

Criminal Code

drive. With this change it is not necessary to prove that an individual was impaired. All the authorities must do is show that his bloodstream contained .08 per cent alcohol.

We must also consider the other change dealing with the breathalyzer test. If an individual refuses to take a breathalyzer test he is guilty. The minister argues that he is not really guilty of an infraction of this law but is guilty of refusing to take a test. The punishment for refusing to take a breathalyzer test is identical with the punishment on a conviction for drinking and driving. When the punishment is the same for a conviction under the section or refusing to take the test, there is not much rationalization in the argument that it is not really the same offence. If you refuse to incriminate yourself then you are guilty.

At this moment the minister is probably discussing a charter of human or individual rights. One of the sections of that charter is likely to be to the effect that a Canadian need not incriminate himself. How can we possibly justify these two points? If we say in the proposed charter that an individual need not incriminate himself and, on the other hand, that he can be forced to incriminate himself under this law, how can we justify our position? We suggest on the one hand that an individual must take a breathalyzer test unless he has reasonable grounds to refuse. That is a strange attitude to adopt when dealing with police forces and administrators of the law. We cannot very well justify or reconcile these positions.

In discussing this matter the minister said that, after all, it is the same as being forced to be fingerprinted. In some cases an individual may be forced to be fingerprinted but that does not necessarily mean he is guilty of an offence. An individual's fingerprints may be found at the scene of a crime. That individual may well have been there and his fingerprints may be the only ones found, but he still has the opportunity to show that he was not guilty and the Crown must prove that he is guilty beyond any reasonable doubt.

The proposed change states that if an individual has a blood alcohol content of .08 he is guilty of an offence. This is tantamount to suggesting that if your fingerprints happen to be found at the scene of a crime you are guilty without recourse. We must really consider whether we want to go this far.

An hon. Member: And you end up with a criminal record.

[Mr. Otto.]

Mr. Otto: We are trying to have records expunged after a certain period of time; yet we are instituting now the creations of records for drinking and driving. Perhaps this is the time to place an absolute prohibition on drinking and driving, and when I say that I mean even one drink. If that is the case, then perhaps this will be a good law. We must indicate to people that from now on they cannot drive after drinking. We must also consider whether Canadians will understand what the fact is. I have no objection but I think Canadians should be made aware of the situation. They must understand that they will have to change their social habits.

I cannot understand how anyone can possibly justify that a refusal to incriminate oneself is tantamount to being guilty of an indictable offence. I am sure we will hear other arguments in respect of other facets of this bill. My purpose in rising today is merely to bring to the attention of the minister and the government this one provision which I think is not in accord with the general feeling of the public. I certainly think that the proposed changes to section 224 should be removed.

Mr. Melvin McQuaid (Cardigan): Mr. Speaker, I do not want to delay unduly the passage of this bill or its referral to the Standing Committee on Justice and Legal Affairs where I am sure it will receive very careful scrutiny, but I do think there are certain observations which can perhaps be more conveniently made at this stage.

In spite of the admonition delivered a few minutes ago by the hon. member for Winnipeg North Centre (Mr. Knowles), which I will deal with it in greater detail in a moment, along with many others on this side of the house and on the other side, if they were free to express their opinions, I feel this bill should have been presented in a divided rather than in its present omnibus form. I realize there are parts of the bill which are very good and that it contains amendments to the Criminal Code which are long overdue. But at the same time many other matters could and, I suggest, should have been included in the bill by way of amendment. I suggest that in many respects today our Criminal Code is indeed archaic and is not moulded to or in tune with the times in which we are living. I would like to put on the record just a few of the sections of the Criminal Code which are indeed archaic. For example, section 72 says: