

with the foreign exchange control board as such; they relate to the effective enforcement of the act, which of course is a pretty important portion of the control, because it is important that people should believe that the act is fully and fairly administered. The great majority of permits and declarations are approved or made to authorized dealers, that is to banks, and it is generally impossible for the board to state definitely that no permit has been granted or declaration made covering a particular transaction. On the other hand the declarant or applicant for the permit gets the copy of it and he knows whether he has got the permit or not.

Mr. FULTON: How long does he keep it?

Mr. ABBOTT: The shifting of the burden of proof is therefore no hardship on the applicant. The defendant in one of these actions knows perfectly well whether he has obtained a permit or not, and it is very easy for him to establish that. On the other hand, permits have been issued by thousands of branch banks throughout the country, and it is pretty difficult if not impossible for the board to know at a given time whether or not an applicant has his permit. Careful consideration was given to this. My colleagues and I are conscious of the fact that this is an exception to the general rule that the burden of proof is on the crown to show that a man is guilty. But we feel on balance that this is a not unreasonable condition to put upon those who are dealing with foreign exchange, and for that reason I feel that the section should remain in the act.

Mr. FULTON: I appreciate the minister's point of view, and I accept at its face value his assurance that careful consideration was given to this matter; but I must make this observation, that it is the first time I have heard difficulty of administration advanced as a reason for making a fundamental change in legal principles, and I think that it is an entirely invalid ground on which to base any argument. For my part I do not accept it. As far as difficulty is concerned, it is no more difficult for the board to prove that it did or did not issue a permit than it is for a man who received a permit three years ago, but who has lost or destroyed it, to prove that he received it; and if the statement that banks or agents of the board do not keep records—

Mr. ABBOTT: Oh, they do.

Mr. FULTON: —is to be urged as justification for importing this principle, I do not think it is a valid argument. I have in mind that this transaction may have taken place four

or five years ago and that persons may actually be completely unable to prove they ever received a permit, because they have lost it. Business men, and particularly small business men—country merchants, country storekeepers—do not keep their records as carefully as government departments do, or as we hope government departments do. It is the crown that lays the prosecution or the information; it is the crown which brings the action, and I think the crown should accept the normal responsibility which rests upon it of proving its case before the unfortunate innocent citizen can be found guilty. It is a principle which we simply cannot allow to be infringed for the slender and tenuous reasons the minister has advanced. In order to bring the matter to a head, I move:

That section 58 of the bill be deleted, and that the subsequent sections be renumbered accordingly.

The CHAIRMAN: A similar amendment was moved this morning, and I declared it out of order. The effect of the amendment, in fact the words of the amendment, are that the clause be deleted. The clause will automatically be deleted if it is not carried when I take the vote.

Mr. FULTON: I was under the impression that it was necessary to renumber the subsequent clauses, and that that should be included as an amendment. However the purpose of the amendment is that the question shall be put.

Mr. CASTLEDEN: I should like to ask the hon. member for Kamloops one question. If he were charged with driving a car without a licence, would he expect the burden of proof that he had a licence to be upon the officers of the law, or would he consider that he would have to produce his licence?

Mr. FULTON: I can answer that this way. There is a burden which I know now rests on me to carry my licence while I am driving. But as far as I know there is no burden on me to keep an export permit or any sort of permit, which I may have had four years ago, indefinitely from year to year to be produced when asked for. There is no such obligation upon me.

Mr. CASTLEDEN: I think the same principle applies.

Mr. FULTON: There is a clear duty on a man to produce his licence whenever he drives his car. There is no such duty in this case.

Mr. CASTLEDEN: I think there is.

Section agreed to on division.