

it means. It is legislation of a kind that is usually very much frowned upon, for reasons which I think are apparent. If that limitation were confined to certain sections, all right. But to say that all proceedings under the act shall be subject to the approval of the minister is going further than I can recall having been done in any similar situation; because it at once limits the administration of justice, prevents a person who has knowledge from laying a complaint before a justice of the peace, and makes the minister, who is a political officer, the preliminary judge in every case that is adjudicated upon by a magistrate. That is a wrong principle, and I think in practice it was abandoned a long time ago. Under the Lord's Day Act we have special provisions as to proceedings being taken only on the fiat of the attorney general, and it was held in an important case that that fiat had to be signed by the attorney general in person; that his deputy could not do it. The result is that, in a case of the slightest possible violation of the provisions of this very important statute, in a remote section of this country, the minister would have to give his consent, I take it in writing, before proceedings could be taken. I urge upon the minister reconsideration of the application of that very broad principle to this statute; for surely this statute, like all other public statutes, should be capable of enforcement, where there has been open breach, by any citizen laying a complaint before a justice, and proceedings being taken. There are other sections which I admit at once should not be enforced by the average citizen making a complaint, but should be subject entirely to the control of the minister. That would prevent many abuses which might otherwise arise. But I certainly think it is going a very long way to say that any proceedings under a public statute can be taken only with the consent of the minister.

Mr. FACTOR: Is there not a similar provision in the Weights and Measures Act?

Mr. BENNETT: I do not think so. Under certain sections, yes; but this covers the whole act.

Mr. BOTHWELL: It seems to me this section will conflict to some extent with section 9, under which information may be given to a justice of the peace to issue a search warrant.

Mr. BENNETT: That has to have consent.

Mr. BOTHWELL: If no proceedings can be taken without the approval of the minister,

[Mr. Bennett.]

then the minister would have to grant leave before even permission for a search warrant could be granted.

Mr. HOWE: This has always been in the act. I think the original purpose was to temper justice with mercy. I know that since I have been minister I have had reports submitted on the circumstances of the people against whom actions were to be taken, and I have not authorized a search unless the people were able to pay. I think that is the purpose of this provision. Personally I should be very glad to be relieved of the responsibility. I have signed hundreds of these prosecutions since I have been in office and have received a good many complaints from people whose respect I value for having done so. I think every minister since this act has been in force has signed an authorization for every prosecution that has taken place.

Mr. BENNETT: That may be, but the statute did not require the consent of the minister to all proceedings. It simply required his consent to proceedings under certain sections. Now the consent of the minister must be obtained for the very simplest prosecution; a search warrant could not be issued in a remote section without the consent of the minister.

Mr. HOWE: In that event I suggest that the situation could be met by withdrawing the last amendment, which was made at the suggestion of the Department of Justice. In view of the discussion I think probably the proposed last amendment is a mistake. I think it was only intended that the prosecutions under section 10 should require direction from the minister. With the consent of the committee I will withdraw the last amendment.

Amendment withdrawn.

The CHAIRMAN: Shall section 10 as amended carry?

Mr. LAWSON: No, Mr. Chairman; I want to go back to subsection 1 and remind the minister of the second point I raised when the section was reserved. That is, you have two procedures in the same section. A man may be prosecuted by summary procedure, in which event there is a penalty which would seem to be commensurate with the offence of failing to obtain a licence for a private receiving set; or he may be prosecuted by indictment, in which event the penalties are very heavy. The minister to-day admitted that the indictable offence is put there for the purpose of dealing with those who may