

law. The law proscribes misrepresentations by omission as well as commission in the sale of merchandise, and merchandise is defined as including services. The misrepresentations are made unlawful even though not relied on by the consumer who purchases the good or services.

We received a number of complaints and inquiries about debt management companies and their practices. The advertising done by some of them was shrill, misleading, and irresponsible. Fees were questioned. The social utility of the service itself was in doubt.

In conformance with what the new consumer protection law permitted, my office conducted public hearings into the practices of debt management companies. We subpoenaed company representatives and their records. Abuses were exposed. These included unjustifiable fees, misrepresentations in advertising, and charges for the service itself that ultimately added up to more than twice the percentage quoted to prospective clients. The hearings focused on the practices of several companies.

Since the hearings focused on abuses, not much attention was paid to companies in Iowa which charged reasonable fees and rendered services praised by people in the consumer credit field. One such company, in Iowa, had been in operation for a number of years and had won the confidence and cooperation of small loan companies, retail stores, banks and employee credit unions, and had an unblemished record for integrity. The credit manager of a large public utility wrote legislators to this effect:

"This company has salvaged a great many potential candidates for bankruptcy from the courts, and guided them on a path of sound financial management. The need for debt management companies is as great as for any of the state, county, or local relief or welfare organizations; the one great distinction is that the money doesn't come out of the taxpayers' pocket."

Earlier this year the Iowa legislature enacted a bill to license and regulate debt management companies. Implicit in the decision to regulate was recognition of the social utility of the service provided. Had the legislature not been convinced that debt management fulfilled, or could fulfill if properly policed, a legitimate need, its action of course would have been to forbid it entirely. I supported and worked for passage of this bill.

The root question, of course, is whether the service offered by debt management companies is in itself evil. This Subcommittee is aware of the distinction in law between acts deemed *malum in se* and those that are *malum prohibitum*. Debt management, I submit, is not intrinsically evil. I don't suppose there is any pretense that it is: there are only strong reactions to abuses.

Properly regulated, debt management companies must represent and serve the interests of the debtor. Almost without exception every other segment of private enterprise is creditor-oriented. That includes not only retailers and other commercial enterprises which extend credit, but banks and loan companies. All of them prosper as more people contract to buy what they can't pay cash for. They want what all creditors want: they want to get paid—now, if possible; soon, if not now; later, if not sooner; and, in the last resort, sometime or anytime rather than never.

Yet, as you gentlemen are fully aware, our Bankruptcy Act permits a debtor never to pay his debts. It is an unusually ignorant debtor today who doesn't know that when up against it he can go into court and beg out of his obligations. In our court news publication I noted the other day one filing in bankruptcy by an individual whose debts exceeded his assets by only \$400. The contempt that attaches to this kind of behavior has lessened considerably since our grandfather's day. Ulysses S. Grant wrote his memoirs on his death bed to pay his debts. I submit, however, that in this never-never land there are still thousands of debtors who consider themselves morally committed to pay their debts even if they are bankrupt in a bankruptcy act sense.

Where is the evil in permitting private enterprise to assist them in doing so? It is other types of private enterprise which have televised them into believing they have an inalienable right to spend money they don't have.

Unquestionably private-enterprise debt management companies can offer an alternative to bankruptcy or Chapter 13 proceedings under the Bankruptcy Act. Under reasonable regulation, it is very probably that the cost of the debtor will be considerably less, for example, than submitting to Chapter 13 proceedings. And I believe statistics will prove that debtors who seek extraction from difficulties in bankruptcy court seek discharge from their debts rather than an extension