

committee of the privy council there was no provision for his forcible entry into offices and seizure of their papers. He could summon witnesses, he could compel the production of papers, but he had no authority under the previous act to seize private property.

Mr. BENNETT: I wonder if the Minister of Justice (Mr. Lapointe) would give me his attention for a moment, because now I have the relevant section dealing with search warrants under the criminal code. Section 20 of this bill contemplates the commissioner being himself the executor of the search warrant. That is the first distinction; he himself executes his own warrant, the warrant being this section, as the minister puts it; I decline to accept that view. Let me read the provisions of the existing law:

629. —Any justice who is satisfied by information upon oath in form 1, that there is reasonable ground for believing that there is in any building, receptacle, or place,—

(a) anything upon or in respect of which any offence against this act has been or is suspected to have been committed;

That could easily be done here. It could be provided that the commissioner upon application to a justice may obtain a warrant under the same provisions as in the criminal code.

or (b) anything which there is reasonable ground to believe will afford evidence as to the commission of any such offence; or

(c) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any offence against the person for which the offender may be arrested without warrant;

may at any time issue a warrant under his hand authorizing some constable or other person named therein to search such building, receptacle or place, for any such thing, and to seize and carry it before the justice issuing the warrant, or some other justice for the same territorial division to be by him dealt with according to law.

If the building, receptacle or place in which such thing as aforesaid is reputed to be is in some other county or territorial division, the justice may, nevertheless, issue his warrant—

And when it is endorsed it becomes effective. Here are the notes in the 1935 edition of Crankshaw, page 698. I believe the minister will realize their importance:

The above section, 629, authorizes the issue of a search warrant, whenever the justice is satisfied by information upon oath that there is reasonable ground for believing that there is in any premises, 1, anything upon or in respect of which any offence has been or is suspected to have been committed, or, 2, anything which there is reasonable ground to believe will afford evidence as to the commission of any offence, or, 3, anything which there is reasonable ground to believe is intended to be used to commit any offence for which the offender may be arrested without warrant.

To justify a magistrate in granting a search warrant to search for stolen goods, the information made before him need not allege that the goods have been actually stolen, but it is sufficient if the information can be fairly understood as alleging reasonable grounds for suspecting that the goods have been stolen.

An information to obtain a search warrant under section 629 need not be signed by the complainant—

He may make his statement on oath.

It has been held, in an English case, that the search warrant need not specify the goods for which search is desired. It is not necessary that the premises directed to be searched should be described in the search by metes and bounds—

Et cetera. In executing a search warrant the officer must have the warrant with him.

There is a point to which I direct attention with reference to the present statute. The complainant has made his oath and the justice has issued a document, which document is the authority for entering the premises, it being expressly provided by a paragraph of section 40 of the code that:

"It is the duty of everyone executing any process or warrant to have it with him, and to produce it, if required."

But paragraph 3 of section 40, ante, declares that a failure to fulfil either of the two duties mentioned in paragraph 1 of the section shall not of itself deprive the person executing a process or warrant of protection from criminal responsibility.

The constable to whom a search warrant is directed and to whom it is entrusted should use great caution in the execution of it. He should be accompanied to the premises by the owner of the property or by some other person able to point out and swear to the goods in question. If the premises are closed and the constable is denied admission after making demand of admission and disclosing his authority and the object of his visit, the premises may be forced open by him.

It has been held that a formal demand of admission by an officer is sufficient before breaking into a house.

In making the search, care must be taken that no other goods than those designated in the warrant, or such as have been actually stolen, be seized.

Where a constable has searched premises it will be presumed that he acted under a proper warrant, in the absence of any evidence on the point.

Where evidence obtained from a search has been admitted without objection the presumption is that the officer searching had a proper warrant and the onus is on the accused. . . .

Then, on page 699:

Where a discretion is given by statute to a magistrate issuing a search warrant, the court of appeal will not interfere where there were grounds upon which the magistrate could exercise his discretion.

The proceedings upon which a search warrant is issued and the warrant itself may be brought before the court on certiorari, and if the warrant is deemed to have been improperly issued, it may be quashed.