

to own a car to two tests; first, to provide an alibi and to prove his innocence and to pay a fantastic amount of money these days to prove himself innocent. The onus, now, you are putting on the people instead of on law or on the law enforcement agencies. Consider also that the police are like other individuals; if there is an easier road, they will take it, and if it is quite easy to find someone who owns a vehicle who does not have an alibi, to charge him and let him prove, let him find the guilty party. If you are talking about statistics, I am sure if you compare the statistics of the number of vehicles stolen to the number of accidents where they cannot find the guilty party, you will find that a fantastic number of vehicles are stolen and a good portion of those incidents will wind up with the owner having to prove himself innocent.

Mr. FOREST: In such a case like the owner usually reports his car stolen. Naturally, then, he would not be charged at all.

Mr. CHOQUETTE: It happens at times that some people, some kids take the car from the owner, then they take it back and the owner did not even know about it.

Mr. FOREST: I admit, Mr. Otto, it would impose some burden on the owner to prove his innocence rather than having the Crown prove him guilty, but it is due to the difficulty of these hit and run cases.

● (11.30 a.m.)

Mr. MACEWAN: Under this proposed amendment an immediate charge could be laid, an information laid against the owner of the car; I do not think that is fair at all.

Mr. FOREST: Naturally you have to rely on some good faith on the part of the Crown. If they know who it is they will charge the guilty person but—

Mr. MACEWAN: —sometimes the Crown is reasonable and sometimes it is not.

Mr. SCOTT (*Danforth*): I just have a few objections and maybe the witness will satisfy them. I think one of them has already been made, namely, that what you are suggesting, and I am sure you do not mean it, is you are seeking to reverse the whole basic philosophy of the Criminal Code which is that an accused is presumed innocent and that the onus to prove him guilty beyond a reasonable doubt is on the Crown and never shifts throughout the trial.

What you are doing by this bill is really reversing it and I think you do not want to do this; but it certainly is a very dangerous principle because, as Mr. Otto has pointed out, the difficulty of reversing an onus, once it is erected certainly by statute, would be very very hard.

The other thing is, have you given any consideration to the real ingredient of the offence? The real ingredient of the offence is not leaving the scene, or being in control, but leaving it with the intent to escape civil or criminal liability. This is the real ingredient of the offence under this new section of the Code and it is in the difficulty of proving this that a lot of the trouble arises in getting convictions. Have you given any consideration, whether some amendments might be necessary?

Thirdly, if you are going to even erect a slight presumption, it seems to me you have to write into it very very carefully all that is required to reverse the