

be, the authorities will catch the small man, and he is more susceptible to being caught and punished than is the executive who can afford high priced counsel and the best advice possible, and can bring his case before the highest authority.

Hon. Mr. Connolly (Ottawa West): That is right.

Hon. Mr. Power: Let the department prosecute that type of man if they wish to, and get a judgment of the court.

What I object to generally, more than the proposal in this specific case, is the tendency on the part of the people who are charged with the administration of the affairs of this country to insert certain provisions in the law which tend to place the onus on an accused person to show that he is not guilty. I had the honour and privilege of administering a department of government for some years, and many times when my officers wished to introduce into the law a presumption of some kind—for instance, in such a statute as the Pure Food and Drug Act—I had to say to them that I could not possibly get such an amendment passed by a Liberal House of Commons. I emphasized the fact that you have to offer proof that a man is guilty of violating the law. My friend from Queens-Lunenbourg (Hon. Mr. Kinley) has said that the reply by the officials often is “We can’t convict them”. I say: “That is too bad; you should go out and work a little harder and find out how you can convict them”. I have told my officials in the department that I could not go to my colleagues in the cabinet or in the House of Commons and ask them to insert in statutes provisions which would make a man guilty without a full opportunity of having his case pleaded and putting the onus on us to decide whether prosecution was justified.

Hon. Mr. Macdonald: Honourable senators, I do not wish to prolong this debate unduly. Apparently my opening remarks were misunderstood. I wish to impress the house with the fact that so far as I am concerned I feel that it is within the competence of the Senate to pass the amendment proposed by the committee. But I said in my opening remarks that I felt it would be inadvisable to pass the amendment; and after listening to the arguments put forth in support of it this afternoon, impressive and persuasive though they were, I am more convinced than ever that we should reject the amendment proposed in committee.

The honourable senator from Inkerman (Hon. Mr. Hugessen) made a very outstanding speech in which he gave his interpretation of the act as it stands today and as it would be amended by this bill. His views were

not followed entirely by the honourable senator from Ottawa West (Hon. Mr. Connolly). However, they both feel that the amendment contained in the bill should remain. My friend from Cariboo (Hon. Mr. Turgeon) feels that the committee amendment should not pass, for another reason. My friend from Montarville (Hon. Mr. Godbout) feels that it should not pass, for still another reason. These are all convincing arguments, honourable senators, why the amendment proposed by the committee should be rejected.

The question has been raised as to whether the amendment contained in the bill clarifies the law. Whether it does or not, there are at the present time judges—I shall call them judges for this purpose—who have expressed opinions one way and another, making different interpretations of the law as it stands today. The cause for that difference of opinion will be removed when the amendment has passed. The law will at least be clarified to that extent. I feel convinced, therefore, that it would be wise on our part to approve of the amendment as contained in the bill.

The Chairman: The motion before the Chair, as I understand it, is for concurrence in the amendment moved in committee by Senator Power to clause 1 of this bill, to strike out the words “of any kind whatsoever”. All in favour of the amendment will please say “Content”.

Some Hon. Senators: Content.

The Chairman: Those opposed will please say “Non-content”.

Some Hon. Senators: Non-content.

The Chairman: I declare the amendment defeated.

Hon. Mr. Vien: Let us have a standing vote.

The amendment of Hon. Mr. Power was negated on a standing vote: contents, 10; non-contents, 16.

Hon. Mr. Turgeon: Honourable senators, I was not in favour of the amendment and would have voted that way except that I was paired with the honourable senator from Grandville (Hon. Mr. Bouffard), who was in favour of the amendment to the bill.

The bill was reported without amendment.

THIRD READING

The Hon. the Acting Speaker: Honourable senators, when shall this bill be read the third time?

Hon. Mr. Macdonald: I move the third reading now.

The motion was agreed to, and the bill was read the third time, and passed, on division.