

Hon. Mr. CALDER: If any person who is intoxicated gets into a car and sets it in motion, you can tax him and punish him.

Hon. Mr. MACDONELL: There is another point. I have known of cases of men who had been spending the evening with friends and had something to drink. One man told me this himself: as he felt the effect coming on, he slipped quietly to the side of the road and parked there until he was sober enough to go home. He would be subject to fine and imprisonment.

Hon. Mr. DANDURAND: I confess that I cannot see the point. I may be somewhat dull. I will read the clause and try to analyze it. It says:

Everyone who, while intoxicated or under the influence of any narcotic, drives any motor vehicle or automobile—

There is no objection to that?

Hon. Mr. CALDER: No.

Hon. Mr. DANDURAND (reading):

—or has the care or control of a motor vehicle or automobile, whether it is in motion or not, shall be guilty of an offence, and shall be liable.

At the first reading I understood that this clause covered any person who drives a motor vehicle while intoxicated or under the influence of narcotics, or who while intoxicated is found in control of a motor vehicle or automobile, whether the automobile be in motion or not. That is quite logical. The vehicle under his control has stopped, but it may start within a minute, or it may be on the wrong side of the street. The driver is thus in a position to cause damage to others in the handling of his motor car, even though it is not in motion. He may set it in motion at any time. He commits an offence because he has control of the car while he is intoxicated. I think this has been phrased so as to hold a man who upon being arrested may say: "Oh, well, my car was stopped; I was not driving. I was doing no harm. I didn't intend to move."

Hon. Mr. BELCOURT: And who was dead drunk.

Hon. Mr. DANDURAND: Yet he has been in control of that car and might have done harm within five minutes.

Hon. Mr. WILLOUGHBY: But how about "care"? The owner of a car may drive it into a garage and leave it there in the care of a garage man who may be a bit intoxicated. Surely because the car is in the garage man's care he should not be imprisoned for three months.

Hon. Mr. DANDURAND: I should not take this expression to cover the owner.

Hon. Mr. DANIEL.

Hon. Mr. WILLOUGHBY: If it were limited to the owner it would be all right, perhaps.

Hon. Mr. CALDER: I quite agree with the views expressed by the leader of the Government. My trouble is that the section is not properly drafted and does not express what is intended. It is not restricted to an automobile on the highway, or one that is being driven by the owner. A person may be liable to imprisonment because he has the care or control of the car, though he has no intention of running it.

Hon. Mr. BELCOURT: My honourable friend refers to a man who may be perfectly innocent of any fault in regard to the automobile.

Hon. Mr. CALDER: Not the owner.

Hon. Mr. BELCOURT: I should have said the garage owner. The automobile is in a garage out of harm's way, but if the man happens to be drunk in his house at that time he can be arrested under the section.

Hon. Mr. CALDER: Surely. That is what it means.

Hon. Mr. DANIEL: I suppose the word "intoxicated" means intoxicated by the use of liquor alone. This section says, "intoxicated or under the influence of any narcotic." Would it include being under the influence of liquor? I think the phrase "under the influence of liquor" was used in another copy of this Bill, and I think it is a better expression. When a man is intoxicated he is in a more advanced stage than when he is under the influence of liquor. A man under the influence of liquor is in a very dangerous condition if he is driving a car. You cannot say that a man who is exhilarated by having had one or two drinks is intoxicated, but he is going to be a danger on the highway. He will run his car in a reckless manner and make himself not only a nuisance but a menace to those travelling on the same road. I think the section is badly worded.

Hon. Mr. BELCOURT: My honourable friend will remember that the word "intoxication" has a legal meaning.

Hon. Mr. DANIEL: What is it?

Hon. Mr. BELCOURT: I do not know whether I can give it. It is always a question of fact, and can and must be determined by the magistrate who hears the case. You cannot say that a man is intoxicated because he has had two drinks, or five drinks.