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Canadian  
Consumer  
Council

**ANNUAL REPORT '72**

OTTAWA DECEMBER 1972



Consumer  
Council

Conseil  
de la consommation



“Consumption is the sole end and purpose of all production; and the interest of the producer ought to be attended to, only so far as it may be necessary for promoting that of the consumer. The maxim is so perfectly self-evident that it would be absurd to attempt to prove it. But in the mercantile system, the interest of the consumer is almost constantly sacrificed to that of the producer; and it seems to consider production, and not consumption, as the ultimate end and object of all industry and commerce.”

— Adam Smith in  
*The Wealth of Nations*





# The Canadian Charter of Consumer Rights

Each of us is a consumer — not just a buyer or user  
or producer or seller.

Each of us is woven into the fabric of the Canadian Society  
and is committed to quality, justice, respect, understanding  
and a constantly improving and rewarding life for all citizens.

To assist each of us to determine his own life and to better the  
society we have made together, we declare these inseparable  
consumer rights.

## *Before Purchasing*

1. *The right to purchase.* Each consumer shall have reasonable access to the lawful goods and services of Canada.
2. *The right to information.* Each consumer shall be given an opportunity to obtain accurate facts that enable him or her to make informed decisions.

## *Purchasing*

3. *The right to fair value.* Each consumer shall have the opportunity to buy desired goods and services at just prices.
4. *The right to choose freely.* No consumer may be unfairly pressured or unlawfully disadvantaged when buying goods and services.

## *After Purchasing*

5. *The right to safety.* No goods or services may expose a user to unexpected hazards.
6. *The right to redress.* Each consumer shall receive prompt and full redress for any product or service that does not perform as explicitly or implicitly warranted.

These rights, while basic and elementary, carry with them the parallel responsibilities of consumer integrity and self-improvement. No right or privilege in a free society is without its concurrent obligations to act responsibly and honestly.

The proposed *Canadian Charter of Consumer Rights* recommended to the Minister of Consumer and Corporate Affairs following its adoption by the Canadian Consumer Council in December, 1971. The Charter evolved after three years of consideration, including two important research projects commissioned by the Council: *A Consumer Satisfaction Study* and *A Study of Consumer Attitudes About Consumer Rights*.

CANADIAN CONSUMER COUNCIL



CONSEIL CANADIEN DE LA CONSOMMATION

BOX CP. 94  
OTTAWA CANADA

The Honourable Herb Gray  
Minister of Consumer and  
Corporate Affairs  
Government of Canada  
OTTAWA

Dear Mr. Minister:-

It is my pleasure to transmit to you the Fourth Annual Report of the Canadian Consumer Council, covering the period from January 1, 1972 to December 31, 1972.

In many respects 1972 has been a most fruitful and productive one. Two major Council studies were completed. At the same time a number of others were carried forward with considerable progress and some real sense of achievement.

The Consumer Council's report on Consumer Education was released May 30th. I am proud that the study cries out for a bold new perspective on approaching the entire spectrum of educating Canadians in their roles as consumers, harnessing available information and data, and challenging the traditional methodology in this area. The Council is very much indebted to Mrs. Beryl Plumptre, the Chairman of the Council's Special Committee, and our research consultants for presenting a fresh and vigorous document. Judging from the initial reactions of government officials, educators and others especially interested in this area, the Council study can make a valuable contribution to this critical aspect of advancing individual consumer interests, knowledge and protection.

The Consumer Council delivered its report on Low Income Consumer Bankruptcies on June 7th, releasing it publicly in Vancouver on that date. That city was selected because it was there in September, 1971 that the Council held its public Seminar on the problems of the over-committed consumer debtor. The Council's report is in response to a request by a previous Minister, the Honourable Ron Basford, to have the Council study the problem of consumer bankruptcies in Canada, with particular reference to the personal insolvency recommendations of the federal government's special Study Committee Report on Bankruptcy, 1970. But its proposals go beyond simply the matters raised in the federal Report and endeavour to meet head on the special problems of those who become the unfortunate victims of our consumer-oriented society. The Council's study was under the supervision of a special committee headed by Mr. George May of Vancouver, with particular assistance from Professor Yves Caron of Montreal. In addition, strong staff support was provided by the Executive Director and the Research Assistant.

Another Consumer Council committee, chaired by Mlle Niquette Delage of Montreal, formulated the Council's reactions to the Canadian Association of Broadcasters' Code of Advertising Directed to Children.

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In all instances the Consumer Council's traditional requirement of insisting upon carefully researched background studies and material has been maintained and, perhaps, improved upon. In addition, individual Council members have continued to give of their time and special knowledge as well as their continuing interest in advancing the welfare of the Canadian consumer. I express my personal thanks and appreciation to them as no one is more aware than I of the many demands made on each of them and the limited time they have available to commit.

One of the more exciting Council achievements in 1972 was the work of the 7 summer research students at the Council office in Ottawa during May to September under the direct supervision of the Executive Director. The extent of their efforts and results achieved were, indeed, gratifying. And in the process they have significantly contributed to the research literature on consumer studies.

The full Council met three times during the year, while the Executive met on six other occasions. In concert with its desire to meet at least once during the year away from the National Capital, the November meeting was held in Quebec City concurrently with the Consumer Council's one-day Conference on "The Consumer and the Self-Governing Professions". The charm and grace of the capital of Quebec, as well as the hospitality of its residents, only served to add to the input the Council received from social planners, government advisers and the leaders of the self-governing professions in commencing its exploration of this emerging area of consumer concern. We are particularly grateful to the Honourable Claire L'Heureux-Dubé, Vice-Chairman of the Council, for her invaluable assistance in arranging this meeting.

Of course, the Council's continuing major project of reviewing the consideration of the consumer interest in the conduct of regulatory boards and tribunals has proceeded throughout the year under the capable supervision of the Executive Director. It is anticipated that the Council's report on this phase of its three-part study of the consumer interest in key existing Canadian institutions (boards and tribunals, marketing agencies and the self-governing professions) will be presented shortly. The marketing agencies will be researched and studies completed during 1973.

On a slightly unhappy note, Mr. Minister, it is a source of some disappointment to me personally and, I believe, to most of the Council members, that the Canadian Charter of Consumer Rights, enunciated by the Consumer Council and delivered to the Honourable Ron Basford in January 1972, should continue to gather dust on Ministerial shelves. Originally requested by Mr. Basford at the birth of the Consumer Council in 1968, it was the product of a fair degree of research into consumer attitudes and a great deal of agonizing by Council members. Your immediate predecessor, the Honourable Robert Andras, exchanged some views on the Charter with the Council; nevertheless he withheld Ministerial endorsement of it. I would hope that at an early date you would see your way clear to embrace its principles and thrust as the standard of contemporary consumer entitlements.

The work of the Consumer Council has benefited from the service rendered to it by our distinguished Executive Director, Dr. David Bond. We have, as well, been fortunate in having as our staff Research Associate Ms. Ellen Richardson. The efforts of both are so clearly reflected in the quality of Council publications and the scope of its endeavours. Consumer Council members, I am certain,

join me in expressing our sincerest thanks and appreciation to them. As I write this, each is just beginning an important new assignment in the Public Service. We wish them well in their new endeavours.

And to Ms. Georgine Ulmer, the Council's Executive Secretary, I express a very special "thank you" for countless extra efforts far too numerous to recount.

May I also take this opportunity to express our appreciation to the officials of your Department in Ottawa and across the country who have always been most co-operative and courteous.

One year ago I welcomed your immediate predecessor, the Honourable Robert Andras, to his new appointment as Minister of Consumer and Corporate Affairs. Constructive and productive while it lasted, that tenure expired at the end of November with your elevation to this important post. The Consumer Council looks forward, in turn, to making its counsel and assistance available to you and to working closely with you, Mr. Minister, in the rewarding pursuit of the enlightened advancement of the consumer interest in Canada.

Respectfully submitted,



HAROLD BUCHWALD, Q.C.  
Chairman

February 28, 1973.

# TABLE OF CONTENTS

## APPENDICES

	PAGE
LIST OF MEMBERS, AS OF JANUARY 1, 1972	11
CONSUMER AFFAIRS IN 1972: AN OVERVIEW	13
COUNCIL ACTIVITIES, 1972	23
FINANCIAL REPORT	37
TERMS OF REFERENCE	39

A. LIST OF RECOMMENDATIONS FROM ADOPTED COUNCIL REPORTS, 1972	41
B. PUBLICATIONS OF THE CANADIAN CONSUMER COUNCIL, 1968-72	49



## MEMBERS OF THE CANADIAN CONSUMER COUNCIL

*Chairman:* \*Mr. Harold Buchwald, Q.C.  
Winnipeg, Manitoba

*Vice-Chairman:* \*Judge Claire L'Heureux-Dubé, Q.C.  
Quebec, Quebec

### *Members:*

Mrs. Maryon Brechin  
Etobicoke, Ontario

Mrs. Catherine Brent  
Saskatoon, Saskatchewan

\*Professor Yves Caron  
Montreal, Quebec

Miss Niquette Delage  
Montreal, Quebec  
(To December 15, 1972)

Mr. Joseph-A. Dionne  
Montreal, Quebec

Mr. William Dodge  
Ottawa, Ontario

Mr. Robert Hurlbut  
Toronto, Ontario

Mr. David Kirk  
Ottawa, Ontario

Mr. André Laurin  
Quebec, Quebec

Dr. David S. R. Leighton  
Banff, Alberta

Mr. George S. May  
Vancouver, British Columbia

Mrs. Alexa McDonough  
Halifax, Nova Scotia

Mrs. Margaret McGuire  
Moncton, New Brunswick

Mr. Yves Ménard  
Montreal, Quebec

\*Professor William Neilson  
Toronto, Ontario

Professor Peter Pearse  
Vancouver, British Columbia  
(To June 30, 1972)

\*Mrs. A. F. W. Plumptre  
Ottawa, Ontario

Professor Yolande Taylor  
Montreal, Quebec  
(As of December 31, 1972)

Mrs. Bernice Walsh  
St. John's, Newfoundland

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## CONSUMER AFFAIRS IN 1972: AN OVERVIEW

"The 'purpose' of the product is not what the engineer explicitly says it is, but what the consumer explicitly demands that it shall be. Thus, the consumer consumes not things, but expected benefits — not cosmetics, but the satisfaction of the allurements they promise; not quarter-inch drills, but quarter-inch holes; not stock in companies, but capital gains; not numerically controlled milling machines, but trouble-free and accurately smooth metal parts; not low-cal whipped cream, but self-rewarding indulgence combined with sophisticated convenience."

—Theodore Levitt in *Advertising Age*

1972 could probably be characterized as a year of the "three R's" in consumer affairs: Reappraisal, Reflection and Reaffirmation.

