

The preamble was agreed to.

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The CHAIRMAN: Shall I report the bill as amended?

Some Hon. SENATORS: Carried.

Mr. CURRAN: Before you report the bill as amended I should like to get it on the record that we have given consideration to a point raised at a previous hearing by Mr. Thompson of the Canadian Manufacturers Association. We said we would look into the matter further. He proposed that there should be some sort of secrecy clause added to the bill. I think it would be proper in Mr. Thompson's absence to have the record show that we have given most careful consideration to the possibility of a secrecy clause, but it was rejected because it was impracticable without induly restricting the operation of the Act. Every employee in the government service is required to take an oath of secrecy on taking his office. The penalties consequent on violation of that oath are left to the administrative action in the department concerned and it can mean dismissal of the employee. We feel that this is the proper way to safeguard the interests of the manufacturer rather than by providing a penalty provision for disclosure of information. Unlike the Income Tax Act and other legislation where there is no necessity to discuss without side agencies information obtained, we do on very frequent occasions find it necessary to discuss with, for example, the Canadian Medical Association and the National Research Council, and other agencies, some information respecting a new drug or the use of a drug or something of that kind. We think it would be unfair to an individual in such a department if each time he found it necessary to discuss something of that kind he would have to weigh against that discussion, in the interests of the Act, the consequences of a penalty. We think the secrecy oath which he takes as an employee of the government service should be a sufficient safeguard. I want that to go on record so that Mr. Thompson will not feel that the matter has been overlooked by the department.

Hon. Mrs. WILSON: May I ask a question here? I believe the Pharmaceutical Association representatives raised a point questioning an analysis.

Mr. CURRAN: May I speak to that. This section is comparable to sections contained in other statutes such as the Excise Act and the Opium and Narcotic Drug Act, where a certificate of analysis is accepted as *prima facie* evidence of the contents of the certificate. That does not mean, however, that the defence cannot produce evidence to challenge the value of the certificate. If they do that then, of course, the court can reject the certificate completely because it is only *prima facie* proof, and that would mean that the analyst who made the certificate would lose the value of his certificate completely unless he himself appeared in court and was able to substantiate the facts he put in the certificate. It does not preclude the defence from offering evidence to challenge the certificate or otherwise question it.

Hon. Mrs. WILSON: They have it under the present Act, have they not?

Mr. CURRAN: Yes. In the present Act there is a provision which is rather curious. I would quote section 13(3):

The certificate so given shall be received as evidence in any proceedings taken against any person in pursuance of this Act, subject to the right of such person to require the attendance of the Dominion analyst for the purpose of cross-examination.

That has had a very curious history and has been worked out in a peculiar way because you will see that the section itself contemplates a certificate being taken as evidence of the facts therein stated, even though the man who made the certificate can be called to be cross-examined. There is nothing in