

Criminal Code

there. What in the world is he going to do with it? I have tried to figure this out.

I spoke with the senior prosecutor in Vancouver at the week end, Mr. Stewart McMorran, and we discussed what the man would do with this sample. We had several colourful suggestions to offer but none that would lead to any cogent defence to a charge under this section. I am sure the minister will agree that probably that section should not be brought into the law until we have a good idea as to where an accused can go with the balloon full of his own breath. If he is found leaving the police station with a balloon in one hand, he will probably be arrested again for being in a state of intoxication in a public place. There is nothing he can do. He can sing, "Hi ho come to the fair," and leave it at that.

So far as this proposed section is concerned somebody will have to take a good look at this provision relating to the accused getting a sample of his own breath. By the way, Mr. McMorran had discussed the matter with Mr. Fennell, the city analyst in Vancouver, and so far as they know a balloon is the only thing that will hold human breath. However, the balloon will not stay blown up for more than two hours. I suppose the accused could run from the police station to the R.C.M.P. station out at Burnaby, or out in my riding, and hope to get some help from another breathalyzer tests, but I doubt if this would get him very far.

There are some other defects in this proposed section that I am amazed some of the other Perry Masons on the opposition side have missed.

An hon. Member: We want to give you a chance.

Mr. Hogarth: That is very good of you. I waited until today to speak because I wanted to let everybody else go first. There is the matter of the two hour provision. This is something the standing committee will have to consider. I am sure the minister has the answers, but these are things that we should bring before him for his attention and consideration.

I could speak on the lottery and gun provisions included in the bill for quite some time this evening, but I shall reserve my remarks until a later stage because these provisions are quite complex.

I would not want to conclude my remarks tonight without some mention of those aspects of the bill which deal with penal reform, as opposed to reform in the penal law. There are

probably about three very cogent provisions. One can look through all the proposed sections and subsections but I think one ends up with three basic changes. The first is the extension of the power of the court with respect to the imposition of suspended sentences. Certainly not the least of the contributions that are being made to reform is the fact that we are wiping out any suggestion that if the person involved has a previous conviction he cannot get a suspended sentence. This is something that has plagued lawyers for a number of years.

The second thing we should take careful note of is the fact that the parole board is going to be expanded. The result of the expansion of the parole board will be that it will be empowered to sit in Panels throughout the country. Those of us who served on the justice and legal affairs committee and heard the Solicitor General (Mr. McIlraith) and the Chairman of the National Parole Board were pleased to see that penal reform in this country is taking the direction of further parole. It is all very well to put a man in jail to rot when he has been convicted of a criminal offence. It is all very well to teach a thief to be a tinsmith, but under the old system if you teach a thief to be a tinsmith and nothing more then when he is released all you have is a tinsmith who is a thief.

Mr. Lewis: A far more qualified thief.

Mr. Hogarth: A far more qualified thief if he requires the use of his tinsmith skills. But what we have to do is to consider the welfare of the community because we are dealing in these instances with some extremely vicious men. Let us not pretend that they are all nice guys gone wrong. Some of them are inherently vicious. Some of them when released at the conclusion of their terms are homicides going somewhere to happen.

There are things to consider here in relation to the prisons themselves, but the best way to achieve reform is to get a man back into the community under the supervision of competent penologists. These are called probation officers. They are the men who do the most good. This is the direction the law has taken. You will note the extended definition, as the hon. member for Halifax-East Hants (Mr. McCleave) mentioned, of day parole. That hon. member spoke about Judge Haley's actions in this regard. The day parole is one of the interim steps toward reform. We are now doing no more than defining some of the