### REAPPRAISAL

As the year began, the proponents of the proposed new Federal *Competition Act* were retreating to reappraise their draft statute (Bill C-256 of the 1971 House of Commons). Late 1971 – early 1972 was "open season" for critics of the contemplated legislation on both the draft statute itself as well as many of its underlying principles.

Many of the criticisms were both constructive and valuable in pointing out serious shortcomings in draftsmanship and workability of the Bill. Such efforts were valuable and enlightening in the progressive search for a new competition policy for Canada in the 1970s and beyond which — at the same time as maintaining a free marketplace — will continue to make business enterprise in this country more viable, efficient and productive.

True to his promise at the time he introduced the draft legislation in June, 1971, the former Minister of Consumer and Corporate Affairs, the Honourable Ron Basford, permitted it to die on the Parliamentary Order Paper at the end of 1971. Having clearly introduced it only for initial reaction and subsequent revision, the Minister promised recasting based on appropriate and informed reconsideration.

But this gesture did not deter the draft Bill's many other blind and largely negative critics in either the vigor of their assault or the passion of their rhetoric. The year's dawning saw them persistent in mounting the nation's podia and in enlisting the media to continue their all-out attack on this vital piece of proposed consumer protection legislation. Many saw it as nothing less than the escalated demise of the free enterprise system, notwithstanding its contemplated legislatively enshrined protection against unfair competition for individual business entrepreneurs along with the end users of the system's products and services. It is unfortunate that the emotional nature of their attacks should deter from the valid and valued corrective assessments which also emerged.

It was not surprising, then, that a process of de-escalation of the hostility between critic and advocate was deliberately set in motion by those responsible for the introduction of the proposed legislation. The series of seminars conducted by the Department of Consumer and Corporate Affairs with those who had filed submissions in criticism (over 300 separate ones), spokesmen for industry, the professions, labour, agriculture, the academic community and consumer interests could not but help to diffuse the atmosphere of confrontation. At the same time, these sessions will undoubtedly result in improvements to the quality of the new legislation when it is ultimately introduced. The new *Competition Act* should, no doubt, enjoy the benefits of input from the private sector in making it a more practical and workable piece of legislation for both businessmen who are to operate under it and consumers who are to be protected by it.

It is significant that, far from being a dead issue, both the Honourable Mr. Basford's immediate successor, the Honourable Robert Andras (appointed at the end of January 1972) and the 1972 Speech from the Throne firmly committed Canada to a meaningful consumer protective and conscionable new competition policy. Only the practicalities and refinements appear to remain to be put into final form. But the philosophy and the fundamental tenets of Bill C-256 remain as the objectives. On this there appears to be almost non-partisan consensus.

With hindsight, it would have to be observed that the exercise of Bill C-256, while leaving its political scars on those who were personally involved, has undoubtedly been a valuable Canadian experience. To those who have been labouring in the vineyards of advancing consumer interests and had perhaps become lulled into a false sense of achievement as important new regulatory measures found receptive legislative endorsement and encouragement, the great *Competition Act* debate showed the extent of the very real schism still prevalent in the consumer/producer dialogue. It also became a practical exercise in participatory democracy, as critic eventually met hitherto faceless departmental official and each exchanged their views on an "eyeball-to-eyeball" basis. But it also showed how men of good will, given a common objective to focus upon, can come together — advocate and critic alike — and endeavour to find mutuality of method and purpose. As a result, the ultimate code to regulate a truly competitive Canadian business community in the 1970's and beyond should be a more viable and credible doctrine in the context of the contemporary marketplace — both domestically and internationally. And the Canadian citizen — corporate and consumer — will be the richer for it.

At the end of 1972 it remained to be seen where a new Canadian competition policy would fit into the scheme of priorities of a minority government. Nevertheless, its inevitability appears to be only a matter of timing.

At the same time that the proposed new *Competition Act* was undergoing reappraisal, so, too, it seemed, was all federal consumer protection legislation. A change in the personalities of both Minister and Deputy Minister (as transpired in January of 1972) is a natural time for stocktaking, as the new incumbents review and assess. Besides, a plethora of new legislation had in the past few years found its way into the statute books, both federally and provincially, and 1972 appeared to be as good a time as any to reassess it and pause to reflect on just how far and how fast government measures should continue to go to right marketplace wrongs.

Fundamental corrections associated with "grass roots" consumer protection in terms of truth in lending, truth in packaging, truth in advertising, safety, deceptive selling practices and the like are now enshrined legislative measures that have had a few years of exposure. In 1972 administrators were apparently resting their oars as they seemed to be giving the present measures a chance to take hold and to gauge their full effectiveness. Some consumer activists, on the other hand, publicly expressed concern that bureaucratic apathy or complacency might be setting in. Others were heard to call for improvement of sloppy draftsmanship in earlier consumer protection laws, more realistic sanctions to deter violators, more effective enforcement machinery, and a more vigorous enforcement policy.

Perhaps the classic case of apparent bureaucratic foot-dragging was reflected in the non-emergence, throughout 1972, of the necessary regulations under the *Consumer Packaging and Labelling Act*. While industry associations appear to be enjoying some participation in the seemingly painful process of working out mean-

ingful regulatory standards, consumer groups claim to have been left virtually completely out of the dialogue, notwithstanding that they are the ones who have been clamouring for standardized packaging and labelling for several decades. For, while consumer interest groups have been notionally involved "on paper", this has not been the experience in practice.

This civil service fetish with the "secrecy" of not-yet-officially-public regulations, while it may have its place in other situations and in relation to other legislation, is badly misplaced and misconceived with respect to the packaging and labelling of consumer products. Under this statute (the *Consumer Packaging and Labelling Act*) the Regulations will in reality become the new rules. To keep them secret when they so widely affect both industry and individual consumers is not only questionable, but potentially harmful. Not revealing them for fullest discussion and exposure raises a serious question of wherein the real public interest lies. This exercise should be contrasted with the positive corrective rules obtained in exposing and in engaging in dialogue on the proposed *Competition Act*.

With metrication just around the corner in this country, it would seem logical that the packagers of Canadian consumer goods phase into this important and inevitable reality now and not in two or three steps. It seems equally logical that Canadian consumers not be further exploited by two or three step packaging into the metric system. But silence or non-activity appears to be pre-empting meaningful action.

The alleged communications gap with consumer interest groups on this and other "bread and butter" consumer subjects has unfortunately caused the federal Department's endeavours to be seriously questioned and its motives to become suspect. Those who hope to speak for consumers continue to complain of a lack of evidence of research or positive activity emanating from the Department. If it is there, they claim they don't seem to be able to see it or learn of it. This is indeed unfortunate. It challenges the usefulness and ability of the very Department set up to serve consumers and advance their interests nationally. And, as a consequence, unconvincing reasons for not pursuing other items of consumer concern, such as unit pricing, serve to confirm the notion — perhaps not well founded, but nevertheless, increasingly present — of another "consumer rip-off" or "bureaucratic cop-out".

It will remain an ongoing obligation of consumer interest groups and consumer activists alike to prick the balloons of lethargy and prod politicians and officials alike to assure that bureaucratic reappraisal does not deteriorate into public service indifference.

### REFLECTION

If 1972 saw a de-escalation of some of the hostility and confrontation of previous years, it also witnessed, to a more considerable degree than at any time in the most recent past, articulate searchings for and reflections upon the very essence of consumerism.

The emerging new standards of corporate citizenship and business morality found greater identification in terms of societal responsibility, a key factor of which is the consumer context. Just as it is no longer acceptable to pollute the environment, discriminate in one's hiring practices, pay less than a living wage, or unilaterally automate to the detriment of those who have worked loyally for the com-

pany and would become economically redundant in the labour force if replaced by technology, it is also no longer acceptable to deal unfairly or unconscionably in the marketplace. For the privilege of functioning in society and reaping its economic benefits carries with it the concurrent obligations to show genuine concern for and exercise meaningful responsibility to all others in that society, and particularly those with whom one deals for commercial advantage.

Particularly is this the case in a business' dealings with the ultimate buyer of its products and facilities. Today, consumers expect to be given reasonable access to goods and services and not to be victimized as part of a captive market. They are entitled to obtain accurate facts about those goods in order to make informed decisions. They expect their purchases to be at fair value, and that they will not be taken advantage of. No consumer should be unfairly pressured or unlawfully disadvantaged when buying goods and services. Nor should those goods or services expose a user to unexpected hazards. And, to give it all reality and meaning, each consumer should receive prompt and full redress for any product or service that does not perform as explicitly or implicitly warranted.

These re-stated social values and criteria have emerged from exposure of the current attitudes on consumer expectations and from public discussion on business responsibility.

The fundamental entitlements of the consumer, chartered early in the year by the Consumer Council and recommended to the Honourable the Minister of Consumer and Corporate Affairs as the *Canadian Charter of Consumer Rights*, could have become for many the talisman in appraising dealings with consumers — both market-related and across the general breadth of society. Regrettably, successive Ministers have chosen to withhold their endorsement of the Council's *Canadian Charter of Consumer Rights* after such a declaration was specifically requested by the first Consumer Affairs Minister. This action has decidedly not served the best interests of consumers, producers, marketers, sellers, legislators or public officials alike. Its effective burial must be a source of considerable dismay to those who look to the Federal Minister for direction and balance in the thrust of advancing the consumer interest.

The Consumers' Association of Canada, as the premier consumer constituency in the country, celebrated its twenty-fifth anniversary. As it enters its second quarter century, it gives indications that the philosophical aspects of advancing the consumer interest are very much a part of its mandate along with the specific product and business practice concerns which have been its traditional hallmark.

As the reflective stirrings took voice, some, like Theodore Levitt (who is quoted at the beginning of this *Overview*) began to focus on the subliminal, inarticulate results now becoming apparent as a consequence of the mass-production, mass-merchandising, mass-marketing system. Levitt's suggestion of the consumption of "expected benefits" rather than "things", places in perspective for both businessmen and consumers the necessity to stop concentrating on products *per se* and begin to realize that it is the benefits they convey that are critical. And when the benefits aren't forthcoming or — even worse — when there is outright betrayal of the expectant buyer, there is not only an increased lack of credibility in the marketplace, but agitation for even stronger sanctions against the offenders.

Perhaps some of the cynicism and rebelliousness apparently evident stems in part from what Charles Reich in *The Greening of America* called our present anti-community. Our society, as he sees it, has become:

“one vast . . . anti-community . . . (a place) of loneliness and alienation . . . Friendship has been coated over with a layer of impenetrable artificiality . . . Protocol, competition, hostility and fear have replaced the warmth of the circle of affection which might sustain man against a hostile universe.”

This might well explain why there is more individual consumer protection agitation than ever before on an individual-to-seller basis.

Consumer protection has in fact become a household cliché and buyers are protesting as never before when they feel they have been betrayed or abused. Previous apathy or the sense of futility is gradually being replaced with militant and aggressive enforcement of individual claims. Policies being advocated in the consumer interest, even of an intangible or philosophical character, are finding general receptivity and support.

As a consequence, 1972 saw many indicia of the search for some of the answers to many of the philosophical questions lurking just beneath the surface of consumer affairs activity. Perhaps four instances will serve to illustrate:

1. In March the Canadian Institute of Public Affairs had its Annual Mid-Winter Conference address itself to the general topic: “The Great Consumerism Debate: Who Shall Speak for the People?” Consumer activists, politicians, labour and management personalities and others sought an appropriate base as consumers/citizens within the context of “The Right of the People to Influence the Use of Power”.
2. In May the initial organizing meeting of the Better Business Bureaus of Canada took place. It is designed to meet the challenge to business of consumerism head-on by making consumer sympathizers out of the men who occupy the executive suites and top management in consumer-oriented industry. It aims, through education and persuasion, to embrace the new standards of corporate citizenship. It is an exciting re-birth or re-vitalization and one which could, if successful, dramatically change the consumer dialogue and, at the same time, gain valuable business participation which has been so noticeably lacking to date.
3. In July a four-member symposium of the Toronto School of Theology (University of Toronto) enunciated its “Truth Guidelines for Canadian Advertising”. The guidelines resulted from an analysis of what, morally and ethically, should be the practical standards of truthfulness in advertising for contemporary society. The study was commissioned by the organized advertising industry in this country, and is the joint project of the Association of Canadian Advertisers and the Institute of Canadian Advertising. Many of the dicta enunciated by the theologians are in accord with what consumer advocates have been suggesting for some time. Not all found universal receptivity amongst the advertising fraternity, but to their credit, the leaders of that industry are consciously endeavouring to achieve consensus on the truth guidelines as acceptable industry standards of a particularly visible and vulnerable consumer abuse marketing activity. In September and October the sponsoring organizations convened one-day seminars in Toronto and Montreal to review the guidelines. The progress of the acceptance of the advertising Truth Guidelines as the daily working credo of professional advertising people will be watched with interest and anticipation.
4. In November, in Quebec City, an area of consumer interest hitherto not explored in depth received initial public exposure: “The Consumer and the

Self-Governing Professions". Quality of professional services, licensing, basis of fee charges, redress for the abused consumer, and the like are all beginning to come under review. Again, the issues were more reflective than specific as the traditional systems were held up to assessment at the initiating conference on this subject organized by the Canadian Consumer Council.

These certainly are times when traditional values are undergoing reflection and — frequently — change. All elements in society have an important role to play in influencing the nature of any changes to be embraced, particularly those whose immediate destinies are most directly affected. It is to be hoped the discussions will continue to enjoy meaningful input from all sectors and from all perspectives on each question.

### REAFFIRMATION

At the same time as the Reappraisals and Reflections on consumer affairs were underway, there were many strong indicia of Reaffirmation of the acceptance of fundamental objectives of advancing the consumer interest and making that interest take its proper place in regular marketplace dealings.

While not intended as an exhaustive listing of the major events in consumer affairs in 1972, the following are worthy of special mention as trend-setters:

- *The banning in May by the then Minister of Consumer and Corporate Affairs of certain infants' car seats as being unsafe.* This was done under the authority of *The Hazardous Products Act*. Its significance was to put real teeth into that statute and to show industry there can be no compromise on consumer safety, particularly infants' safety. The reasoning was eloquently explained by the Honourable Robert Andras, and indicated that the saving of one child's life (to say nothing of protecting others from injury) more than justified the imposition of the ban, notwithstanding the presence of substantial suppliers' and retailers' stocks of the offending car seats on hand.
- *The release in June of the Ontario Law Reform Commission Special Study on Warranties in relation to consumer products.* Basically, a matter of provincial law under the property and civil rights head of the *British North America Act*, this is one of the most flagrantly abused areas of consumer purchases, particularly with respect to cars, appliances and the like which come pre-packed from the factory. The Ontario study is perhaps the most definitive ever, and it is hoped it will lead to early legislative redress to what is very much an imbalanced position in the marketplace. The thrust is twofold: an insistence from manufacturers and sellers on reasonable standards of product durability, utility and safety; and, failing these standards, effective consumer redress.
- *The introduction in December of a bold wide-sweeping personal privacy law in Ontario,* designed to control the use of personal credit reports, correct inaccuracies in them and generally assure by law the sanctity of name and reputation. Ontario thus follows Manitoba which introduced similar legislation in 1971, and Quebec which followed in 1972. While the Ontario Bill was withdrawn, it is expected to be introduced in revised form in 1973.
- *The Canadian Association of Broadcasters' Code of Advertising Directed to Children, which became effective at the beginning of 1972.* The broadcast media (radio and television) themselves police the Code by agreeing not to

allow offending advertisements to be broadcast on their stations. (It is to be hoped a similar Code would extend to all advertising media.) A real breakthrough has been the inclusion of consumer representatives on the review committees of the Advertising Standards Council appraising advertisements which might violate the Code. During the year Quebec introduced its own Regulations drastically curtailing by law advertising aimed at children.

- *The utilization of a small claims procedure through the Courts in Manitoba and Quebec.* An aggrieved consumer who has made a small purchase and can't get satisfaction has available to him a quick, efficient, inexpensive, uncomplicated procedure which does not necessitate his engaging a lawyer. Early reports indicate the system is working quite well and may set a trend.
- *The opening of "storefront" consumer centres on an experimental basis in Renfrew, Cornwall and Winnipeg.* The first two were opened by the Federal Department (as recommended by the Consumer Council in its Report on Consumer Education). The Winnipeg office was opened by a group of students and instructors from the University of Winnipeg's Institute of Urban Affairs, and financed by grants from the Opportunities for Youth Program and the Federal Department of Consumer and Corporate Affairs.
- *A week long conference in August by the Ministry of Education of the Province of Ontario for teachers of consumer subjects on Consumer Education.* This represents one of the first formal efforts to educate and reach the educators on consumer education.
- *The establishment of a cheap, simplified procedure to assist the overcommitted consumer debtor with his insolvency problems by making it easier for him to declare himself personally bankrupt.* Federal Department of Consumer Affairs officials, working with Canada Manpower offices, will be available for the purpose at nominal trustees' fees (\$50.00). Initially started in only three cities, by year end the program was extended virtually across the country. While the proposal does not meet with all the criteria the Consumer Council should like to see available (no means test in order to qualify, no \$50 "entrance fee", improvements in the personal bankruptcy legislation to allow effective rehabilitation of the overcommitted debtor), it does represent concrete efforts to extend help to the victims of the consumer credit society who are not able fully to cope with it and to better manage their affairs.

On the negative side, at least two other events in 1972 suggest that within the highest echelons of the federal governmental structure, the voice of the consumer either was ignored or is likely to go unheard:

- At the beginning of the year, in early January, the *National Farm Products Marketing Agencies Act* went through Parliamentary Committees with all requested representations having been made except that of the Consumers' Association of Canada, although its representative was standing by, waiting to appear. Explanation of why this transpired, besides being not adequate, reflect an indifference to considering the consumer perspective on the legislation.
- As the year closed, in December, the Canadian Transport Commission was preparing to hear Bell Canada's telephone rate increase application for the Provinces of Ontario and Quebec without adequate provision to hear from the most directly affected party, the user (i.e. the captive consumer) of Bell's services.

The proceedings are, of course, extremely complicated and technical. How the consumer can adequately and effectively be represented in such matters requires early solution.

The Canadian Consumer Council, with studies on situations of this nature virtually completed, hopes to propose the appropriate courses of action at an early date.

### ON THE HORIZON

The dimensions of consumer concerns are rapidly expanding beyond simple market-related activities. Consumer interest groups are being heard to speak out on subjects such as environmental protection, inflation, combines, taxes and tariffs. More and more are government services, the conduct of regulatory tribunals, the self-governing professions and producer-oriented marketing boards coming under challenge from consumers whose interests don't appear to be taken into consideration in their deliberations. The indifference to the consumer consequences in the resolution of labour-management disputes is another cause for scrutiny. The activities of public corporations, their roles as corporate citizens and their discharge of their social responsibilities is yet another area of growing consumer-shareholder concern.

The addressing by consumer interest groups of their scrutiny to these questions and their extensions, many of which are not yet clearly perceived, will bring into play overlapping assessments of where being a consumer ends and being a citizen begins.

Facing these demands, the respective roles of both government and the private sector must become even more intense and aggressive than they have been heretofore in advancing the consumer interest. In many respects governments — *all* governments, federal, provincial and municipal — will have to adopt a more distinct split personality in the evolution and administration of their legislation and their programs.

Government departments, bureaux, and agencies are vital to the maintenance and continuation of ongoing corrections to specific abuses in the marketplace.

But, as the watchdogs of consumer interests within the governmental and legislative structure itself, consumer affairs departments and bureaux are going to have to start reacting — publicly, if necessary — to other government policies and programs that work against the consumer interest. At the federal level this may bring the Consumer Affairs Department or its Minister in direct confrontation with such other Departments (or their Ministers) as Finance on banking or insurance matters, or Agriculture on producer-oriented marketing activities, or Labour on wage or technological change, or Industry, Trade and Commerce on commercial incentive policies. Any one of these areas of endeavour constantly suggests conflict of interest within Government itself, and the record leads one to conclude that too frequently the consumer interest is made subservient to some other special interest. And the pattern can be duplicated at the Provincial and Municipal levels.

It is axiomatic in this discussion that government make itself accessible to those from the private sector who are concerned with consumer affairs and be responsive to the just concerns brought forward. And herein lies one of the key roles of Private Interests in Consumer Affairs: to be effective in influencing the course of legislation and policy in the consumer interest. There is little question that those who want to protect their own positions regardless of the consumer interest can mount tremendously effective pressure and opposition. The more simplistic and

populist efforts of elementary consumerism have in the past, and will continue, to present less of a problem as legislators and the public service can identify with them fairly readily. But when the issues get complex, who is able to identify the consumer interest and argue and advance it? It does not take much observation to conclude that what is required is an expertise, research and experience to press for better laws and to comment on the laws that are introduced for adoption at the federal and provincial levels.

The record of recent experience with the legislation or governmental process indicates an inequality of ability and resources to advocate the consumer case on important issues and new laws. In the current dialogue, this type of inequality in the political marketplace is just as intolerable as consumers' inequality in the commercial marketplace.

The most effective way to begin to redress this imbalance and advance consumer interests at the Government (and even industry) level is to have a strong consumer lobby, a consumer constituency, supported by a strong consumer-oriented research facility. Notwithstanding an official consumer-biased presence in government, a strong consumer voice depends on intellectual credibility and political muscle. Who will accept your proposal without researched and documented backup? Who will be persuaded to react without some ballot box influence? The counter-pressure to undue influence by those of contrary views is to validate entitlements, coupled with a broad base of grass roots support. This takes substantial financial and human resources.

How consumer interest groups are going to raise sufficient funds and present the challenges and opportunities to attract the expertise and the staff so necessary to help define the issues, to identify the pressure points, and to press the consumer case in what is basically an adversary process, will be some of the primary issues confronting consumer groups. Some believe their very existence and public credibility will be at stake.

For, in addition to assessing government legislation and policy, consumer interest groups must also look at the performance of the regulatory boards and tribunals, as well as who is appointed to them. And they must insure that bureaucratic complacency doesn't set in on existing matters or the formulation of new regulations.

It is, however, not only to governments that consumer interest groups must address themselves. The public corporation, its activities as a corporate citizen, and its discharge of its social responsibilities call for the visible and effective presence in Canadian companies of the "consumer-shareholder" who has emerged recently in the United States. Consumer representation in the collective bargaining process is also becoming a more frequently articulated priority, as consumers are continually expressing increasing despair at being the perennial "patsies" of labour-management disputes. And more and more self-regulating industry groups recognize the importance of a consumer presence in the setting of ethical standards and the adjudication of violations.

But it isn't only consumer interest groups that have a vital interest in consumer affairs. It is also legitimate business — the manufacturers, distributors, marketers, retailers, and financiers of consumer goods and services. It is to be hoped that they will soon begin to play a more visible and active role in the advancement of consumer interests, both in terms of supporting appropriate corrective legislation and in pursuing business procedures now being called for. In embracing the new

standards of corporate citizenship society expects of them today, they have a valuable contribution to make to the consumer interest dialogue. Rather than confrontation and overreaction, they should be seeing to it that the new rules are workable and practical, and at the same time that these rules achieve their societal objectives. Who is in a better position to make this input? It is in the mutual interests of consumer and businessman alike that there should be both integrity and profitability in the marketplace.

There is a "third force" in the consumer/business equation which also shares a vital concern in the advancement of the consumer interest — organized labour. To date, sad to relate, their support of consumer interest groups and advocacy of the improvement of the consumer welfare has been less than visible or barely token at best. Yet the unions, whose rank and file members, after all, are mainly on fixed wage contracts, have perhaps the most organized and direct concern in assuring that their members, as consumers in the contemporary marketplace, get value, quality, safety, integrity and redress in their personal purchases. And they, themselves, as significant instruments of social change, have an important voice to add to the new societal standards being called for. It has been suggested that in the United States the unions have traditionally been the financial backbone of the consumer lobby. It is to be hoped and anticipated that organized labour in Canada will begin to play its proper role in consumer affairs, and soon.

Whatever direction or shape consumer advisory bodies to government may take in the future, strong, independent, well-researched advocacy will continue to be called for from the private sector. For essentially, as well-motivated as many legislators, government officials, business and labour leaders are or may become with respect to consumer affairs, it will still remain for consumer activists and consumer interest groups to continue to carry the bail in speaking for the people who cannot speak for themselves. Perhaps they will take inspiration from the words of the distinguished American legal philosopher and social reformer, Edmond Cahn. In 1963, he wrote:

"Though all we can be sure of is contention and strife, we have abundant incentives to continue striving. Our legal order already displays extensive shifts away from the old, harsh official perspective. Every move towards a consumer perspective demonstrates how much intelligence and resolution we are able to achieve for the law. And even if the trend should change one day for the worse and all our hopes prove to be dupes, no one could cancel what we should have gained in some individual case on behalf of some individual human being, no one could strip us of some concrete good that we should have redeemed then and there, some particular act of equality that we should have performed, some specific exercise of freedom that we should have made whole. Only in the consumer perspective can a passing skirmish count as much as a long campaign. . . . and the rescue of a single life as much as either."

(*"Law In the Consumer Perspective"* (1963)  
*University of Pennsylvania Law Review*)

*Harold Buchwald*

HAROLD BUCHWALD, Q.C.  
*Chairman*  
Canadian Consumer Council

January 31, 1973

Moreover, the growing diversity of life styles within Canada calls for less reliance upon standardized educational approaches. In this context, consumer education must be more of a learning experience rather than a teaching experience. The consumer must educate himself by discovery rather than by being given a predetermined and prescribed dose of information which may or may not be useful.

### 1. *a basic resource*

The Consumer Council found that Canada is rich in consumer education resources —

“There is an abundance of consumer expertise scattered through the governments, businesses, industries and voluntary associations, and in the homes and schools of this country. There is also a rich store of information with respect to products and their characteristics, the laws of different jurisdictions, the pitfalls awaiting unwary consumers, the techniques and experiences of consumer self-help activities, the sources of supply of products, and the remedies available to dissatisfied consumers. More important even than these, there is a great deal of good will and willingness to make this expertise and information available.”

The Council concluded that these resources could and should be effectively mobilized into providing consumers with the basic resource needed for increased consumer education. The Council recommended:

“THAT THE MAJOR FOCUS OF THE MINISTER’S EFFORTS IN THE FIELD OF CONSUMER EDUCATION BE DIRECTED TO THE ESTABLISHMENT OF CONSUMER RESOURCE CENTRES: INFORMATION CENTRES NOT ONLY FOR THE INDIVIDUAL CONSUMERS, BUT FOR EDUCATORS AND CONSUMER GROUPS.”

Such centres should be concerned with the consumer, prepared to help with problems, knowledgeable about sources of information, with a capacity for direct access to people and resources. Most importantly, such centres have to be aware that the best interests of business and consumers are fundamentally in accord rather than at odds with each other.

Towards this end, the Consumer Council recommended that the resources and scope of BOX 99 be strengthened and that a national resource centre be established in Ottawa.

### 2. *information centres*

Most importantly, however, the Council recommended that the Minister, in co-operation with existing resource centres and with the provincial governments, establish store-front centres to be open during shopping hours and easily accessible to consumers. These centres should be linked to the national resource centre by telephone or telegraph lines.

It was the opinion of the Consumer Council that the establishment of such resource centres easily accessible for both consumers and educators would, in turn, provide inputs to revitalizing consumer education courses within the formal education system. The Council, therefore, recommended that the Minister bring to the attention of those engaged within the education system both the results of the study done for the Council by the Canadian Association of Adult Education and the Council’s report.

In addition, as a supplement to the resource centres, the strengthened resources devoted to BOX 99, and the effort to stimulate revitalization of consumer educa-

## COUNCIL ACTIVITIES 1972

Like anything taken out of context the review of events during a period even as long as a year can, in some ways, be misleading. Seldom, if ever, does anything other than a given year begin on January 1 and finish on December 31. So it is with the activities of the Canadian Consumer Council. The meetings of the Council are concerned with the evaluation of past research, with a consideration of current projects and with plans for future activities. Thus, the Council's activities blend all three perspectives into a time continuum.

### I. REPORTS

The Consumer Council held three full meetings in 1972 and at each of these adopted a report to be sent to the Minister and then released to the public. Each of these reports was based upon extended and careful research in the previous year, together with long and detailed discussion of the various issues involved. The aim was for the widest possible consensus of opinion without the sacrifice of merit of content. The recommendations contained in the reports not only dealt with existing problems, but also attempted to anticipate future needs and their possible solutions.

#### a) Consumer Education

At its February meeting held in Ottawa, the Council passed and sent to the Minister of Consumer and Corporate Affairs its report on Consumer Education. This marked the culmination of a long standing interest and work effort by the Council. In 1970 the Consumer Council published the results of research undertaken for it by the Canadian Association of Adult Education. The results of that effort, together with the labours of consultants and an *ad hoc* Council committee chaired by Mrs. A. F. W. Plumtre, formed the basis of the first draft of the report. It took several meetings of Council, continued and detailed discussion of each topic and frequent redrafting before the final report was approved. The aim, of course, was to provide a report and recommendations that would be as comprehensive in scope as was possible.

An examination of the research findings led the Consumer Council to conclude that what was needed was a new and fresh approach to the question of consumer education. No longer was it sufficient to consider consumer education as taking place only within the formal educational structure. That, indeed, constituted only a small portion of the process of consumer education which begins at birth and ends at death. Educating the consumer ranges from providing product and service information as to quality and price, to informing consumers where information and help with problems can be obtained. In large measure, it means informing consumers of their rights and obligations under existing laws.

A subject so vast and complex, in the Council's view, needed a number of different, but interrelated approaches. It was the Council's opinion that "the concept of consumer education, if it is to be relevant in the future, will have to expand to encompass these broader considerations". Since, in the eyes of the Council, it was patently impossible for anyone to absorb all the available information and keep it up to date, it was expected that "... consumers will more and more need to rely on a selective approach, on identifying their own problems as their needs change and on finding supporting resources which can assist their learning process."

tion within the school system, the Council urged the Minister to give careful consideration to the development of consumer programming on radio and television.

### 3. *wider information available*

Consistent with the recommendation for the establishment of a national resource centre and a network of nationwide consumer help-information centres, the Council felt it essential that the amount and type of information made available directly to the consumer could be improved. Specifically, the Council urged the Minister to encourage businessmen to voluntarily disclose information useful to consumers. An example of this type of information was the fabric care labelling code. The Minister was urged to support the effort of advertisers and media to improve the information content of consumer advertising.

To encourage such activity the Council recommended that the Minister publicize the efforts of the business community and the media to improve consumer welfare; support efforts to expand self-regulation; and draw to the attention of government and the producer-supplier sector substantive complaints and specific suggestions about products and services and about consumer laws and their administration.

The Minister also was asked to support efforts within the government to secure wider public access to information in the government's possession relevant to consumers. Examples cited were product test results, automobile safety records, polluting effects of products, etc.

The sum and substance of these and the other specific recommendations contained in the report were directed at one purpose. As the Council stated in its report:

"Given indications of the deficiencies of current approaches, the need for greater selectivity, and the growing diversity in consumer preferences, we are calling upon those interested in consumer education to shift its focus and to set out upon a course which is highly experimental and continuously responsive to changing consumer needs. Our recommendations are designed to take us in these directions — to be relevant to the changing world of the future."

The Council recommended in particular that the Minister of Consumer and Corporate Affairs consult with provincial authorities to effect this recommendation.

The Minister of Consumer and Corporate Affairs announced in the spring of 1972 the inauguration of a pilot program to provide store-front consumer help centres at Renfrew and Cornwall. Subsequent to that, in conjunction with the Department and with the Urban Studies Program at the University of Winnipeg, a similar centre was started in Winnipeg.

