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Amendments to Criminal Code introduced in House of Commons

Criminal Code amendments, providing for, among other things, clearer bail laws, more protection in the court for victims of rape and related sexual offences, and stiffer drinking and driving laws, were introduced in the House of Commons in July by Justice Minister Otto Lang.

"The Criminal Law Amendment Bill ...is one of a number which have been introduced in the past few years in the process of a continuing review of the Criminal Code," Mr. Lang said.

"This continuing review is necessary if the criminal law is to continue to be effective as a means of control in view of the changing nature of society."

Clarification of problems

One object in the amendments is the clarification of provisions of the Code where problems have arisen, such as in those clauses dealing with bail and drinking and driving offences, Mr. Lang said.

The major aim of the Bail Reform Act, which came into force in 1972, was to prevent an accused being unnecessarily detained in custody before trial. It has become apparent, however, that there is a need to tighten up some of the provisions where abuses have arisen which could be damaging to the integrity of the system of pre-trial release.

The general rule remains that when an arrested person is brought before a judge, he must be released on bail unless the Crown satisfies the judge that grounds for detention exist. The new amendments, in certain circumstances, place on the arrested person rather than the Crown, the onus of showing that detention pending trial is not necessary in the public interest.

These circumstances would exist where an accused is waiting trial for a previous indictable offence, where the accused has previously abused the liberal release provisions of the Act, or where the accused is not a Canadian resident who might leave the country if allowed out on bail.

The laws dealing with drinking and driving offences also required some clarification and tightening, Mr. Lang



Justice Minister Otto Lang

said. The present provisions of the Criminal Code provide that a policeman can require a breath sample only if he has reasonable grounds to believe that the driver is impaired; this has very limited preventive potential, and, apart from the spot checks which some police forces conduct under provincial law, the police have no authority under the Criminal Code to take any preventive action to detect possible offenders.

Since drinking drivers pose a grave and continuing danger to society, the amendments would allow police to conduct "roadside" breathalyzer tests when an officer has reasonable cause to suspect a driver of having alcohol in his blood.

Other amendments increase and standardize the penalties for impaired driving, failure to provide a breath sample and driving with more than .08 per cent blood alcohol. In addition, under the amendments, a judge will be allowed to impose on a person convicted of a drinking and driving offence a conditional discharge; that is, he may require that curative and rehabilitative measures be undertaken, provided these are adequately available, but there will be no record of a criminal conviction.