

Criminal Law Amendment Act, 1972

attainment; it is not one which we should expect to attain very soon, but it should be a goal toward which we move.

Several other changes in the bill before us deal with matters of distinction which exist in our present criminal law as between men and women and which are increasingly under attack today. Less important among these, no doubt, is the change in the vagrancy section relating to soliciting: more important is the change which will mean that in the area of criminal law the responsibility of serving on juries should apply equally to men and women. This accords with the following view expressed in the report of the Royal Commission on the Status of Women:

We see no reason why women should not in all cases carry the same responsibility to perform this important duty as men.

In the area of criminal law which is open to us in our jurisdiction we will make the change in this bill which renders equal treatment a fact. Another important area included in the bill relates to sentencing. First of all, we propose to put into the hands of judges and magistrates the power to give an absolute or conditional discharge to persons who either plead guilty or are found guilty by them. This means, of course, that the offender will not be convicted. This means that in certain cases, particularly of young offenders who have transgressed in a technical way without in any malicious sense having attempted to injure society, the judge or magistrate is given the power to use this approach instead of rendering a suspended sentence which might otherwise have been the next least severe penalty available to him.

Power to grant a conditional discharge will allow judges and magistrates discretion in dealing with cases where a certain course of conduct may be desirable as a result of the actions of the young offender. This may be particularly relevant in cases of simple transgression such as the simplest of drug offences. The key to how this power is used will be the way in which the judges and magistrates apply it. We are very conscious of our responsibility to help them understand the scope of their power and to promote a uniform and enlightened approach throughout the country. The judicial council, which is another new body available, will have an important role to play in helping to ensure that uniformity and understanding of this power is available to magistrates and judges.

Further discretion is given to magistrates and judges by two clauses of the bill which allow for intermittent sentencing. In sentences of up to 90 days imprisonment, the judge may impose the sentence intermittently so that if he sees the possibility of allowing the convicted person to maintain a job while serving his sentence over a longer period, he can so arrange it. We have all too often seen cases of persons convicted where the fall-out effects of the sentence, loss of job and serious economic hardship for family of the offender, far exceed the simple sentence itself. This may be more often avoided if the judge has power to make sentences intermittent so that the offender may hold his job, support his family, and also serve his sentence. In the same way, in the case of suspensions for driving we propose to allow the judge or magistrate to suspend sentence intermittently, recognizing the fact that in certain cases a man's driver's licence is itself a source of livelihood. The punishment in such a case is of a different level, a different magnitude than in the ordinary

[Mr. Lang.]

case where this principle does not apply. The judge may take this into consideration as he imposes the penalty.

• (2030)

We do, in this bill, increase the penalties which may be applied in cases of obstruction of police and obstruction of justice, recognizing thereby the serious nature of some of the offences which can occur under these heads. At the same time, we provide for an alternative for summary conviction proceedings because the range of action, the kind of activity which may be involved under this offence is so broad that in certain cases the lesser penalty or lower-keyed approach is appropriate.

We also propose to provide for an appeal from conviction for contempt of court. Heretofore these appeals lay in respect of sentence only. This has been seen as a gap in the law which should both be fair and seen to be fair in dealing with persons who offend or are held to offend in this fashion. We also propose to impose a clear duty under the criminal law upon jurors to hold secret the content of their deliberations. Such disclosure by jurors has in some jurisdictions—far less in ours—brought the system into serious question and we propose to move against it in this fashion.

These changes, Mr. Speaker, represent further moves in the direction of trying to respond to the needs of today in our law, and in how our law may be viewed by people who are affected by it. As a new Minister of Justice I earnestly seek hon. members' support in carrying these changes into law. Perhaps even more importantly, I earnestly seek their support in developing further changes for equally rapid implementation into law.

In our day we can far less afford the delays which we have suffered in the past. It is more dangerous and less defensible to leave our legal system, our whole belief in the working of freedom, vulnerable to those who have a case against a particular rule when we have to agree with their case and should move to change the rule. Mr. Speaker, I urge hon. members, in that spirit, to embrace these changes, to quickly, after effective study, put them into our legal system and to work together in improving our criminal law and our legal system as a whole.

Mr. Robert McCleave (Halifax-East Hants): Mr. Speaker, I suppose this could be called the night of the parliamentary splashdown, after several weeks of starting and stopping in this place as we took to ephemeral flights of fancy as to whether we were to be interrupted by the calling of a general election. We now, apparently, feel there is to be none and it is back to business at the old stand.

The Minister of Justice (Mr. Lang) in his first major legislation in that capacity has given us quite a bag of changes in the criminal law. There are 75 clauses in the measure we are now considering and I suppose it could be said that there are at least two dozen principles on which we have to make a decision. I think I can set the hon. gentlemen's mind at rest on most of them. They will be examined, perhaps vigorously, in committee as to the technical nature of the language or as to the reason for change, but at least on the face of it they appear to merit being passed by parliament.