

And subsection 4 goes on as it is in the bill.

In order to accommodate ourselves to the views expressed this morning with respect to some definition of "promotion" it is proposed that in section 45—this is to be found at the top of page 4 of the bill—the section be redrafted so that subsection 3 as it stands now becomes paragraph (a) of subsection 3, and there would be added a new paragraph (b) which would read as follows:

defining for the purposes of subsection (3) of section 41—

That is the one I read to you

—the word "promote" and prescribing the circumstances and conditions under which and the persons by whom the use of restricted drugs may be promoted.

In other words, this will put it up to the Department to provide by regulation the terms of the definition of the word "promote".

Now, these drafts, as drafts, have been prepared by the departmental authors, Mr. McCarthy, the legal counsel, and by Mr. Thurm of the Legislative Section of the Department of Justice. Is it agreeable to the committee that section 41 be struck out and that the new section 41 in the language I read be substituted?

Hon. SENATORS: Agreed.

The CHAIRMAN: It is also agreed that in connection with section 45 of the bill subsection (3) be struck out and that the new subsection take its place, in which the present subsection becomes paragraph (a), and then a paragraph (b) in which authority to provide for promoting, is added.

Senator CROLL: I so move.

The CHAIRMAN: This morning I raised the question of redrafting of section 42 on the question of the innocence of the accused until he is proven guilty. Since that time I have had an opportunity to consider this further, and also had further discussion with Senator Prowse, who was discussing it this morning. I have come to the conclusion that while I would feel happier with this section 42, because I think it more clearly expresses the procedures and assures the continuity of the principle of the innocence of the accused until he is proven guilty, yet when I looked at not only the decision of the Court of Appeal of Ontario, which was referred to this morning, in the *Regina v. Guertin* case, I looked at a later case of the Court of Appeal, which is exactly on the particular section of the Narcotic Control Act that deals with possession for the purposes of trafficking, and there this specific point was raised, that this was a violation of the provisions of the Bill of Rights, and that the accused person was being put in the position of having to prove his innocence. It would seem to me that the interpretation which the Court of Appeal in that case put on this section is in the form in which I was trying to write the section that I proposed this morning; and I have not that much pride in authorship to push this any further, when I find that the courts have already given an interpretation that is in line with my proposal. In view of the jurisprudence now existing, I do not think we should start out and do a piecemeal job. I think the minister should look at what we have proposed and decide whether it is a wise change for clarification in the circumstances.

Senator CROLL: I move the adoption of the bill.

Senator LEONARD: I second the motion, Mr. Chairman. However, I wish to say that I agree with what you said this morning; and in the light of what you say now I think it might be as well to put the later case to which you referred on the record of our proceedings, because other people could have the same idea in mind, and I think it will be just as well for them to know what this section means.

The CHAIRMAN: The case I referred to this morning was *Regina v. Guertin* (1961) Ontario Weekly Notes, and was a decision of the Court of Appeal. The later case is *Regina v. Sharpe* also a decision of the Court of Appeal in Ontario and reported in (1961) Ontario Reports. The personnel of the court was different, except that the Chief Justice presided in both cases. The late Mr. Justice Morden wrote the judgment and