### **b) Personal Bankruptcy**

In Toronto in May the Council approved a report on the question of personal bankruptcy and insolvency. This report was in response to a request from the previous Minister, the Honourable Ron Basford. At the April 1971 Council meeting he asked the Council to examine the recently issued *Report of the Federal Study Committee on Bankruptcy and Insolvency*. In particular, he asked that the Council examine from the point of view of overcommitted consumers the recommendations pertaining to personal bankruptcy contained in the Committee's report.

An *ad hoc* committee of the Council, under the chairmanship of Mr. George May, immediately began to outline the necessary research that was needed as back-

ground. In addition, his committee organized a half-day seminar on the problems of personal bankruptcy. This seminar held in conjunction with the September 1971 Council meeting in Vancouver provided essential background information that was used in drafting the final report.

In its final form the Council's report to the Minister contained three distinct sections.

The first dealt with the Council's comments on the Report of the Study Committee. In many cases the Council strongly endorsed the recommendations of the Study Committee; in other places it made further suggestions.

A second portion of the Council's report offered comments upon the program of public trustees for small debtors. The Minister in March of 1972 announced the establishment of public trustees for small debtors. Services of a public trustee would be available at a nominal fee for certain small debtors whose income and forms of debt (no business debts were allowed) permitted them to qualify for the service.

In a final portion of its report the Council noted that bankruptcy was the effect of, rather than the cause of, personal overcommitment. Accordingly, it addressed itself to the question of attacking the problem at its root causes.

1. *comments on the Report of the Study Committee and additional recommendations by the Consumer Council*

The Council found that the *Report of the Study Committee* and the recommendations contained therein were, in the main, enlightened and deserving of the highest commendation. At the same time, while many of the recommendations were attractive, the Council believed that some did not appear to provide complete answers to the problems being considered. Furthermore, in the opinion of the Council, there were some aspects that the Study Committee had not dealt with and they required consideration.

In all, the Council made some 33 specific recommendations or comments regarding the areas for revision and reform of Canadian bankruptcy legislation. In many instances, these recommendations were of a highly complex and detailed nature (a full summary list is appended as Appendix A in this Annual Report) and, as such, are not subject to easy summarization or paraphrasing. Precision, particularly in matters of legislation, is essential, and for most readers the general philosophical thrust of the recommendations is as important as the specific details.

The general nature of the Council's approach was clearly stated in the Foreword to its report —

" . . . it has become trite to say that we are living in a consumer credit society. But a society which has created and nurtured credit purchasing as a way of life of the vast mass of its citizens has a concurrent obligation to provide the avenue for respectable and meaningful recovery from the consequences of the inability to manage credit, its too easy extension, and the apparent hopelessness of overcommitment. Relief and rehabilitation of the insolvent consumer as a matter of right, should become the underlying philosophy of legislation."

The Council noted that bankruptcy legislation originally was designed to deal with financial problems of merchants and traders. The implicit assumption was that of a strong mercantile tradition with strict adherence to contractual and cus-

tomy rules of law. While for many years the legislation had included provision for dealing with the problems of individual debtors, there had been few adjustments made to the fabric of the legislation with the aim of accommodating the particular problems of personal bankruptcies.

The Council went on to comment —

“The need for further relief to be afforded the consumer bankrupt is enhanced by the inequitable treatment of individuals and corporations under the present *Act*. The corporation that is dissolved through bankruptcy ceases *ipso facto* to carry the inconveniences of that experience, and as a result of the limited liability rule of the corporate shell principle, shareholders and directors escape the disaster with limited damages to their solvency and reputation . . .

The individual who is not in business carries the personal hardship, stigma and embarrassment associated with bankruptcy. He is always regarded as being responsible for his over-indebtedness. Unexpected circumstances or market situations provide him with no excuse for his failure to pay . . . Nevertheless, it would appear necessary to lay down the principle that where a consumer debtor has reached a point where he or she qualifies for bankruptcy under the *Act*, then it is a question of right to ‘enjoy’ all the privileges and resources of the *Act*, and to be able to enjoy them as often as need be.”

The Council explained the rationale behind this statement by noting that the easier it is to become over-indebted through easy credit, the more it becomes necessary to give quick and easy relief to those who have reached the point of no return. In the Council’s opinion behind the laissez-faire of contractual rule was a requirement of communal self-criticism to determine where the system has caused the loss suffered by the consumer and to provide methods of relief. Two particular examples of Council recommendations will convey the essence of the approach and concern expressed in the Council’s Report. The Council recommended that the list of preferred creditors, those given preference in distribution of proceeds from the liquidation of the bankrupt’s estate or given preference under orderly payment of debt provisions, be extended to include payments of alimony and support and credits owed pensioners.

The Council differed with the recommendation of the Study Committee concerning property or wealth acquired after an individual has been declared bankrupt. Such wealth or property acquired either by inheritance, hard work, or chance should not be subject to seizure in payment of debt arising out of an earlier bankruptcy. As the Council stated:

“Bankruptcy should be regarded as the termination of an unfortunate situation which should not be perpetuated unduly, unless it is in the interest of the debtor. Barring fraud or deceitful transactions, property and assets earned after bankruptcy should, therefore, be exempt from earlier claims.”

## 2. *Small Debtors Program*

In March the Minister announced the inauguration of a program in the three major metropolitan areas of Canada that would provide low cost bankruptcies for personal debtors. This program was initiated in response to a finding of the Study Committee that all too frequently the high costs of a bankruptcy proceeding (\$600 or more) precluded a substantial number of people from “enjoying” the privileges of the *Act*. As one person commented, “you have to be rich to go bankrupt”. After carefully reviewing the announced provisions of the program, the Council offered several specific comments. The Council objected to the existence of the \$50 filing fee and contended that it was equivalent to an entry fee and thus repugnant to

the principal goal of rehabilitation and education of the debtor. Furthermore, the Council contended the revenue gained from such fees would "... barely make an impression on the administrative costs to be incurred by this (the Small Debtors Program) reform".

The Council also criticized the income constraints to be used in determining who can apply under the program. This, in the Council's opinion, was nothing more than a means test and contrary to the policy of the federal government. Private credit counselling groups had never applied such a rule. The Council held that:

"The debtor's need for assistance should be the overriding consideration in each case."

The Council restated its belief that the exemption of debts incurred by individuals while self-employed should not automatically exclude them from using the program. In commenting upon a similar exclusion applicable under the Orderly Payments of Debts provisions of the *Bankruptcy Act*, the Council stated in its report —

"... the Council sees no reason for such a restriction. Indeed, the debtor should be able to include all his debts in the arrangement in order to benefit fully from the rehabilitative procedure, there is no justification for discriminating about the source of the debt. As an alternative, the matter of including business debts in an arrangement could be regarded as a discretionary matter on the part of the administration of appropriate cases."

Finally, the Consumer Council noted that the program was limited to only the three largest cities in Canada and urged the Minister to expand the program nationwide without delay. (In December the new Minister, the Honourable Herb Gray, announced that the system would be made nationwide, effective the beginning of 1973.)

### 3. *the need for additional action by government*

In the final section of its report the Council stated —

"The Council is of the opinion that the rising number of personal bankruptcies and the acute need for reform of bankruptcy legislation are symptomatic of major problems facing a large number of Canadians. On the whole, one can safely state that the reform of the *Bankruptcy Act*, while of benefit to the nation, cannot be considered as the sum total of needed effort in dealing with the problem of personal indebtedness."

The report underscored that, in the opinion of the Council, the increasingly acute problem of the insolvent consumer is one area where the Department of Consumer and Corporate Affairs can and should play an important role. The Council held that it would be most desirable for the Department to act upon the fundamental causes of personal insolvency, "... whatever the ultimate economic policy of our society". Any policy which served to reduce the large magnitude of losses associated with insolvency would be a direct gain. The Council went on to comment that there were also important social consequences that stem from personal insolvency which deserve the attention of government —

"An attack on such a universal and important source of social stress would substantially help the improvement of the quality of life for all Canadians."

Towards the end of its report, the Council called for the development and dissemination of more information regarding bankruptcies, particularly about groups

and individuals that have suffered from insolvency. In reviewing the existing material the Council isolated three primary causes of insolvency. They were:

1. changed circumstances of the individual — sickness, unemployment, death of the principal wage earner
2. limited income
3. lack of knowledge on the sensible use of credit, on family budgeting and personal financial management.

The importance of each cause would vary depending upon the circumstances, but the unanimity of opinion as to their overall importance indicated to the Council where possible action might be taken by the government.

In the case of changed circumstances, the laws should afford quick, equitable and speedy relief. In the case of low income, the Council urged the government “. . . to support and implement programs that will serve to eliminate this problem . . . for its solution will not only affect bankruptcies, but many other aspects of the nation’s social and economic life”.

With regard to the lack of knowledge on use of credit, budgeting techniques, etc., the Council urged the Minister to contribute help and financial assistance in order to improve and strengthen the existing credit counselling facilities in the Province of Alberta under the Debtor’s Assistance Program and projected that a similar nationwide scheme, while expensive, would most likely “pay” for itself in terms of reduced frequencies of bankruptcies.

Finally, in the matter of garnishment of wages, the Council urged the Minister to make every effort to accelerate the adoption of a uniform set of provincial execution and garnishment laws that would properly complement the federal laws. The Council recommended that provincial governments consider favourably a system of debts review whereby a judge or court official such as a Registrar could be empowered to examine the debtor’s circumstances before any garnishment proceedings could be taken.

The concluding paragraph of the Consumer Council’s report summed up the expectation of the members when it said —

“The Council believes that adoption of the recommendations submitted by the Study Committee, together with our additional comments and recommendations, would result in an effective and useful reform of bankruptcy legislation affecting consumers in Canada, and that the adoption of our recommended program of financial counselling would make substantial strides towards reducing the occurrence of personal insolvency. The Council feels that such a program is needed and that, on the basis of its estimates, it can easily be justified both in economic and social terms.”

### **c) Comments on the Broadcast Code for Advertising to Children**

In November of 1971, the Canadian Association of Broadcasters in conjunction with the Canadian Advertising Advisory Board adopted a voluntary code for advertising directed to children. Given the increasing evidence of public concern about the deleterious aspects of prevalent advertising to children and mindful of its frequently expressed desire to foster effective self-regulation by all sectors of the country, the Council undertook a careful examination of the provisions of the Code. A committee of the Consumer Council, chaired by Miss Niquette Delage of Montreal, after carefully reviewing the provisions of the Code as well as other relevant literature, drafted a report which was adopted by the Council at its November meeting in Quebec City.

The Council began its report by noting that the Code itself raises a question as to its consistency in its own terms.

"On the one hand it is stated that 'implicit in the Code is the principle that manufacturers may use children's programs to advertise appropriate products and service', while on the other it is also recognized that 'children have not had an opportunity to develop a sense of discrimination and do not always separate the real world from the world of imagination. Most have little or no income and none can be expected to have a rational scale of economic values'. Given this statement, it will seem to many difficult to understand how one can justify advertising, the purpose of which is 'to encourage a purchase' when it is directed to individuals who admittedly have not developed a sense of discrimination nor do they have the income with which to make the purchases urged upon them."

