

evidence enough or not to substantiate the conviction, the judge has no power on certiorari. The man is haled before the court; if he is in the hands of a prejudiced magistrate, he is found guilty and he has no right of appeal. This is most dastardly legislation. It is true that very drastic remedies are required to cope with this drug evil; but they should not go so far as to take away every principle of British justice. While we are all agreed that drastic measures should be adopted in order to stamp out this evil, when you are amply protected, for heaven's sake give the accused a chance for his life.

Mr. SHAW: I remember very well last year when this legislation was before the House, I took the view, as was expressed by several of the other members, that our legislation was becoming rather drastic. It seems to me that the effect of this legislation is to deprive an accused person of a remedy which he might have in law, that is, by reason of the abolition of the certiorari right. We are also depriving him of his right of appeal, so that if he happens to be unjustly convicted, because of a misunderstanding of the facts, he has no remedy, and if there is an error in law, he similarly has no remedy. It seems to me that we should preserve to an accused person some means of satisfying the courts of his innocence, and while I have no sympathy whatever with those who commit offences against this particular act, yet it may be possible, owing to inexperience of justices of the peace, that injustice may be done in which even an innocent man may be foreclosed from securing the right to which otherwise under British law he is entitled. The matter should be seriously considered before even, in this legislation, it is allowed to become part of our criminal law.

Section agreed to on division.

On section 25—Convicted alien subject to deportation:

Mr. CARMICHAEL: Some few days ago while I was in conversation with a party who was very conversant with Chinese matters, he advised me that a convicted alien might be either fined or imprisoned, but that deportation proceedings followed only a term in prison. It looks to me as though clauses 25 and 4 overcome that weakness, if it were a weakness; that by the two clauses 4 and 25, the minimum penalty that a judicial body may impose is both fine and imprisonment, and that deportation is sure to follow on any conviction. Is that the case?

Mr. BELAND: Yes.

Mr STEVENS: Why limit deportation to paragraphs (a), (d) and (e) of clause 4?

Mr. BELAND: Those are traffickers.

Mr. STEVENS: Paragraph (b) reads: Imports into or exports from Canada any drug.

Paragraph (c) reads:

Exports any raw opium or any drug that is not packed and marked in such manner—

And so on. That party would be a trafficker just as much as the other, and it might be possible to catch a very notorious trafficker under paragraph (c) and not be able to catch him under one of the other paragraphs. If he is convicted under paragraphs (b) or (c), I do not see why he should not be deported. Why not say under the whole of clause 4?

Mr. BELAND: It would appear that paragraph (a) would cover all the cases, and (b) is only an explanation of what ports should be named by the minister. When the preparation of the bill was under way, this feature of it was very carefully looked into, and it was the opinion that clause 25, as it is now drafted, would meet all possible emergencies. If my hon. friend thinks the clause should be made broader, I have no objection to adding anything he suggests, but in the opinion of the officials of the department and also of the officials of the Department of Justice, that would cover the cases that we want to reach, that we have in view. I may say further that the administration of a similar clause incorporated in the bill last year did not give entire satisfaction. The principal reason is that under clause 10 (b), I think it is, of the former act, too much discretionary power was left with the magistrate. In many cases where an alien was convicted, deportation could not take place because the magistrate interpreted the law in a different manner from what we thought the intention of parliament was at the time of the passing of the act. Moreover, if I may explain, I think a decision has been handed down by a court in British Columbia. There the court held that a person sentenced to pay a fine and, in default of payment of such fine, to a term of imprisonment, not liable to deportation under the act. I am informed that some 49 cases of deportation have been stopped by that decision of the court. The section which has been prepared is supposed to cover all possible cases, and if the committee will read it carefully with me perhaps my hon. friend will share my opinion:

Notwithstanding any provision of the Immigration Act, or any other statute, any alien, whether domiciled in Canada or not, who at any time after his entry into Canada is convicted of an offence under paragraphs (a), (d) or (e) of section four of this act shall, upon the expiration or sooner determination of the imprison-