

Criminal Code

R. B. Bennett one of the few times in his life—I do not know; they certainly both agreed they should be bachelors but perhaps this was another area of agreement—said this:

I find myself in entire agreement with the Right Honourable the Prime Minister. My convictions in the matter are quite as firm, as profound and sincere as his own... I hold that there are very strong reasons why those who have to do with the shaping of public opinion should not further or countenance any measure which, by statute, would publicly encourage gambling.

Mr. Baldwin: Maybe he thought there was a very close relationship between bachelorhood and lotteries.

Mr. McCleave: The hon. member for Peace River (Mr. Baldwin) has made a remark which I hope goes on the record. It is a very pertinent one on the possible connection between lotteries, bachelorhood and gambling.

Mr. Nesbitt: I have never gambled in my life.

Mr. McCleave: And the hon. member for Oxford (Mr. Nesbitt) has never gambled in his life.

An hon. Member: He is a bachelor.

Mr. McCleave: My second area of strong disagreement with what is proposed in the omnibus bill relates to homosexuality. If I were to approach this as a problem to be solved, I probably would not see it either in terms of crime or of punishment but in terms of disease or pathological complaint. I suggest to this honourable chamber that we should take a close look at a new method of tackling the problem, as we should. I hope in time we shall take a new approach to the problem of alcoholism and how we tackle it. I think they are very much the same type of problem. I think it is wrong to deal with them as crimes first, and then crimes deserving of the particular forms of punishment that we have because our forms of punishment are very limited. In any event, my conscience becomes so abhorred by the thought of the sanction that we hope to give to homosexuality that I have no option but to vote against the provision.

I would draw the attention of the minister and those members who will be on the committee to the fact that the consenting portion of the proposal before us is somewhat curiously drafted. It is almost on all fours with the portion of the Criminal Code which deals with consent in the case of rape. But instead of using the words "false and fraudulent

representations," as are set forth in section 145 of the Criminal Code dealing with rape, this bill uses the words "false and fraudulent misrepresentations." The purists of language in the house might wish to find out the difference between "false and fraudulent misrepresentations" and "false and fraudulent representations".

I draw another matter to the attention of the minister. I do this sort of thing tonight because I suppose there will be a few more days of debate before we get to committee, and this will give the minister's advisers a chance to further study the measure. I suggest that if a homosexual act is procured by duress or force, this should be in the exception feature of the proposed clause. This clause provides that a person shall be deemed not to consent to the commission of an act if the consent is extorted by threats or fear of bodily harm or is obtained by false and fraudulent misrepresentations as to the nature and quality of the act. I am suggesting that somebody's arm may be twisted behind his back to consent to such an act, and therefore this should be added to the other exceptions. In any event, as a matter of basic principle and because I think we have to set standards by which we expect people to live, I could not give my consent to the homosexuality provisions of the proposed omnibus bill.

The third point on which I disagree violently with the government which brought in this measure concerns the clause which would make it an offence to refuse a breathalyzer test if a policeman asks one to undergo it. If a policeman has good and reasonable grounds to believe that you should undergo a test he will probably have enough evidence to support his case against you, and that will be that. There will be a conviction, a fine and the loss of your driver's licence. I think that is fair ball, for the reasons I indicated earlier, namely, that the holocaust on the highways is now so severe that we have to take steps here, whether we like to or not, to do something to cut it down. But I say this provision is going too far because it represents double punishment of a person. I propose, therefore, to vote against the provision.

Finally, I come to the area of extreme and extraordinary doubt. This is the provision that deals with abortion. I have listened to the arguments. I have read a bit on the subject; not as much as I would like, but I will read some more. There are a couple of points that tend to crystallize my thinking. I know the objection of the Roman Catholic church