

Criminal Code

Mr. Woolliams: The press release from the office of the Minister of Justice reads in part as follows:

Mr. Turner pointed out that the breathalyzer provisions contained in recent Criminal Code amendments were designed to attack the ever-growing problem of death and injury on the highways resulting from persons driving motor vehicles after having consumed excessive amounts of alcohol.

That may be true. Parliament passed the act but the executive went far beyond it. This action is a typical example of rule by cabinet and not by Parliament. It is a typical example of the bind the government will get itself into in future if it continues to follow this course. The people of Canada still trust Parliament, even if the government does not.

[*Editor's Note: At this point a voice from the gallery shouted, "I don't."*]

Mr. Woolliams: Why don't you resign your seat? You are drawing good pay.

Some hon. Members: Oh, oh!

An hon. Member: That was from the gallery.

Mr. Woolliams: He is getting good pay, too.

Some hon. Members: Oh, oh!

Mr. Woolliams: I hope the Minister of Justice will take into consideration the cost to the citizen of this appeal. I like the procedure being followed in this instance but I submit that my criticism has been well-founded.

Mr. Andrew Brewin (Greenwood): Mr. Speaker, there is one aspect of the minister's statement that I would commend, and only one. If the deed must be done, it is well that it be done quickly. If this matter is to go to the courts then I submit it is proper that it should go to the Supreme Court of Canada as quickly as possible in order to avoid confusion in the courts and to avoid confusing the people of Canada on this important subject.

But, Mr. Speaker, there is a far more serious aspect of this matter than the mere legal aspect. I am not, of course, going to discuss the legal aspects since the matter is before the courts, but I want to refer to the question of the rights of Parliament. I suggest that whatever the law is and whatever the Supreme Court of Canada may say, it is a most outrageous and dangerous precedent that says that the criminal law of this country should not be made here, in Parliament, by the peoples' elected representatives but by the

cabinet of the day. This is a very dangerous precedent and one that should be avoided.

● (2:20 p.m.)

What is the situation? Parliament designed this legislation. I will not comment on it. I think it was excellent in purpose and as far as I am concerned I approved of it. But a safeguard for the subject was tied right into the legislation. What happened? This part of it, taken right out of context, is not proclaimed. This is a form of selective delegation which warps the meaning and intent of Parliament. This is not a minor matter. It is not taking one section, putting it into effect today and taking another section and putting it into effect tomorrow. That might be perfectly all right. This is removing the integral part of the section, a safeguard given to the subject in a matter of penal law, and saying, we, the cabinet, are going to pass this law in a different form from that approved by Parliament.

The intentions may have been excellent. Perhaps the containers are not yet available or something of the sort. If that is so, the government should have either proclaimed the whole thing or come back to Parliament and said that they could not do this and wanted to change the law. Perhaps they could have been able to do that.

I say that the greatest safeguard that exists to the liberty of the subject is that the criminal and penal laws of this country in serious matters of this sort which affect the liberty of the subject should be made by Parliament and not by the cabinet of the day. For this reason, whatever the legal consequences, I repeat that it is a dangerous and outrageous precedent that we have before us today.

[*Translation*]

Mr. Réal Caouette (Témiscamingue): Mr. Speaker, I think the minister's statement could start an important debate among lawyers. I am not a lawyer but I feel that the question is urgent and important since a decision of the Supreme Court of British Columbia has made it possible to question the validity of the act providing for the use of the breathalyzer. In my opinion, the minister was absolutely justified in making a statement today and to act as swiftly as possible, so that we know exactly what the situation is regarding this important matter.

I agree entirely with the hon. member for Greenwood (Mr. Brewin) who says that an amendment to the Criminal Code must first of all be introduced in the House of Commons.