

*Criminal Code*

A woman should not be required to prove that she is going to be a mental or physical wreck or that she is going to die in order to be able to rid herself of a pregnancy she does not want as a result of a crime against her body. I am of the view that is a simple right that should be given to women as members of our community. Apart from abortion, and one could go on very extensively on that subject, there are a great many aspects to be considered.

I think one of the most fascinating aspects of this bill is the provisions of section 16 dealing with the compulsory breathalyzer test, I am somewhat appalled at the members on the other side of the house. They have a Perry Mason over there and I am surprised he did not cut this section to shreds, as it has some incongruities in it.

● (9:20 p.m.)

But in any event before I get into what those incongruities might be I would like to point out, Mr. Speaker, that we have a responsibility to take some very firm steps to prevent carnage on our highways. The minister's statistics about the serious accidents being caused by impaired and drunken drivers are absolutely correct. These statistics are borne out by the experience of almost every lawyer in Canada who has had familiarity with these types of cases.

The statistics quoted by the minister might well be bolstered by the fact that in 1966 over 30,000 people in Canada were arrested and convicted on impaired or drunken driving charges. That figure was up from the year before by about 3,500. There has been another increase since and some firm steps have already been taken.

In British Columbia the attorney general gave grave consideration to the imposition of compulsory breathalyzer tests and after very extensive consideration the department rejected the idea. We have adopted, if I may respectfully submit, a far more Machiavellian system. In British Columbia if a police officer, upon stopping an accused person, has reasonable and proper grounds to believe that the man is impaired, he automatically arrests him. The man is taken to the police station and is given the option of taking a breathalyzer test or refusing it. Usually the officer is somewhat sceptical if he refuses it.

Where the police officer does not know for sure that the man is impaired, but knows he has been drinking, he forthwith on the highway gives him an option to do one of two

[Mr. Hogarth.]

things. The man can thereupon give the officer his driver's licence for 24 hours, or alternatively he can go down to the police station and take the necessary test. If the man takes the breathalyzer test and his reading is .08 or more, his licence is subject to suspension. It is not very long before he gets a letter from the superintendent of motor vehicles telling him his licence has been suspended for three months.

In the year 1967 when this system was introduced out of 3,900 drivers stopped on the highways of British Columbia, 3,750 walked home. You can see how reluctant they were to submit themselves to the test. I think you can see, Mr. Speaker, how efficient this system is in getting these people off the highways.

**Mr. Lewis:** For 24 hours.

**Mr. Hogarth:** Suspended for 24 hours.

**Mr. MacEwan:** And they can walk home and get the second car.

**Mr. Hogarth:** Just wait until I finish my remarks. I suggest that we compel them to take the test. I think that is a good idea, and is one of the reasons I am supporting this bill. However, I suggest that if the test shows a reading of .08 or more, then they should get an automatic suspension of their licence.

The reason I say this is that those of us who have dealt with impaired drivers have found the critical factor is not the ignominy of being convicted or the fine. It is the fact that in nine out of ten of these cases the magistrate suspends the licence and, if he doesn't, the superintendent of motor vehicles does. This is the thing that hurts. If you take a good look at the proposed section 16 you will see that is pretty well trial by machine anyhow. There are not a great many defences that I can think of that could be raised. But even in the system I put forward if there were defences you could give the accused an opportunity to appeal to a magistrate, as in the gun provisions, if he felt he had been dealt with unfairly. This is something the minister might consider during the course of the deliberations of the committee.

I do not propose to comment much further on this proposed breathalyzer test, except to one aspect. I notice that under the breathalyzer provisions in the bill the police officer who is giving the test shall offer to the accused a sample of his own breath. The provision stops