

On section 9—Search warrant.

Mr. LAWSON: I have no desire to repeat what I said when this clause was under consideration on a previous occasion. I rather thought the minister would give some consideration to the wide powers contained in this section with respect to the persons to whom search warrants may be issued. I do not know whether it is proposed to make any change in the section. If not, I shall not debate the matter again.

Mr. HOWE: The section has been very carefully examined by the law officers, and it is felt that the powers are necessary. I brought down a return showing the number of searches made since 1932, the period during which this provision has been in effect. In 1937 there were fifteen unlicensed transmitting stations—and operating such stations is regarded as a very serious offence—and there were seven searches for private receiving stations. The latter take place only when there is absolute defiance of the law. The return indicates, therefore, that the power is not abused. I may say that my officers are of the opinion that it is absolutely necessary to have this provision in the act if the act is to be workable.

Mr. BENNETT: The power should be there; the question is, to whom should the authority be given?

Section agreed to.

On section 10—Penalty for establishing stations without authority.

Mr. HOWE: I would ask my colleague the Minister of National Defence to move the amendment I have read. It is proposed in order to meet an objection from hon. gentlemen opposite, that the officers of the department shall not have discretion in deciding whether a prosecution will take place, the contention being that the judge should be the person to determine whether the apparatus was in use or capable of being used.

Mr. LAWSON: This section stood when it was before the committee on a former occasion, as I understood it, by reason of two objections which I raised to the section and pointed out to the minister at that time. In the statement now made by the minister I am afraid he is confusing the two. The objections I made were these: Under this new legislation the mere possession of a radio receiving set constitutes an offence, irrespective of whether that radio receiving set was capable of being operated. I pointed out that when you consider the clause on the next

page, I think subsection 2, which puts the onus on the accused, once it was proven that a man was in possession he was automatically guilty of an offence and the magistrate could not relieve him. To meet that situation this amendment has been proposed, and I think it meets that situation.

Mr. HOWE: I have two more amendments to this clause, which I think will meet the views of my hon. friend.

Mr. MACKENZIE (Vancouver): I move the amendment read by the Minister of Transport.

Amendment agreed to.

Mr. LAWSON: I should like the clause as amended not to be declared carried until I hear what the other amendments are.

Mr. HOWE: I would ask my hon. friend the Minister of National Defence (Mr. Mackenzie) to move the following amendment to section 10, subsection (2):

Amend clause 10 (2) of Bill 52 by striking out the words "the onus shall be upon the accused to prove that he had a licence at the time of the alleged commission of such an offence, and" in lines 2, 3 and 4 on page 5.

Mr. MACKENZIE (Vancouver): I move accordingly.

Amendment agreed to.

Mr. LAWSON: The amendment in fact does nothing except to remove redundant words from the section as it previously stood.

Mr. HOWE: I have other amendments. I will ask the Minister of National Defence to move to:

Amend Bill No. 52, clause 10, by striking out subsections (3) and (4) and inserting the following as clause 11:

(1) No proceedings shall be taken against any person under this act except by order of the minister.

(2) In every case of a summary conviction under this act the magistrate or justice of the peace shall, in addition to any other penalty imposed, award and order that the defendant shall pay to the prosecutor or complainant such proper costs as may be allowed under the provisions of part XV of the criminal code.

Renumber clauses 11, 12, 13, 14 and 15 as numbers 12, 13, 14, 15 and 16 respectively.

Mr. MACKENZIE (Vancouver): I so move.

Mr. BENNETT: Does the minister think it is really desirable to say that no proceedings of any kind under this act shall be taken except with the consent of the minister? It deprives the act of its public character and places in the hands of a political official the administration of justice. That is really what