

Criminal Code

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. While the legislation included provisions dealing with approved containers that might be used as a check on police equipment and analysis, it was made clear by the government when the legislation was before the House of Commons that approved containers had not yet been perfected and that they were not yet available for use. It was also made clear that the breathalyzer provisions would be brought into force notwithstanding the unavailability of approved containers. Indeed, the provision of the law dealing with approved containers was included as part of the legislation for the sole purpose of avoiding the delay that would result if additional legislation were required to make approved containers, once perfected, available to the public as an additional possible defence.

Because of the importance of the new breathalyzer laws to all Canadians and the desirability of eliminating confusion in the public mind that will result if these laws are not enforced with reasonable uniformity throughout the country, and because of the conflict of judicial opinion that has recently developed as to whether they are now properly in force, I consider it desirable to have this issue determined definitively as quickly as possible.

By proceeding by way of a direct reference to the Supreme Court of Canada rather than by the ordinary appeal route, I feel that a good deal of time will be saved in clarifying the legal status of the breathalyzer provisions as proclaimed last December. In addition, a substantial amount of court time throughout the country will not have to be taken up with needless argument and this in turn should result in a significant saving of expense to persons charged under the breathalyzer provisions of the Code. The required Order in Council under section 55 of the Supreme Court Act will be filed with the Supreme Court of Canada within the next few days.

Mr. Eldon M. Woolliams (Calgary North): Mr. Speaker, I do not like to start off in a critical fashion just after the Easter recess but I am afraid I must. At five minutes before two o'clock today we received a document called a press release. On a matter as serious as this I should have thought the Minister of Justice would hand to the official opposition a copy of the statement he should have made

[Mr. Turner.]

on motions before issuing a press release, and flowing from that statement there could well have been a press report.

Some hon. Members: Hear, hear!

Mr. Woolliams: Mr. Speaker, it is high time that Parliament was taken into the confidence of this government, whose arrogance is beyond understanding.

I should like to refer to an interesting point brought to my attention by the hon. member for Halifax-East Hants who first brought this whole matter to the attention of Parliament. He pointed out that this proclamation was wrong and, as the minister knows, he is one of the leading members of the House on the Standing Committee on Justice and Legal Affairs. I should like to quote from page 476 of Minutes of Proceedings and Evidence No. 11 of that committee to show that the minister was well aware of the law or appeared to be well aware of it, unless he received some bad advice along the way. The relevant date is Tuesday, March 18, 1969. As I say, at page 476 of that report the minister is reported as having said:

The Attorney General of Canada will have to approve some container as suitable. We do not have a suitable container yet developed. What happened of course was that testimony was given to this committee last year or the year before that there was a suitable container which has turned out to be inaccurate evidence. That is the problem that Mr. Hogarth was talking about and that is why we have to delay the proclamation.

In other words, when the minister was before the committee he knew that he would have to make the proclamation with respect to the law on the breathalyzer test. He also knew that he had to specify in that proclamation the kind of container and the kind of scientific equipment that was necessary. During the Easter holidays, following the decision of Judge Craig Munroe, the minister said, "We are going to appeal." I hope, now that he has had a change of heart and is going to refer the matter to the Supreme Court of Canada, that he will remember that we are dealing here with something involving the rights of citizens.

Parliament passes the laws, though it is true they flow from the government. But I submit that even the present executive, including the Minister of Justice and the present Prime Minister, must obey Parliament and cannot by proclamation go beyond the powers this institution has given it.

Some hon. Members: Hear, hear!