

article you are selling, and if the certificate proves to be wrong you are liable to fine.

Mr. PATERSON (Brant). I see a difficulty which does not seem to be provided against. An inspector enters a retail store and finds an adulterated article, which he seizes, and certain penalties follow. Then we propose to relieve him from paying the penalty, and that he shall only pay the cost. If that were done, there would be relief to that extent for the retail merchant, but the retail merchant would not be likely to prosecute the wholesale man. Then the wholesale man may contend that he bought the article in good faith from the manufacturer, and perhaps he did, but nevertheless he would have to pay costs. The wholesale man would say to the manufacturer: The article I purchased from you has been proved to be adulterated. I showed I bought it in good faith, but nevertheless, I have to pay costs, and you will either have to pay me the costs or I will have to prosecute you for it. The person from whom he bought, knowing it to be adulterated, would quietly hand in the costs, and so there would be no punishment for adulteration. Here is obviously a difficulty which the Secretary of State does not seem to have provided against.

Mr. McLELAN. I will have the matter considered by legal minds in order to ascertain whether anything additional is required to effect the purpose we all have in view, before the final stage is taken.

On section 9,

Mr. CASEY. A schedule of the articles exempted should have been prepared and appended to the Bill. It is contrary to good practice and exact legislation to pass so many Bills as we do leaving schedules to be adopted by Order in Council. The officers of the Department do not know so much about the business of the country as do members of the House.

Mr. McLELAN. New articles are being constantly brought into use, and the schedule would have to be constantly amended.

Mr. CASEY. Of course specific articles could not be put in, but I think there might be such a classification of articles as would include them all, as, for example, hermetically sealed and opened. I did not object to the frequent amendment of the Bill, though perhaps some one else did; but if so, it arises from putting the Bill through in an imperfect form in the first instance.

On section 11,

Mr. PATERSON (Brant). That dispenses with giving notice to the person, as the old Act required. What was the reason for dropping it?

Mr. McLELAN. We intend that the local analyst shall not know whose goods he is analysing, and for that reason the notice has been dropped.

On section 12,

Mr. MILLS. This is determining a person's civil rights, not by an ordinary judicial tribunal, but by an irresponsible person.

Mr. CASEY. The chief analyst is appointed to exercise the functions of a judge, with a special scientific knowledge of the case, and I do not see why there should be any reference to the Minister, except to subject the Minister to a great amount of worry and solicitation by persons whose goods are condemned, and to put the Minister in a very invidious position.

Mr. McLELAN. Cases might arise in which the chief analyst on scientific principles might condemn a certain article, and subject the offender to very heavy penalties,

while there might be mitigating circumstances which ought to be considered by the Minister.

Mr. CASEY. The remarks of the hon. gentleman only confirm my opinion as to the objectionable nature of this clause. This Bill provides for the case of certain mitigating circumstances, and there might be others put in the Bill if necessary. It is left in the other clauses of the Bill to the analyst to determine the facts, and to a court to determine whether the mitigating circumstances exist, but here an irresponsible party is empowered to take cognisance of mitigating circumstances not mentioned in the Bill. If there are mitigating circumstances they should not be left to the judgment of a political Minister, who is not himself an expert, but should be made part of the law. It will lead to all sorts of political and personal pressure being brought to bear on him, which if he resists will make him enemies, while, if he gives way to the pressure, he will be doing an injustice. I think this provision should be struck out of the Bill.

Mr. McLELAN. I have no doubt it would contribute to the comfort and ease of the Minister not to have this appeal, but I think it is proper that there should be some final decision or else great hardship might be inflicted.

Mr. CASEY. Two analysts must have found the drug to be adulterated before the Minister can intervene, and how can a Minister who is not a chemist revise that decision? How could the Minister presume to revise his decision as to the purity of the drug? That is absurd—the Minister will not do so; he will simply say, the article being found to be adulterated, whether the penalties of the law should be inflicted on the person who manufactured or sold it.

Mr. DAVIES. I fail to understand the effect of section 12. Section 11 provides that when an analyst has analysed an article and declared it to be adulterated, his certificate may be given in evidence in a court of law on a prosecution for the recovery of the penalty, subject to the right of the party prosecuted to cross-examine him before that court. But by section 12, if an appeal is made to the chief analyst, and the chief analyst makes his decision, which is concurred in by the Minister, that decision is declared to be final, and there is no provision that the certificate of the chief analyst shall be brought in in evidence at all. I would like to know from some of the law advisers of the Government what is to be the effect of that provision.

Mr. BLAKE. Perhaps the hon. Minister would state whether this clause is based on any English legislation.

Mr. McLELAN. I am not aware that it was taken from English legislation, but it was adopted by Parliament last Session. I suppose that the certificate of the chief analyst would stand in the same position as the certificate of the other analyst, and would be used in the same way in the prosecution. The word "final" in section 12 I take to mean that process by which the certificate is reached is final.

Mr. DAVIES. There is nothing which makes the certificate itself evidence. The decision may have to be proved otherwise.

Mr. CASEY. I think the question of the hon. leader of the Opposition, as to whether this proposal to make the decision of the chief analyst subject to the concurrence of the Minister was derived from English legislation, must have been rather satirical. I think it would be absurd to look into any statute of England, where legislation generally goes on the basis of common sense, for any such provision as this. This is a Bill practically to establish a court to try the purity of food offered for sale—a court of two grades, the analyst and the chief analyst. After these chemists have analysed the article and decided it to be pure or im-