

*Inspection and Sale Act*

Mr. GARDINER: Let it stand until I have an opportunity to look into it.

Section 4 stands.

On section 5—Appointment of analysts and inspectors.

Mr. SENN: How are the inspectors to be appointed, and how are they appointed at the present time? Are the appointments under the civil service commission, or by the minister?

Mr. GARDINER: By the civil service commission, under the law, as the section states.

Mr. BENNETT: Is it not necessary to add the appropriate words? That was discussed in the house, and it was thought desirable that the proper words be added to make it clear that the civil service commission must deal with the matter. Possibly that did not happen since this parliament began, but I know that appropriate words were added with respect to the civil service commission. I think the minister knows what I refer to.

Mr. GARDINER: Yes. Last session there was a discussion in connection with the Seeds Act.

Mr. BENNETT: I think that is right, yes.

Mr. GARDINER: I asked the department this year to insert the proper provision. I believe that has been done.

Mr. DUNNING: The words "authorized by law" have been inserted to cover the point.

Mr. BENNETT: That is right, yes.

Section agreed to.

On section 6—Labels on binder twine for sale in Canada; for export.

Mr. SENN: It seems to me that this clause may be a little ambiguous. We find in section 3 that a dealer means:

The person or firm manufacturing or importing or selling or having in possession for sale any binder twine.

Does section 6 mean that each man into whose possession the binder twine comes must have his name attached to the label on the binder twine, or does it mean that any one of them will be sufficient?

Mr. GARDINER: Section 169 of the act reads as follows:

169. In the following provisions respecting binder twine "dealer" means the person or firm manufacturing or importing or having in his or its possession for sale, or exposing or offering for sale, any binder twine.

Although some few words are different, the meaning is practically the same. Section 170

[Mr. Bennett.]

of the old act is practically the same as section 6 in the bill. It is under that section that in the past sale has been carried out.

Mr. SENN: Suppose I am a dealer in a certain town retailing binder twine and, on analysis, it is found that the binder twine is not in accordance with the provisions of the act, am I liable because the name of the firm which manufactured the binder twine, and not my name, is on the label. It seems to me the section puts the dealer or the retail merchant in an unfortunate position. If that is not the intention of the section, and if it is clear to other people that my interpretation is not the correct one, I am satisfied.

Mr. GARDINER: My experience is that in the past anyone selling binder twine improperly labelled was liable.

Mr. SENN: Whether or not he is a dealer?

Mr. GARDINER: Yes.

Mr. BENNETT: There are only one or two words which seem to present any difficulty. At the end of the section we find that the onus of proof lies upon the dealer "who has or has had the binder twine in his possession."

Mr. DUNNING: That is in connection with export.

Mr. BENNETT: I know that. First of all it is quite clear that binder twine for export need not be labelled in the manner prescribed by the section and second if it is used domestically and is not so labelled the onus of proving that it was for export lies not only upon the dealer but the dealer "who has or has had the binder twine in his possession." I direct attention to these words because they make possible a difficult situation. The minister will correct me if I am wrong but my memory is that the onus of proof has always been upon the dealer in this matter. I think in this instance, we have gone a bit farther. Although I do not carry all these matters in my memory, it would seem to me that the words "who has or has had the binder twine in his possession" create an almost impossible situation.

Mr. GARDINER: Probably the position taken by the leader of the opposition is the correct one. A careful reading of the old act would indicate that perhaps there has been a change. It may have been made for a purpose and, on the other hand, it may have been written in unintentionally. In view of the circumstances I had better let the section stand and have it checked. The old section reads:

The onus of proof that any unlabelled binder twine is manufactured for export only shall