The Council, however, while noting this apparent inconsistency directed its remarks to the specific provisions of the Code. It did, nevertheless, believe that the questions involving the merits and morality of advertising directed to children and the impact of such advertising upon children was worthy of more study.

The Council discussed the various alternatives available to deal with the problem of potentially undesirable consequences of advertising directed to children. They ranged from complete abolition of such advertising to placing the onus for constraints upon parents. The middle course, the Council noted, would involve subjecting such advertisements to a number of conditions which would serve to alleviate potentially unfavorable consequences. Such conditions could be voluntarily subscribed to or made mandatory by law. The former course is in practice today. The Council concluded:

"Whether this measure is sufficient . . . is as yet unsubstantiated. This is an area where the Consumer Council strongly recommends that research efforts should be directed."

With reference to the scope of the Code, the Council recommended that it be adopted and implemented by *all* advertisers, advertising agencies and segments of the media (i.e., print and display, and not just broadcast).

The Council endorsed the provision of the Code which specifically prohibits personalities or characters on children's programs from promoting products, premiums or services on their own programs. The Council, however, would like to see this prohibition extended to apply to all programs and not just the program on which the personalities or characters appear. As the Council's report stated:

"This principle should be extended to cover all paid endorsements by all personalities used in advertisements directed to children."

The Council in its report commented upon the administrative procedures for enforcement of the Code. The consultative service of the Children's Advertising Section of the Advertising Standards Council was endorsed as leading to prevention of offences rather than to the punishment of such transgressions. Where violations did occur, the Council felt that simple withdrawal of the offending commercial was insufficient. As a disincentive to future violations, the Council recommended that the names of the offending advertiser, the agency, the name of the medium, and a description of the offending commercial be widely publicized. It further recommended that a report of these offences should be sent to the Canadian Radio-Television Commission and the existing press councils.

The Council was acutely aware of the limited coverage of the Code. It noted that the four major metropolitan regions and other areas in Canada have easy access to U.S. programming sources and felt that the Code would be of limited effectiveness if American advertisers were not also subject to similar restrictions. The Council examined in detail the counterpart Code in the United States and found it to be less desirable than the Canadian one. This was particularly evident in the question of enforcement where no procedures existed. This disparity troubled the Council and it urged the Advertising Standards Council to consider the whole question on extraterritorial advertisements to children and to suggest measures that might be taken if such ads are in contravention of the Canadian Code.

In conclusion, the Council commented as follows:

"The Code has, in many respects, introduced into the industry new concepts for it to consider. More particularly, the Code recognizes such factors as the vulnerability of children to advertising . . . Adults, although to a lesser degree, are also vulnerable; they have financial limitations. For these reasons, the Consumer Council would urge the Advertising Standards Council to reconsider its general Code on Advertising and to incorporate into it the concepts and overall approach that has been followed for advertising to children."

## II. PUBLIC CONFERENCE

The Consumer Council, since its inception in 1968, has from time to time organized conferences on various subjects of current consumer concern. The purpose of these public meetings has been threefold in nature. First, when the Council was asked to undertake or initiate study on a particular topic, the conference permitted acknowledged experts to present a variety of viewpoints to the Council members. Second, the insights gained from these conferences proved of inestimable value in indicating where additional research and study was necessary. Finally, by encouraging public participation, the Council was able to re-emphasize its fundamental interest in stimulating the dialogue and improving the welfare of all consumers. In addition, since these conferences were held in different places throughout the country, the Council could thereby demonstrate that, as a national body, it was aware of and interested in the problems of all regions.

In the past conferences were held in Montreal, Winnipeg and Vancouver dealing with the problems of misleading advertising, low income consumers and personal bankruptcy and insolvency respectively.

As an important part of the Council's work in responding to the request of the previous Minister to examine the position of the consumer in the operation of the self-governing professions, the Council held a one-day national conference in Quebec in November. The central theme was "The Consumer and the Self-Governing Professions". Quebec, in the eyes of the Council, was an excellent location for such a conference. The Chairman of the Council, Mr. Harold Buchwald, Q.C., in his opening address to the conference, remarked:

"This province — La Belle Province — has, perhaps, taken the most concrete steps of any in Canada to scrutinize the traditional status and *modus operandi* of the professions in our society and to present positive sources of revised patterns of conduct and behaviour. We find ourselves in an atmosphere here in Quebec City that for us as a Council must be both intellectually stimulating and philosophically challenging as we endeavour to find answers to the questions which present themselves in this important area of consumer concern."

In his address, Mr. Buchwald outlined the central questions involved in examining the quality of service provided, including the right of the consumer to fair value, to safety, and to information to enable him or her to make informed decisions. What provisions or guarantees did the consumer have for receiving effective redress or grievances? In cases where professional services were required, if not an absolute necessity, did the ethic of the professional fee deserve close scrutiny?

To answer these and other questions and to outline the central areas of controversy, three separate panel discussions were held. In each case a central speaker discussed a basic area of concern and the other participants presented comments and personal viewpoints.

Dr. Gilles Paquet, Carleton University, Ottawa, presented a paper discussing the availability and accessibility of professional services. Comments were offered by William Dyson, Executive Director of the Vanier Institute of the Family and by Dr. Raymond Robillard, a Montreal physician. A subsequent panel discussed the Qualifications for and Maintenance of Standards in the Self-Governing Professions. The principal speaker was Dr. David Solomon, McGill University, with comments offered by Abbé Gérard Dion of Laval University. The final panel dealing with the question of governance of the members of Professional Organizations centered on an address by Dean Harry Arthurs of Osgoode Hall Law School. Additional comments were offered by Mr. Marcel Cinq-Mars, a Montreal lawyer and Mr. Val Werier, a journalist from Winnipeg.

The discussions were informative, wide ranging and stimulating. The Council has, as a result of the conference, been able to clearly delineate those areas where its research will be concentrated. As the Vice-Chairman of the Council, Mrs. Claire L'Heureux-Dubé, Q.C., stated in her closing remarks:

"It has been a worthwhile day of discussions. By no means do we have all the answers but it has been a most important beginning."

The Council is compiling a transcript of the conference, and this will be sent to all participants and others who may be interested. The Council will continue to study the question of the consumer interest in self-governing professions.

### **III. THE RESEARCH ACTIVITIES OF THE COUNCIL**

#### *a) Regulatory Boards and Commissions*

In April 1971, the then Minister, the Honourable Ron Basford, asked the Council to study the representation of the consumer interest in the wide range of government appointed regulatory boards, agencies, tribunals and commissions at all levels of government. A topic of such wide range required careful and deliberate study. Dr. Peter Pearse of Vancouver was appointed chairman of the Council's committee charged with directing the study. After having compiled a detailed list of all the possible organizations that could be considered as coming within the confines of the general topic, the Committee delineated four main areas of interest:

1. Regulatory Boards and Commissions
2. Product Marketing Boards dealing with specific goods
3. Licensed Professions
4. Government Monopolies

Given the limited resources available for research relative to the enormity of the task, the Council resolved to limit the research in any one year to only one of the four sub-topics.

Therefore, during 1972 the bulk of the Council's research effort was devoted to examining regulatory boards and commissions.

Several specific research projects were commissioned by Council to dovetail with other research undertaken by the Council's secretariat and supplemented by a sizeable number of summer students. Commissioned studies included:

- A study of the consumer interest on the activities of the Canadian Radio-Television Commission by Donald A. Dawson of McMaster University
- A study of transportation regulation and the Canadian Transport Commission by John McManus of Carleton University
- A study of regulatory commissions in five regional areas:
  - British Columbia by William Stanbury of the University of British Columbia
  - The Prairie Provinces by Gilbert Reschenthaler of the University of Alberta
  - Ontario by John Palmer of the University of Western Ontario
  - Quebec by David Cayne of McGill University
  - The Maritime Provinces and Newfoundland by Paul Huber of Dalhousie University
- A study of consumer advocate legislation in the United States by Michael Trebilcock of the University of Toronto.

In each case, the person selected to do the research was chosen because of his known expertise and interest in the topic. The aim was to obtain research that was of a high quality, relevant and thoughtful. While many of the studies were extremely exhaustive and sometimes complex, as well, the insights gained from them have helped the Council immeasurably in the drafting of its report to the Minister.

The Council's permanent secretariat undertook an investigation of the consumer interest in the activities of the Tariff Board, the Anti-Dumping Tribunal and the Clothing and Textile Board.

A particularly outstanding piece of work was done by four second-year law students that were hired by the Council for the summer months. Their project involved the examination of alternative forms of institutionalized consumer representation in various jurisdictions. In particular, the students examined the concept of the ombudsman, commission staff witness, subsidized private counsel and consumer advocate. The outgrowth of their initial findings led to further research on the question of increasing direct consumer participation in the activities of independent regulatory commissions and tribunals. Their final report of almost 300 pages provided significant insights into some very basic problems of consumer representation. The Council decided that this student report, together with the other research papers, was of such quality and importance that they warranted a wider distribution than might normally be the case for Council study papers. Several hundred copies of each report were printed and are available upon request. (For a complete list, see Appendix B.)

#### b) *Other Research*

While the bulk of the Council's research efforts were directed to providing a rapid, complete and thorough response to the Minister's request, additional research on a variety of other topics was also undertaken.

Dr. R. M. A. Loyns of the University of Manitoba was commissioned to study and define what constitutes the "consumer's interest" as distinct from the "public interest" or the "producer's interest". This study grew out of an earlier study Dr. Loyns had done on the consumer interest and agricultural marketing boards.

In addition to the four law students previously mentioned, three students were hired by the Council for summer projects. One of these, M. Jacques Raymond of Sherbrooke University, was the winner of a summer internship sponsored by the American Marketing Association. Topics covered by the student research included:

- Consumers and Pensions
- Retail Facilities in Urban Cores
- Comparison of the proposed *Competition Act*, Bill C-256 and the *Report on Competition Policy* by the Economic Council of Canada
- The Necessary and Sufficient Conditions for Effective Self-Regulation

The Council was particularly interested in hiring summer students to do research. By this method the Council hopes to introduce bright and articulate people to the problems of consumerism. At the same time the hope is that they will find government work, and particularly government work in consumer affairs, interesting and rewarding. The number of students writing to the Council and asking for positions far exceed the Council's resources. While this assures the Council of a wide selection of the best students in Canada, it, at the same time, points out both the potential underutilized resources available as well as a rising interest in consumer problems.

#### IV. OTHER COUNCIL ACTIVITIES

The stream of activities in the Council included more than the drafting and promulgation of reports, the conducting of research and the holding of conferences.

