the attached brochure have proven to be beneficial in many instances. At the very least any honest person would insist upon having the methods clinically developed, however, the California commission without any of their own research has virtually outlawed the methods and amusingly and typically relied upon a journal of the AMA almost entirely for their findings. We call this quackery, unconstitutional, odious, un-American, and cannot believe that these men have even included in their bill a sentence which excludes the use of these methods to even alleviate pain.

It is typical and unfortunate that there was a speaker there to indicate to you and the audience that the federation was an organization founded by Fred J. Hart, who had been cited by the FDA, etc. You would not be in your position if you were not interested in all of the facts and I assure you they are not all available from the FDA. We presently have 34 members on our board of governors, which includes medical doctors, attorneys, retired captain, a retired admiral, successful businessmen, and lay persons. We also have 11,000 members, including many more in the professions. The membership represents approximately 30,000 persons. If you discount information available from the federation because of a statement like one of your late speakers made about Mr. Hart, I would suggest to you in all seriousness and sincerity that in this particular instance note of the individual case and the intent are of primary importance. Mr. Hart has been intimately involved in the operation of 32 separate radio stations, in forming the California Farm Bureau, in introducing lettuce growing to the Salinas Valley, in California politics, in Christian endeavor, and civic affairs.

If I may be of further service at any time, please do not hesitate to contact me.

Very truly yours,

HOWARD C. LONG, *Executive Secretary.*