

nor in Council may define offences and create penalties which the courts may act upon. That is one thing, and it is quite another to say that the Government imposes certain penalties on offenders.

Mr. WHITE (Alberta): I would point out certain difficulties that might arise in connection with this matter. Suppose a man buys a certain quantity of wheat, which is usually sown not later than the first week in May, and owing to some unforeseen climatic condition he had this wheat unused. Perhaps he owns a piece of land that is covered with water and is unable to use the wheat, and the only way in which he could obviate a loss would be to sell it. If he did so under this section he might be punished for an improper use of the seed, and I think there ought to be some provision by which he should escape prosecution by establishing his inability to use the grain. I have no doubt that if a case such as this came before a magistrate the defendant would not be severely penalized, but the difficulty might well arise.

Mr. MEIGHEN: I would offer an amendment to meet the point raised by my hon. friend, that after the word "fails" in the third line of clause 6, there be inserted the words "through his own default."

Mr. ARGUE: I may say that last year in seeding I purchased the necessary amount of wheat, and after I had completed seeding I had an excess of 20 bushels that I could not dispose of. In a similar case a man could not return the wheat to the Government and if he were not allowed to sell it, what could he do?

Mr. MEIGHEN: Under this amendment he would not be liable.

Mr. DuTREMBLAY: In such a case as that mentioned by the hon. member a man might easily over estimate the amount of seed he would require and the question might possibly arise whether his non-use of the twenty bushels was due to his own fault, or not. It might be advisable, therefore, to have a definition of the exact significance of the words "through his own default."

Mr. MEIGHEN: In applying it, he exercises his best judgment. Having done that, he is not liable, if you insert the words "through his own default."

Mr. DuTREMBLAY: Under the law, good judgment or good faith do not count.

Mr. MEIGHEN: It must be his fault if he fails to apply it. It is in not applying

it that the fault lies. The amendment meets the case. I think we are discussing an academic question. I cannot conceive of any person being prosecuted unless there has been some turpitude, because the prosecution must proceed from the department defrauded, namely, the Department of the Interior. There is going to be no prosecution unless there is evidence of fraud.

Mr. McKENZIE: I have no great dread of a man being tried before a trained judge, and especially in a case where the discretion of the court can be used, because then you have a trained jurist who understands what the discretion is and how it must be exercised. But I have the greatest possible dread of putting a law of this kind into the hands of a magistrate who is not a trained jurist, who has no knowledge of the law and who does not understand how to exercise this discretion. The ordinary magistrate will readily understand that the law means that he must send this man to jail for a year and that he must fine him \$1,000. He will not understand that he has a discretion of from \$1 to \$1,000. I would like the minister to be very careful. We had a case from the West that was spoken of in the House a short time ago, where the magistrate imposed five years' imprisonment on a man and a fine of \$5,000. One of the judges fortunately was able to quash the conviction. That was a case where magistrates undertook to try a case without any proper knowledge and passed an absurd judgment. In this case the minister is giving jurisdiction in a part of the country where there are evidently not very well trained magistrates. They have no opportunity of being trained, and he is asking one of them to try any of those poor farmers, with jurisdiction to send him to jail for a year and to impose a fine of \$1,000. In the first place, I would think it rather absurd to expect that a man who has to approach this Government for the purpose of getting money to buy seed grain would be able to pay a fine of \$1,000. He has not got the \$1,000. He is obliged to come to us for the money to buy seed. It looks rather unkind to pass a law saying that if he uses a plateful of that seed he may be fined \$1,000. I think that is the most absurd proposition. If the minister is going to leave this provision here he should name his court. Nobody less than a County Court judge should try these cases, and I would further say, as this is such an extraordinary sort of a thing, that no proceeding should be commenced except upon leave of the attorney general