The secretariat of the Council, in co-ordination with the Research Committee chaired by Professor W. A. W. Neilson and with the Council as a whole, is involved in planning new research projects. It is also concerned with conducting preliminary investigation of possible topics for Council consideration. There is, of course, the administrative tasks of overseeing the publication of reports, the logistics of Council meetings and the answering of inquiries concerning Council publications, research and activities.

In January, the Council Chairman; Ms. Maryon Brechin, a Council member from Toronto; and the Council's Executive Director attended a two-day conference at the University of Manitoba on Marketing Boards.

The Chairman, as part of the Council's efforts to expand the consumer-producer-supplier-government dialogue, gave a number of major addresses across the country. Among the groups he spoke to were the Consumers' Association of Canada Annual Convention in Vancouver, the University of Alberta School of Business Weekend Seminar in Banff, the Advertising and Sales Clubs of Winnipeg, Toronto, Montreal and Halifax, the Public Affairs Institute of Canada Spring Conference on Consumerism, and the Canadian Advertising Advisory Board's Fall Seminar on "Truth in Advertising".

Several times when the Chairman was unable to accept a speaking engagement, the Executive Director appeared in his stead. In his capacity as permanent director of research and chief of liaison between the Council, the Minister, the Department of Consumer and Corporate Affairs, and the business-public sector at large, the Executive Director attended consumer conferences in Toronto, Winnipeg, Vancouver, Stockholm and Washington. He also visited officials concerned with consumer affairs in each of the provincial capitals. There were two purposes for these visits — (a) to inform each government of the Council's activities, and (b) to ascertain what, in their eyes, were the areas where the Council might direct some of its activities.

#### **STAFF**

The Consumer Council is served by a secretariat located in Ottawa. In January of 1972, Dr. David Bond of Vancouver assumed the position of Executive Director. In March, Ms. Ellen Richardson joined the staff as a Research Associate, and Ms. Georgine Ulmer continued in the position of Executive Secretary.



**FINANCIAL STATEMENT**

**January 1 to December 31, 1972**

Salaries and Wages .....	\$ 43,823.00
Transportation and Communication .....	26,474.00
Information .....	5,236.00
Professional and Special Services .....	68,418.00
Rentals .....	231.00
Utilities, Materials and Supplies .....	4,562.00
Other .....	2,147.00
<b>TOTAL .....</b>	<b>\$150,891.00</b>



**CANADIAN CONSUMER COUNCIL: TERMS OF REFERENCE**

The following Terms of Reference were advanced by the then Minister of Consumer and Corporate Affairs in March, 1971, after consultation with the previous and the present Chairmen. They were adopted by the Consumer Council at its meeting on April 26, 1971.

1. The Canadian Consumer Council has been established in accordance with Section 7 of the Department of Consumer and Corporate Affairs Act which states: "The Governor-in-Council may establish a consumer advisory council to advise or assist the Minister or to perform such duties and functions as the Governor-in-Council may specify, and may fix the remuneration and expenses to be paid to the persons appointed as members thereof."
2. The Council shall report to the Minister on such matters as he may from time to time refer to the Council for advice and assistance in carrying out the duties of the Minister pursuant to Section 6 of the Department of Consumer and Corporate Affairs Act and such matters as the Council shall, in consultation with the Minister, see as advancing the interests of the consumer in the Canadian economy.
3. In the course of its work the Council may undertake studies, commission research, hold public meetings, and prepare reports and from time to time shall publish such reports and studies as it deems advisable after first having provided copies thereof to the Minister who may upon reasonable grounds advise the Council that publication is not in the public interest.
4. In carrying out the aforementioned terms of reference, the members of the Council, although sometimes chosen because of their membership in certain groups, will act as individuals drawing on their own experience, interest and wisdom in the consumer field, rather than as representatives of such groups.
5. In planning its program, the Council and the Department of Consumer and Corporate Affairs shall maintain close liaison to ensure that there is no overlap of endeavour and to ensure that the work of the Department and of the Council in carrying out the objections of Section 6 of the Act can be evaluated in the light of their contribution to the attainment of the Government's consumer affairs objectives, taking into account the fact that public funds provide for the budget of the Council as well as that of the Department.
6. As it is essentially an advisory body to the Minister, it would be inappropriate for the Council to become a member of another organization such as the International Organization of Consumers Unions.
7. The Council members shall be appointed by the Governor-in-Council for a period of two years, subject to renewal.
8. The Chairman of the Council shall be appointed by the Governor-in-Council to hold office during pleasure for a term not exceeding two years.

9. The Council members shall serve without remuneration, but shall be entitled to reasonable travelling and living expenses in connection with Council duties as authorized by the Governor-in-Council.
10. The Chairman shall be paid such remuneration and expenses as are authorized by the Governor-in-Council.
11. The Council may hire such additional staff as they deem necessary, subject to the limits of manpower ceilings and dollar resources approved in the Council's annual budget and in accordance with the Public Service Employment Act and Regulations.
12. The Council shall meet at least three times a year.

## APPENDIX A

**Recommendations From Adopted Council Reports, 1972****"Consumer Education For The Future"**

The results of the C.A.A.E. Survey on Consumer Education and information available from other sources indicate:

1. That there is wide concern regarding the shortcomings of consumer courses in schools which appear to be inadequate and ineffective, and not sufficiently relevant to consumer needs.
2. That several of the consumer courses offered by school boards for adults, according to the survey, did not attract sufficient registrations to warrant the offering of these courses.
3. That consumer education programmes offered by voluntary agencies and citizen groups which emphasized co-operative learning and self-help techniques appeared to be more successful.
4. That for all groups (education institutions and community groups) there was a great lack of Canadian consumer information. Even when available, the knowledge as to how or where to secure it was unknown to course leaders.
5. That teachers need specific training for consumer courses and assistance in circulating and using resource material.

In view of these indications, the Council recommends that a new and more comprehensive approach be taken to consumer education in Canada, and that consumer education should be regarded as a process of learning in response to the expressed needs of consumers, rather than as a product offered by experts who define what consumers ought to know.

To facilitate the implementation of this recommendation, the Council recommends:

- I. That the Minister strengthen and broaden the operations of Box 99 to be a major consumer resource centre: that this be done in so far as is possible with the participation of consumer and business organizations and individuals to ensure that this resource centre is relevant to everyday consumer problems and fills the needs of teachers, leaders of citizen groups and individual consumers.

The establishment of a major consumer resource centre would be an important factor in fulfilling the mandate of the Department of Consumer and Corporate Affairs to be the focal point for consumers in the Federal Government. This would entail:

- (a) more staff and funds for Box 99 — for the development of information and resources, as well as dealing with consumer complaints,
- (b) close link with all Federal Departments, so the resource centre is the sole Federal outlet for *all* consumer information,
- (c) establishing offices in ground-floor premises easily available to citizens in major urban areas, and supplemented by telephone communication lines to distant points within major regions of the nation.

- II. That the Minister seek the co-operation of Provincial Governments, especially that of ministers responsible for consumer affairs and ministers of education:
- (a) to encourage the use of resource centres by educational institutions, both students and teachers, and
  - (b) to secure co-operation in the development of community resource centres across Canada. (Effort should be made to link these with other services such as legal aid, manpower, etc.)

The development of effective consumer resource centres would require:

- (i) consumer consultants, in addition to dealing with consumer complaints, to engage in field work, contacting and involving all organizations providing similar service, especially voluntary agencies,
  - (ii) consumer consultants to develop close relationships with the media, especially facilitating community consumer T.V. programs,
  - (iii) consumer consultants to encourage and assist in the development of smaller community centres throughout the province — linked by toll-free telephone to core organizations in Ottawa or in the other major urban centres.
- III. That the Minister continue his efforts to make business more responsive to consumers so that consumer education in the widest sense may be directed predominantly to prevention rather than remedy, by:
- (a) encouraging voluntary disclosure of more information on products through labelling, etc.,
  - (b) encouraging advertisers to be more responsive to consumers' needs for more relevant information on products and services,
  - (c) supporting the efforts of business to become more aware of consumer problems and to engage in self-regulation,
  - (d) supporting efforts within the government to secure wider public access to information in the government's possession which is relevant to consumers.
- IV. That the Minister foster awareness by the media, especially T.V., of their role in educating consumers, and that funds be made available for national consumer television programs.
- V. That the Minister continue to support the efforts of voluntary organizations and groups to supply consumer information, especially in their educational operations.

### **"Report on Personal Bankruptcy"**

(In support of the recommendations of the Study Committee)

#### **Bankruptcy Legislation**

1. The Council supports the emphasis of the Study Committee on the concepts of equity, universality and social relevance.
2. The Council agrees with the recommendation that there should be no minimum amount of debts necessary to enable a person to enter into a voluntary bankruptcy.

3. The Council also agrees that in the case of an involuntary bankruptcy, the amount of debt that must be owed to the petitioning creditor (or creditors) should remain at one thousand dollars.
4. The Council welcomes (a) the prohibition imposed on a secured creditor to treat a petition in bankruptcy against his debtor as a deemed or technical default of payment in the absence of an actual default; (b) the obligation imposed on the secured creditor to prove both the value and validity of the security before he can claim possession and realize his security and, (c) the outlined procedures for establishing the value of a deficiency between the claims of a secured creditor and the proceeds obtained from the fact of taking possession or from the realization of the security.
5. The Council agrees with the Study Committee recommendation that the present after-acquired property provisions should be repealed.
6. The Council strongly supports the recommendation of the Study Committee concerning a stay of all proceedings against the debtor as soon as he proposes an arrangement.
7. The Council also fully supports the recommendations of the Study Committee relating to harsh, onerous and unconscionable transactions and to the disclaimer of executory contracts or leases.
8. The Council supports the recommendation of the Study Committee that while the term allowed for an arrangement (extension or consolidation) may not exceed three years it is necessary to provide conditions under which the debtor could be allowed to suspend his payments and to make up, at the end of the arrangement, the payments he has missed.

#### **Credit Counselling**

9. In agreement with the Study Committee, the Council urges the Department to contribute help and financial support in order to improve and strengthen the existing credit counselling facilities and to initiate more such programs.

(Additional Recommendations on the Problem of Consumer Insolvencies and Bankruptcy)

#### **Bankruptcy Legislation**

1. The Council recommends more detailed analysis of consumer insolvency and bankruptcy situations in order to determine cause and effect relationships.
2. The Council considers that the federal jurisdiction over bankruptcy justifies the determination of properties and assets that would be exempt from seizure in bankruptcy procedures over and above the exemptions established by the provinces.
3. The Council recommends that serious consideration be given to the possibility of exempting from seizure in bankruptcy proceedings all personal and household effects and belongings, the basic tools of trade of the bankrupt and his homestead or principal residence, subject to the possible exception of the vendor's lien or privilege in this last instance.

