

nate paragraph (e) so that people who sell to minors—the worst of all these offences, in my opinion—are not subject to the same extent of penalty as those committing other offences under the act.

Mr. BAXTER: The onus should be on the accused to establish that he is not guilty of the offence, because he might not have lawful authority to commit the act complained of, he might not have license to do it, he might not in point of fact have done it. An innocent man should be given a chance to present his real answer, namely, that he did not do it; but you shut that out.

Mr. LADNER: That suggestion may be valuable, but this is a question of shifting the onus of proof, and as the section is now worded a man is not deprived of the privilege of proving his innocence; in fact, it lays upon him the onus of proving it. That is all that section does.

Mr. BAXTER: No, it does not do that. It puts the onus on him to establish that he had lawful authority to do it or had license to do it. But suppose he actually did not do it?

Mr. LADNER: That would not affect him; that would only be a question of evidence. In any event, I strongly urge the inadvisability of allowing those to be let off above all others, who sell to minors.

Mr. BELAND: I confess that the clause could be made to read more smoothly from a strictly legal point of view, but I do not fear any difficulty at all so far as carrying out the spirit of the act is concerned, with the clause drafted as it is, and with the addition of paragraph (b) so that section 14 will cover paragraphs (a), (b), (d), and (e). The hon. member for Vancouver South is right when he says that the sale to a minor is one of the worst charges that could be levelled under this act.

Mr. BROWN: I hope that the minister will seriously consider before he yields to the suggestion to strike out (e). The offence is one of the worst that could be committed under the act, and to remove that clause would be a great mistake.

Mr. LADNER: Would the addition of the words "or did not commit the offence" cover the point?

Mr. BAXTER: Put them in after the word "establish".

Mr. BELAND: Then I would move that the clause be amended so that it will read as follows:

Where a charge is laid under either paragraphs (a), (b), (d) or (e) of section four of this act, the onus shall be upon the accused to establish that he did not commit the offence, or that he had lawful authority to commit the act complained of, or that he had a license from the minister authorizing such act.

Mr. FORTIER: I think the minister is certainly going too far in this amendment. As the clause stands there is no presumption of guilt; there is only the obligation upon the accused to prove that he had lawful authority to commit the act complained of or that he had a license from the minister authorizing it. We now completely change the clause and put the presumption of guilt upon the accused. I never saw an instance of that kind in any law. A man who is accused of a crime before a tribunal cannot be presumed guilty until he is proved guilty. I know of no case in any federal law where a person accused before any tribunal is considered as guilty before he has had the privilege of putting in his defence. I am against such an amendment.

Mr. MacLAREN: While we agree with the general principle that a man is presumed innocent until he is proved guilty there are cases where that principle cannot be followed. That is particularly the case in the matter of drugs; there are difficulties in proving violations of the act in many cases unless we approach the subject from the point of view of this proposed provision. The hon. member (Mr. Fortier) has suggested that this position has not been taken in other acts, but if the Minister of Customs (Mr. Bureau) were here I think he would tell us that that is the position taken as regards smuggling: that men who are found in the possession of contrabrand can be and are called upon to explain their position. I have no doubt that there are other instances where it has been necessary to approach the matter from this point of view.

Section as amended agreed to.

On section 17—Certificate of Dominion analyst evidence of content of drug:

Mr. MANION: Should not the certificate of the Dominion analyst when put in as evidence be put in under oath? It does not say so. If that certificate is going to be accepted as evidence it should be submitted as an affidavit or given under oath.

Mr. BAXTER: I think it ought to be regarded as prima facie evidence.

Mr. LADNER: I was just about to make the same suggestion as my hon. friend for St. John. It is possible that the Dominion analyst was wrong when he gave the certifi-