

*Narcotic Drugs Act*

believe that any government should hesitate about insisting that a man is guilty until he proves himself innocent; rather the reverse should be the attitude.

Mr. MARTELL: Mr. Chairman, I quite agree with the remarks made by the hon. member for Fort William (Mr. Manion). It is quite true, as has been stated by the hon. member for Vancouver South (Mr. Ladner), that drastic measures are needed to stamp out the drug habit, but I understood the hon. member for Fort William to be interposing an objection to taking away the onus probandi from the informant or the accuser.

Mr. MANION: Hear, hear.

Mr. MARTELL: It is an old principle of British law that he who alleges must prove. There has been a tendency during the last few years in this House, and also in some of our legislatures, to relieve the accuser or informant of the burden of proof. The old principle of the common law to which I have referred should always be the permanent feature borne in mind in drafting any statute, and should not be departed from except in extraordinary cases. I believe that the protest of my hon. friend for Fort William is well taken. A similar protest was made last year by the hon. member for St. John City (Mr. Baxter) in connection with the Fisheries Act. Everyone is beginning to realize that the sooner we get away from making convictions easy the better it is for the observance of the law, because we have so much paternal and freak legislation today that people are apt to be considered guilty upon the mere allegation of some official who presses for a conviction because he gets a portion of the fine imposed. While in this case it may be necessary for the minister to have the most efficient machinery possible at his command, yet I think he as well as all other ministers should as far as possible refrain from departing from the old legal procedure.

Mr. McQUARRIE: Would the hon. gentleman suggest that this clause should be struck out?

Mr. MARTELL: No, certainly not, because the conditions probably are bad and demand drastic treatment. I only rose in my place to emphasize and support what was said by the hon. member for Fort William whom, I thought, was somewhat misunderstood. I believe he is right in demanding that we adhere to the old British principle. I think the public are becoming sick and tired of paternal legislation.

[Mr. Manion.]

Mr. BAXTER: There appears to be a slight mistake in the drafting of section 14. Two answers are put in the mouth of the accused by this section. One is that he had lawful authority to commit the act complained of; the other is that he had a license from the minister authorizing such act. The license from the minister would seem to apply to clauses (a) and (e). As to clause (e), I do not think the accused can very well set up that he had "lawful authority to commit the act complained of because the charge is that he unlawfully sells, gives away or distributes any drug to any minor." You cannot have lawful authority to do an unlawful act. I would be very much pleased to see some provision inserted by which a little mercy might be exercised where a man believing he was doing a lawful act sold a drug to apparently a man who turned out to be a minor. But it is unlawful to sell, give away or distribute a drug to a minor. You cannot have the authority of the minister to do that, neither can you lawfully do it. I think there is a mistake in the reference to the subsection.

Mr. BELAND: Looking over paragraph (e) of section 2 I see that "export" or "exporting" means and includes the taking or conveying, or causing to be taken or conveyed, out of Canada of any drug. In order to meet my hon. friend's objection, I think we might very well dispense with the references to (e) in clause 14, and leave the paragraph (a) and (d).

The CHAIRMAN: (a) or (d).

Mr. BAXTER: (a), (b) or (d).

Mr. BELAND: There is no objection to including (b). Section 14 would then read:

Where a charge is laid under either paragraphs (a), (b) or (d) of section 4 of this act,—

And so on.

Mr. LADNER: I would ask the minister to reconsider his decision, for he is eliminating a section that is most important in the interests of our young people—the very one which is taken the greatest advantage of by the drug dealer. If there is a class of men upon whom the strongest penalties should be imposed it is those who deliberately go out and sell drugs to minors. Now the minister is practically giving them a new lease of life, because the chances of proving a case in the event of sale to a minor are very small indeed.

Mr. BELAND: Which subsection does my hon. friend refer to?

Mr. LADNER: Paragraph (e) of section 4. I understand the minister proposes to elimi-