

kept passing the drinks around. I asked myself "What is the use of appealing to people to be careful?"

Nobody is more opposed to drunken driving than I am. Yet, honourable senators, listen to this subsection (4a):

Everyone who, while his ability to drive a motor vehicle or automobile is impaired by alcohol or any drug, drives any motor vehicle or automobile, or has the care or control of a motor vehicle or automobile, whether it is in motion or not, is guilty of an offence . . .

What is meant by the "care or control of a motor vehicle"? In the courts in the immediate past there have been cases where motorists when driving have felt that the liquor they have taken has made them incapable of exercising proper control, and so have pulled over to the side of the road, got out of the front seat and into the back seat, and been found there by the police. The courts have found such motorists guilty of being drunk while in control or care of a motor vehicle, and have sent them to jail. When we were considering this bill in committee the leader of the opposition (Hon. Mr. Haig), who is not present this morning, told me that recently the Manitoba Court of Appeal had refused to support a conviction in circumstances of that kind.

This measure would put the matter of having the care of an automobile on a par with the driving of an automobile. What does the care of an automobile involve? Must a garage operator who has a car under his control and in his care be liable to go to jail if his abilities are impaired? That is surely not what is intended; but that is what is said; and in legislation it is not what is intended by drafters that counts, but what they say. The provisions of this bill would apply whether the car was in motion or not, just so long as it was within an accused person's care and control. The section is most unfortunately phrased.

**Hon. Mr. Beaubien:** But such a person must be under the influence of liquor or a drug.

**Hon. Mr. Roebuck:** When his driving ability is impaired by liquor or drug, and he has the care of a motor car. It seems to me the ends of justice would have been met if the rule had been made to apply to a person driving a car. The court of appeal in the Province of Manitoba recently refused to support a conviction under conditions such as this bill provides.

**Hon. Mr. Beaubien:** Would my honourable friend not agree that a large percentage of the accidents are caused not by drivers who are intoxicated but by those whose facilities are impaired through the use of liquor or a drug?

**Hon. Mr. Roebuck:** Yes.

**Hon. Mr. Beaubien:** Then why not put something in the Act that will prevent such people from driving?

**Hon. Mr. Roebuck:** I welcome the provisions of this measure which extend the present drunken driving provisions to those whose ability to drive has been impaired. That is good; I like it. There may be some difficulty in its administration, but in due season the courts will take care of that, and I look for the success of this legislation in that respect. But that is quite apart from the provision that a man who is sitting in the back seat of an automobile, and has no intention of driving it, may be sent to jail.

**Hon. Mr. Beaubien:** But he is liable to start it and drive it at any time.

**Hon. Mr. Roebuck:** Yes, but we are not going to put in jail a whole crowd of people whose ability to drive has been impaired by too free imbibing; the provision should apply only to those who are driving or operating a motor car.

**Hon. Mr. Lambert:** May I ask my honourable friend if the Criminal Code contains any provision governing practice driving on the streets, as conducted by certain driving agencies? An unfortunate accident occurred in this city the other evening, when a boy of fifteen was being taught to drive.

**Hon. Mr. Duffus:** That was by his father.

**Hon. Mr. Lambert:** True; but there are driving agencies that teach people to drive. I notice cars frequently with the name of some driving school on the back. Persons who are being taught to drive are attempting to observe all the courtesies of driving, but they are liable to become confused and, for instance, apply the accelerator instead of the brake. If the Criminal Code is going to put so much emphasis on intoxication, it should not overlook other matters which involve the public safety. To my mind these practice-driving cars are a menace to other drivers and to pedestrians.

**Hon. Mr. King:** Order!

**Hon. Mr. Roebuck:** We must be most careful not to discuss the accident which recently took place in this city, for charges have been laid against the parties. There is, however, provision in the Code against careless driving and the provinces legislate on the matter of granting licences, and so on. Undoubtedly these driving agencies, as my friend calls them, are licensed to teach people to drive. In Ontario a special temporary licence is given to enable the uninitiated to learn to drive.

**Hon. Mr. Lambert:** But the area in which such practice driving shall take place is not set out.