4. The same principles that justify exemption from seizure and sale with respect to unsecured creditors are, in the Council's view, equally applicable with respect to secured creditors.
5. The vendor of a house who remains a secured creditor with respect to the sale price should be protected from suffering the consequences if the purchaser petitions for bankruptcy. The Council recommends that serious consideration be given to the possibility of having the Central Mortgage and Housing Corporation (or other similar body) intervene in such circumstances to guarantee the reimbursement of the claim of the vendor just as it guarantees the reimbursement of first secured loans by institutions.
6. The Council recommends that in bankruptcy and rehabilitation procedures a new category of preferred creditors be added to the list: alimony pension creditors.
7. The Council recommends that security obtained through a floating charge or general security should not be available to a trustee in bankruptcy or enforceable in insolvency proceedings.
8. Where consolidation, extension or composition is concerned, the Council recommends that any security taken by a creditor to secure new advances or credit to a small debt, other than property purchased with that credit, should be void against creditors' remedies.
9. The Council suggests that creditors who have a security over the immoveable property of a small debtor should not be able to realize their security where two-thirds of the principal amount has been paid.
10. Unlike the Study Committee, the Council believes that sudden and unexpected wealth arising after a bankruptcy (such as inheritance, or earnings at a lottery) should be exempt from the trustee's and creditor's reach.
11. The Council disagrees with the Study Committee recommendation that the Court be given the power to annul a release of debts arising from a bankruptcy that follows within five years of a previous bankruptcy. The Council considers that potential abuses should be corrected not by civil measures that revive the pre-bankruptcy situation, but by penal or criminal procedures designed to prevent abuses and fraud. Being a matter of right, bankruptcy should be made available to debtors as often as it is needed, without punitive measures of a civil nature.
12. The Council strongly recommends the universal application of Part X.
13. The Council recommends that the ceiling on debts allowed under Part X without the creditors consent should be removed.
14. The Council does not see any reason for the exclusion of business self-employed debts in an arrangement under Part X. The Council recommends that the debtor be able to include all his debts in the arrangement in order to benefit fully from the rehabilitation procedure.
15. The Council feels that public debt should be included in Part X extensions.
16. With respect to unconscionable transactions and contracts, the Council suggests that a court official be given discretionary power to allow relief from such transactions or contracts.

17. Where a creditor can prove that a proposed consolidation is not in the best interest of the creditors, the Council feels that automatic bankruptcy suggested by the Study Committee may not be the best solution. The Council recommends that in such a case, creditors be allowed to take whatever course of action they consider appropriate.
18. In view of the heavy burden placed upon a debtor by an arrangement, the Council recommends that:
  - (1) the use of Part X be entirely voluntary;
  - (2) the debtor be given the right to apply for bankruptcy at any time;
  - (3) one default should not result in the loss of the protection afforded by Part X, and
  - (4) the court should, in the event of default of one payment, have the power to arrange for Part X payments to be deducted at the source of income of the debtor.
19. The Council does not agree with the Study Committee recommendation that creditors who extend credit less than 60 days prior to the debtor's petition for an arrangement should be able to enforce their security. The Council recommends that the 60 day reservation be dropped.
20. The Council believes that in an arrangement by way of extension, the enforcement of all security over moveables should be suspended and debts due to secured creditors be rescheduled over the three year period as with other creditors. On the other hand, should default occur during this period, the normal remedies of creditors will revive, including the secured creditor's right to enforce his security.
21. The Council has come to the conclusion that there is an even stronger case for adopting a similar approach with security over immoveables.
22. The Council considers that, as with an extension, a secured creditor's rights should be "frozen" in a composition, and he should file in the composition and receive a dividend in the composition like other creditors.
23. The Council recommends that in the case of a composition a debtor may apply to the court for an order preventing enforcement of an immoveable security while he adheres to the terms of the composition. The deferred payments would be added to the end of the term of the secured debt which would fully revive once the composition terminated.
24. It would appear to the Council that whatever measures are available should be taken to discourage a debtor from adopting the practice of acquiring new creditors if he is to benefit from the rehabilitation procedure. Perhaps penal or quasi-criminal offences should be introduced as a deterrent.
25. The Council considers that once a debtor has created after-acquired debts which he is unable to pay out of the non-seizable portion of his income, then the objective of an arrangement either of extension or composition has failed, and there is no alternative but to treat it as at an end.

#### **Small Debtors Programme**

26. The Council recommends that the proposed filing fee of \$50 be removed.

27. The Council feels that the use of income criterion in the small debtors programme is unduly restrictive. The debtor's need for assistance should be the over-riding consideration in each case.
28. The Council believes that a debtor should be able to include debts incurred while self-employed in bankruptcy proceedings under the small debtors programme.
29. The Council strongly recommends that the small debtors programme be extended to cover the whole population as soon as administratively feasible.

#### **Provincial Initiative and Co-operation**

30. The Council strongly recommends that every effort be made to accelerate the preparation and adoption of a uniform set of provincial execution and garnishment laws that will properly compliment the federal laws.
31. The Council strongly recommends that provincial governments be urged to consider favourably (failing abolition of wage garnishments) a system of debts review whereby a judge or court official such as a Registrar be empowered to examine the debtor's circumstances *before* any garnishment proceedings may be taken. He would have to be satisfied before an order is granted that the debtor is able to make a payment from his earnings. Such a system is presently in operation in the United Kingdom under the *Attachment of Earnings Act 1971* and deserves serious study in Canada.
32. The Council strongly recommends that any revised *Bankruptcy Act* clearly provide that where an application has been made by a debtor for relief under one of the three schemes, all further execution and garnishment proceedings under provincial law should be stayed pending the disposition of the federal proceedings.

#### **"Comments on The Canadian Association of Broadcasters' Broadcast Code For Advertising To Children"**

1. The Consumer Council strongly recommends that research efforts be directed towards a study of the effectiveness of the Code in mitigating adverse consequences of advertising to children.
2. Subject to some reservations, as noted, the Consumer Council recommends that the principle and substance of the Code be adopted and implemented by all segments of the media.
3. The Consumer Council recommends that that part of the Code which reads "The personalities or characters on children's programs shall not be used to promote products, premiums, or services, *on their own programs*", be changed to "*on any programs*".
4. The Consumer Council believes that not only graphic illustrations but oral presentations of product limitations should be included in commercials. Disclaimers should be at a minimum and where necessary should be expressed in simple language.
5. The Consumer Council recommends that all advertisements for products catering to health and personal needs be prohibited in advertising directed to children.

6. As a disincentive to violations of the Code, the Consumer Council recommends that the names of the advertiser, the agency, and a description of the offending commercial be widely publicized.
7. The Consumer Council urges that the time for compliance be reviewed and that subsequent to January 1, 1973, advertisers be required to file a written statement with the Standards Council of why they feel they should have an extension on compliance.
8. The Consumer Council encourages the Advertising Standards Council to consider the question of extraterritorial advertisements and to recommend measures that might be taken if such ads are in contravention of the Canadian Code.
9. The Consumer Council recommends that many of the concepts applied in the advertising code to children be adopted for the general Code on Advertising.



## APPENDIX B

## PUBLICATIONS OF THE CANADIAN CONSUMER COUNCIL 1968-72

## A. Reports Submitted to the Minister of Consumer and Corporate Affairs, Canada

- \* Consumer Credit, 1969
- \* Referral Selling, 1970
- \* Removal of Sales Tax on Margarine, 1970
- \* Combines Policy and Combines Legislation, 1970
- \* Hearing Aids, 1970
- \* Misleading Advertising, 1971
- \* Report on Consumer Education for the Future, 1972
- \* Report on Personal Bankruptcy, 1972
- \* Comments on The Canadian Association of Broadcasters' Broadcast Code for Advertising to Children, 1972
- \* First Annual Report, 1969
- \* Second Annual Report, 1970
- \* Third Annual Report, 1971
- \* Fourth Annual Report, 1972

## B. Working Papers of the Canadian Consumer Council

The Council, from time to time, publishes some of its working papers which, in the opinion of the Council, would be of interest to consumers and the public.

- \* David Burgoyne, *A List of Recommendations from Various Royal Commissions, Senate/Commons Hearings and Briefs of Other Agencies Concerning Consumers Which Have Not Been Satisfied by Action Taken.*
- \* Canadian Association of Adult Education, *Survey of Consumer Education in Canada.*
- \* Frederick Rowell, *Deceptive and Unethical Selling Practices.*
- \* Ronald I. Cohen, *Regulation of Misleading Advertising in Canada: A Comparative Approach.*
- \* Kenneth Rubin, *Consumer Action By The Poor: A Social Study of Food Store Projects and Food Aid Alternatives.*
- \* Fédération des Associations Coopératives d'Economic Familiale, *Selected Analysis of Consumer Credit Cases, Their Problems and Subsequent Action.*
- \* Edward Belobaba, Jack Berkow, Marc Denhez, Ellen Macdonald, *On The Question of Consumer Advocacy — A Working Paper.*
- \* C. Lloyd Brown-John, *The Canadian Transport Commission Experiment.*
- \* David R. Cayne, *Consumer Representation Before Quebec Regulatory Boards.*

\* Copies are available from the Consumer Council office.

- \* Donald A. Dawson, *The Canadian Radio-Television Commission and the Consumer Interest.*
  - \* John C. McManus, *Federal Regulation of Transport in Canada.*
  - \* John Palmer, *Landlord-Tenant Advisory Bureaus in Ontario.*
  - \* John Palmer, *Taxation by Regulation? The Experience of Ontario Trucking Regulation.*
  - \* John Palmer, *Emperically Testing the Effects of Provincial Trucking Regulation: A Further Analysis.*
  - \* John Palmer and John Erkkila, *The Ontario Municipal Board: A Study of the Resolution of Conflicts Between Private and Social Welfare Functions.*
  - \* John Palmer and John Erkkila, *The Role of the Consumer in Affecting the Decisions of the Hydro-Electric Power Commission of Ontario.*
  - \* Gilbert B. Reschenthaler, *The Performance of Selected Independent Regulatory Commissions in Alberta, Saskatchewan and Manitoba.*
  - \* Ellen Richardson, *Consumer Interest Representation, Three Case Studies: I. The Tariff Board, II. The Anti-Dumping Tribunal, III. The Textile and Clothing Board.*
  - \* Michael Trebilcock, *The Case For A Consumer Advocate. Interim Report on Low Income Consumer Problems.*
  - \* Transcript of the Winnipeg Consumer Forum, 1970.
  - \* Transcript of the Symposium on Misleading Advertising, Montreal, 1970.  
Transcript of the Seminar on Consumer Bankruptcy, Vancouver, 1971.
  - \* Transcript of the Seminar on The Consumer Interest and the Self-Governing Professions, Quebec, 1972.
- \* Copies are available from the Consumer Council office.

