

Hon. Mr. Ouellet: Yes, why not always use the same language. We have been using the same language all the time.

Senator Flynn: But not the language of 100 years ago. I do not care for that. I like a bill to be clear when it reaches us. It is not that something has been done for years. I have heard that argument from the Department of Justice quite often. They will not budge. Let them be realistic and bring down legislation which everyone can understand, even judges of both the lower and higher courts.

The Chairman: I think, Mr. Minister, we have dealt with this matter to the extent that you understand what our thinking is. What is the next point, Mr. Cowling?

Mr. Cowling: This is not necessarily in order of importance, but flowing out of the discussion we have just had, as you know, Mr. Minister, the Senate committee proposed that the delay for the institution of proceedings by way of summary conviction be removed. The Criminal Code provides that summary conviction proceedings must be instituted within six months. The recommendation of this committee was that that limitation be removed for purposes of the Combines Investigation Act.

Apparently, you yourself thought well of that amendment because in the Commons committee an amendment to that effect was introduced. I do not have the reference in front of me, but I recall your remarks at the time supporting the amendment.

Then on report stage consideration in the house itself, a motion was introduced putting in a two-year limitation periods. So we went from six months to no limitation to two years.

Hon. Mr. Ouellet: That is right.

Mr. Cowling: There was no explanation, so far as I could find, in the *Hansard* of the house on the subject. The motion was simply agreed to. I wondered whether you were prepared to give us some explanation now?

Hon. Mr. Ouellet: Yes. Mr. Chairman, here again, as for the preceding case, I am a victim of the habit of the Department of Justice. The wording of any legislation has to be approved and finalized by the Department of Justice. As you recalled, quite correctly, the Senate committee recommended an amendment along those lines. In committee I was told that your recommendation was acceptable, and the bill was amended according to your recommendation.

Subsequently I received representation from the Department of Justice that to remove the time limitation entirely would contravene the general policies dealing with summary conviction prosecutions. Therefore, as a compromise, and to meet the objection of the six months' period, and at the same time not have the possibility of the summary conviction proceeding hanging for too long, it was determined that the limitation period should be for two years.

The Chairman: The difficulty is that the investigative processes in combines are, almost of necessity, lengthy in many cases, and by the time there is a culmination of those the six-month period has passed. If you averaged out the time it takes before the decision to prosecute is made, you might find it closer to four or five years.

Hon. Mr. Ouellet: I discussed your committee's suggestion with officials in the combines section of my department, and they agreed that the six-month period might be

a little too short. They were quite willing to accept the suggestion to have a longer period. Inquiries dealing mainly with misleading advertising are the ones where summary convictions take place. Most of the long inquiries—the ones which you suggest take many years—are for combines and mergers, and therefore are indictable offences. The summary conviction ones might take more than six months, but rarely take more than one year.

The reason why we came back with a suggestion of two years, as a compromise between six months and a no ending period, is that the suggestion came from the Law Reform Commission that is studying the entire legal apparatus.

It has been said that the Law Reform Commission has been recommending a limitation period for summary conviction. The two-year period would be an acceptable compromise to meet the possibility that it could take more than six months.

The Chairman: Mr. Minister, I am interested in your reference to the Law Reform Commission, because in another connotation, on a subject matter that we still have to discuss, they have made a recommendation which you have not followed. I respect their judgment, but by what arithmetic did you arrive at the two-year period? How do you rationalize that?

Mr. Cowling: The Law Reform Commission recommended the two-year limitation on summary conviction offences—that is to say, offences triable only by summary conviction. What we are talking about in the Combines Investigation Act, in most instances I think, are offences that are triable, according to the legislation, either by indictment or summary conviction.

It seems to me that the Law Reform Commission may have had in mind the fact that if it is a summary conviction offence and no proceedings have been taken before two years, in effect the accused should be let off; whereas under the Combines Investigation Act, summary conviction appears as an option to indictment, and the same reasoning would not apply.

Hon. Mr. Ouellet: Except that there is a difference in the severity of cases.

The Chairman: Oh, yes.

Hon. Mr. Ouellet: Therefore if officials contemplated prosecution under summary conviction, it is obviously with clear-cut cases. It would be to the satisfaction of my officials, and the two-year period would appear to be ample time.

Senator Flynn: And if it is not ample time, you still have the right to proceed by way of indictment. So if you had a case that really should be proceeded with under the summary conviction rules, you would have no choice at that time but to proceed by indictment. Is that fair?

Hon. Mr. Ouellet: I can report to you that our experience in misleading advertising cases over the past 10 years is such that all of those cases could have been prepared and dealt with within a matter of nine or ten months.

Senator Flynn: What would you do if you were faced with a case which normally would be proceeded with by summary conviction, and the delay period had expired? What would you do—forget about it or proceed by way of indictment?