

On section 9—Liniments, ointments, and other preparations excepted:

Mr. BELAND: There is no change in this section, but my hon. friend for West York (Sir Henry Drayton) wanted to know whether the quantities of a certain drug I referred to in a former explanation were to be found in the act. That matter is dealt with in this section, which states that preparations can be sold lawfully though they contain some of that drug.

Section agreed to.

On section 11—Smoking opium:

Mr. BELAND: The penalty under this section is increased from \$50 to \$100.

Section agreed to.

On section 12—Being in opium resort:

Mr. BELAND: The penalty in this section is increased from one to three months.

Section agreed to.

On section 14—Onus of proof on charge of importing, exporting, manufacturing, selling etc., without license:

Mr. BELAND: This section and section 15 might, I think, be cited in answer to the observations made by my hon. friend for Vancouver.

Mr. MANION: Section 14 provides:

Where a charge is laid under either paragraphs (a), (d) or (e) of section four of this act, the onus shall be upon the accused to establish that he had lawful authority to commit the act complained of, or that he had a license from the minister authorizing such act. (1921, c. 42, s. 1 (f).)

I am not particularly taking exception to the section but I notice in this country at the present time, and recently too, an increasing tendency to depart from the old British dictum that a man shall be considered innocent until he is proven guilty, and to establish instead the principle that a man shall be considered guilty until he is proven innocent. Now, many of the inspectors, not under this act, perhaps, but under similar legislation, are more or less irresponsible; and any irresponsible inspector can make a charge against a citizen and in this case accuse him of breaking the law, and it will be incumbent upon the citizen to prove that he is innocent of that charge. I believe in a general way that it is a very dangerous thing to put into any law such a provision as that. I think that the good old British dictum of a man being considered innocent until he is proven guilty is better than the opposite principle which is coming increasingly into effect, of

considering a man guilty until he is proven innocent. That is the principle in this case. Can the minister tell us how long it has been in force?

Mr. BELAND: It was inserted in 1921 and retained last year. It is now a repetition of two former enactments.

Mr. MANION: Without referring to this clause particularly, I wish to put myself on record in a general way as being absolutely opposed to any change of the old principle. I think that this country and the various provinces of it might well hesitate before changing a rule of law which has been good enough for our forefathers for generations, and which I think is absolutely sound. Let me repeat, a man who is perfectly responsible may be put into a very difficult and expensive position because, with all due respect to my legal friends around me, it costs money to defend one's self against any criminal charge. Therefore I believe it would be well for this and any other department of the government to consider such a clause very seriously before embodying it in any proposed legislation.

Mr. LADNER: I submit from the wording of the clauses it is apparent that the government has considered the point very thoroughly. I think the hon. gentleman would appreciate the necessity of such provisions if he had knowledge of some of the revelations that have been made of late in Montreal, Vancouver, Winnipeg and other of our cities. I submit, Mr. Chairman, that these clauses are absolutely essential, for you cannot catch this class of people unless you enact such provisions. We are not legislating to give such a finesse of protection to the scoundrel who goes about the country creating ruin that is hardly equalled by any other evil-doers. I submit that these clauses should remain exactly as they are. They are quite practical and will serve a good purpose. The general principle here is proved by the exception.

Mr. MANION: I wish to take exception to my hon. friend's remarks because of the implication they contain that some of us are anxious for this "finesse of protection" that he speaks of. I presume there is no member of this House, whatever may be his party affiliations, who is not just as eager as my hon. friend to do away with the illicit use of any of these habit-forming drugs; but I wished to state the principle which should underlie criminal enactments, and I have no reason for retracting any of my words. I