

Mr. LAPOINTE (Quebec East): I know; but my right hon friend stated that it was a new principle that violated something that had been recognized for centuries.

Mr. BENNETT: Perhaps I should put it this way. It embodies in its suggested form, as well as in the section to which reference has been made as having been in the statute since 1923, a violation of well-established rules, and it shifts the whole theory of our criminal law.

Mr. THORSON: Does not my right hon. friend think that in a statute such as this there ought to be a wide power to obtain basic documents?

Mr. BENNETT: Certainly, and I said so yesterday. I follow the argument made by my hon. friend as well as by the minister, and I approach the matter from the standpoint of there being a necessity for it. But in the exercise of the power, to give effect to that necessity, let us at least recognize the accepted principles of our criminal jurisprudence.

Mr. THORSON: But ought there not to be a wider power than that provided in the criminal code in respect of search warrants in view of the complexity of the operations that are being investigated and also in view of the fact that this is an investigating rather than a prosecuting statute?

Mr. BENNETT: Yes; but it is an investigating statute the effect of which, not to anticipate, is certainly very serious for individuals. In other words we are going back to the theory that has obtained on the continent; a man is charged with an offence and brought before a judge and he has to prove his innocence. That is not wholly lacking in many provisions of our law where you have something that is presented to you as prima facie evidence of an offence having been committed. But that is not the case here. This is an investigating act, and in the course of the investigation it is thought desirable that books and documents should be obtained, and I do say that it should not rest upon one man's belief, which may be prompted by malice or anything else, to exercise the power here conferred. He may become annoyed, he may be angry at the difficulties that he has had to meet. Let us leave all that aside and decide to stick to the established rules, and if he wants to obtain certain documents—there is no publicity about it—he merely walks round to a justice, makes an affidavit, discloses his reasons for believing so-and-so, and gets the warrant. But the hon.

member for Selkirk (Mr. Thorson) will agree with me that when you apply it to a person who is not declared upon oath to be privy to something, but who somebody believes is privy, and on the strength of that have a commissioner exercise the power here contemplated, the position is different. I do say that that principle is unsound, and it would not make any difference how many times it had been enacted as far as my judgment is concerned.

I adopt the language of the Minister of Justice. No measures of this kind that violate fundamental principles in dealing with the liberty and property of the subject have ever yet been successful in British countries. They have not been successful for the reason that they at once arouse animosity and antagonism, which are reflected in the minds of a jury if the case goes before one. I do appreciate the view stated by the hon. member for Selkirk, but in the acceptance of it I ask the committee to apply the principles that have stood the test of time with respect to the sanctity of a man's property, his office, and his home. For this is without limitation as to either.

Mr. LAPOINTE (Quebec East): I do not minimize the weight of the representations made by my right hon. friend. I think he puts the question properly when he says that this is a change from what is generally done under the sections of the criminal code, when we prosecute or intend to prosecute offenders. But is it desirable to effect that change? That is the whole question. It is more a question of public policy than of law. This act—and these remarks will apply to other sections as well as this one—is directed to the suppression of combines which may be detrimental to the public interest. It is the public interest which governs this legislation and which we have in view in enacting every section of it. Apparently this parliament thought in 1923 and since, as well as in 1935, that a provision of this kind was desirable in order to come to ascertain the facts, in order to find out whether there really is a combine detrimental to the public interest. I agree entirely with my right hon. friend in what he says about the liberty of the subject, that the home of a citizen is his castle and in ordinary cases should not be invaded without warrant. But here it is an investigation which does not start until and unless application is made by a certain number of citizens or there is an order by the minister. For the purpose of carrying on that investigation, which is not an ordinary proceeding under the criminal code, parliament has thought it proper to give those