

*Criminal Code*

My remarks today will not be in line with the remarks of the learned member for Windsor-Walkerville (Mr. MacGuigan), although I am always interested in hearing a man who has his roots in Prince Edward Island, close to us across the Northumberland Strait. I enjoyed at least the first part of his remarks in which he gave the background of the criminal law of Canada.

My remarks on the bill will be more of a practical nature based on my personal experience in my dealings with the public not only as a parliamentarian but also as a lawyer before I entered this historic chamber. The Minister of Justice (Mr. Turner) in opening the discussion pointed out that this bill had received popular acclaim by the electorate of this country. I do not think that was the case. I do not think members were elected to this house on that basis. I will not go into the reason some of them were elected, although perhaps the Prime Minister had a part in that. The hon. member for Hamilton Mountain (Mr. Sullivan), pointed out that this was not the case and that this bill should be divided up to give members on both sides of the house the opportunity to vote according to their conscience on these important measures.

**Some hon. Members:** Hear, hear.

**Mr. MacEwan:** I believe a free vote is called for. I believe ample evidence to support this was given in the remarks of the hon. member for Hamilton Mountain and will be provided by other members who will speak on this bill before it is referred to the Standing Committee on Justice and Legal Affairs. The consciences of members will be tried in respect of the idea of morality and how far the law should go in dealing with Canadians. I will deal with that in my closing remarks.

I support the position taken by the hon. member for Calgary North as the leading spokesman for this party when he asked that the bill be divided. It should be divided in order to give members an opportunity to deal with these matters separately or at least in four different categories as set out by the hon. member.

I shall deal with some of the provisions contained in the bill. There is the matter of the breathalyzer test. Generally speaking, as a parent who has lived in an area where there have been a great many accidents during the last number of years, I certainly think the problem of the drinking driver must be looked into. I agree that perhaps it should be brought forward.

• (3:00 p.m.)

I am a little unhappy about this proposed section 224. At page 4720 of *Hansard* for yesterday the minister is recorded as having said:

Under the bill the driver is not subject to a compulsory breathalyzer test unless at that time, or within the previous two hours, he has conducted himself in such a way that a peace officer, in the words of the bill, "would have reasonable and probable grounds" in arresting him for impaired driving.

The minister points out that the burden would be on the Crown to show this was the case. The bill goes on to state that if a driver does not take a test he must show a reasonable excuse for not doing so. If he cannot provide that reasonable excuse he can be fined and the conviction will be recorded against the individual. That is the part which bothers me. I think the committee should examine it closely. I believe the requirement to take a test infringes the civil rights of Canadians, I have grave doubts about it.

The Crown must prove that there was evidence of impairment before the policeman can ask an accused to take the test, but policemen, whether they be R.C.M.P. or local, are human. Under the law as it stands, the courts must decide what constitutes impairment. I understand the same conditions will apply under the amendment before the house. The idea of forcing an individual to take this test just does not sit right with me. When the committee is studying this provision I hope it will go into this aspect very carefully.

I am afraid I cannot fully agree with the amendments in respect of firearms. I do not agree with all the remarks of the hon. member for Yukon (Mr. Nielsen) in this regard, but he has his reasons and I have mine. This is why we suggest there should be a free vote in respect of the various parts of this bill. There were parts of the first amendment on firearms introduced by a former minister of justice to which objection was taken by gun clubs throughout the country. The minister has made some changes in this bill. These gun clubs encourage a good sport in this country. I know of one such club in my own constituency which trains people in the handling of firearms. Some of its members have competed at Bisley.

I have in mind individuals like the former member for Colchester-Hants and others. I am sure he would be one of the first to say that we should permit gun clubs in this country to carry out these activities. I am glad that changes were made. The minister has said that we cannot make any foolproof gun