It is essential that an information for a search warrant should set forth the "causes of suspicion," in order to satisfy the justice that there is reasonable ground that the articles to be searched for are associated with the crime charged. If the information does not pledge the informant's oath to such belief and state the cause of his suspicion, it is insufficient, and a search warrant granted upon it is bad and should be quashed.

A search warrant based upon an information which is not sufficient to satisfy a reasonable man that there is reasonable ground to believe the existence of what is alleged, will be quashed.

A search warrant which does not show the offence in respect of which the search is to be made is bad and will be quashed on certiorari.

The warrant is regular if the search is authorized "at any time," such authority being authority to search at night and valid under section 630.

Then there is a provision, as we know, as to when the warrant should be executed.

Every search warrant shall be executed by day, unless the justice shall by the warrant authorize the constable or other person to execute it at night.

I now put to the minister these questions. In a proceeding authorized by parliament for the purpose of gathering evidence upon a preliminary investigation for a criminal offence, which is, as far as that is concerned, very much like the provisions of the criminal law of France, is it desirable—I put it on as low a level as that—that we should depart from the established principles that have always governed our law since the time of Wilkes in connection with search warrants? Look at the difference. This section provides that a commissioner shall exercise the power here contemplated upon his mere belief that something exists. He makes no oath, he does not place himself on record, as a man would have to do if seeking a search warrant in a million dollar transaction or in a case of theft or anything of that sort. There is no oath, no appearance before a legal authority; but merely because we have said in this parliament that if he believes that somebody is privy to a certain transaction he can walk in and take that person's books and his property. Section 629 of the code, which has been our law for years, certainly does not make provision for any such absolute power being exercised as is indicated here.

May I suggest what the proper course should be—and I am not trying to burke the bill. I merely offer a suggestion as to the way in which it should be dealt with, without claiming that the suggestion is in any sense a complete solution of the difficulty. The commissioner, when he believes so-and-so, may apply to a justice for a search warrant, and then you have all these provisions of the law; in other words, we have safeguarded in the transaction the persons whom we are proceeding against, in the same way as other persons are protected by the law. We have not, that is to say, the mere unsupported belief of an individual authorized to exercise great powers, but we have embodied in our statute the common experience of our institutions. He makes his oath that he believes so-and-so, setting out the grounds for that belief, and when he has done that the search warrant issues and he goes and takes possession of the documents. He has a constable do it. As it stands now, however, and as I pointed out to the minister a few minutes ago, the commissioner exercises the powers of a justice, without an affidavit, and he authorizes his representative to walk into somebody's premises notwithstanding that our law provides that a constable or peace officer shall be beside him with an authority, namely a warrant, which warrant can be obtained only upon an affidavit disclosing reasonable grounds. And it has been held by the courts—whether properly or improperly it is not my business to say—that if the warrant has been obtained without reasonable grounds being stated, that is, if the affidavit does not disclose reasonable grounds, such a warrant may be quashed; and such warrants have been quashed frequently.

What have we here by contrast? A belief on the part of one man, merely a belief, not backed up by oath or any such statement, and he walks in, himself, and if he cannot do it himself he signs a paper and sends somebody else to do it, without any evidence at all except that inward belief which is not manifested by any expression of opinion either under oath or otherwise. Is that right or just? I do appeal to the Minister of Justice not to place upon the statute books, now that we are revising an act, a principle that is at variance with every rule that has been recognized, since the great Wilkes case at any rate.

Mr. LAPOINTE (Quebec East): It is there already.

Mr. BENNETT: No, it is somewhat different. But if it were—

Mr. LAPOINTE (Quebec East): It is the same principle.

Mr. BENNETT: Well, the fact that it is there only makes me feel all the more strongly that it should not be there. Because in days past we placed upon the statute book something that should not be there is no reason why to-day I should admit its soundness. That argument, to use the language I once heard a lord chancellor use, would deny the possibility of reform.