

Supply—Justice

Then he goes on to quote Hoffman and Jetter and draws this conclusion:

... "the blood alcohol determination in practice can never indicate with absolute certainty that the accused is under the influence of alcohol." In Canada, the late Professor A. T. Cameron, of Winnipeg,—

Who did not die ten years ago, but recently. —warned that blood alcohol should not be rigidly interpreted to indicate whether or not a person was under the influence of alcohol but can properly be used as additional contributory evidence.

Mr. Smith (Calgary West): I never knew he was alive either.

Mr. Garson: I continue:

With this, Magone and Frankish, of the attorney-general's department in Ontario, agree.

Mr. Magone being, I understand, deputy attorney general of Ontario.

Mr. Fleming: And a good one, too.

Mr. Garson: I continue:

"Clinical findings," they state in their book, "should correspond in general with the alcohol content determined by blood analyses, and it is submitted neither shall be disregarded."

I cite these quotations not to indicate in any way that our department or the commission which is looking into this matter is, on the basis of evidence of this sort, opposed to the adoption of the test; but as I understood my hon. friend's case when this matter first came before the house this year when we were advocating certain amendments to the Criminal Code, he said we should not be bothering with the trivia which were contained in the amendment which was submitted to the house but that we should be dealing with the more important things and it was overdue that we should bring down an amendment providing for these tests for drunkenness.

I agree, and our conduct so indicates, that this matter deserves the careful consideration which we are giving to it. But notwithstanding the *Woman's Home Companion* article that my hon. friend referred to, I do not think that this test is nearly as open and shut a scientific matter as his remarks would indicate. When we say that it requires more consideration before we reach a conclusion upon which we base an amendment to the code to be submitted to this parliament, I think we are taking a perfectly reasonable attitude. That attitude is the more reasonable because of the fact that the statements which were made by my hon. friend as to the present condition of the law, the present number of acquittals, the present loopholes in the law and so on are quite inaccurate as I shall now prove.

When I listened to my hon. friend on this previous occasion, and had in mind the

[Mr. Garson.]

some twelve years that I spent in the Manitoba cabinet, to which appeals for remission in matters such as this were continually coming, and the fact that while I was there I acted for quite long periods on occasion as acting attorney general and in that connection obtained personal experience and knowledge of the matters I am now going to discuss, I could not help but feel that it was a long while since I had heard such an absolute travesty of the facts as that which was presented on that occasion.

Mr. Diefenbaker: Of course, Mr. Chairman, that statement is quite non-judicial and quite improper. The statistics that I presented were as I said, from *Maclean's* magazine and from the police officers of this dominion. As a matter of fact, when one asks for the records, one finds out how interested the department is when they have no records available, according to the answer given the other day, since 1948.

Mr. Garson: The statement that I made was rather a severe one, Mr. Chairman, and now I am going to prove that it is true. What my hon. friend said the other day was this, as reported at page 2960 of *Hansard*:

Yet we go on year after year, with the Criminal Code unchanged, the minimum penalty being seven days and the percentage of acquittals particularly high—

That is a straight categorical statement of fact.

—because in many cases the crown is unable to establish guilt. The defence can always be raised that there has been a leak in the pipe in the motor, and the man has suffered from carbon monoxide poisoning, or he has had a heart attack or some other seizure.

Or as the hon. member for Calgary West said, that he had two beers, and evidence of that type. Then he goes on:

I am one of those whose experience over the years has been largely for the defence. Nevertheless, I believe there is no section of the criminal law that is more evaded and circumvented than the provision against drunken driving. Indeed, as the law is today, there is nothing of a deterrent in the possibility of receiving a sentence of seven days in jail when any person desiring to break the law must realize that the possibility of conviction is next to nothing.

Mr. Diefenbaker: That is right. They charge them with reckless driving.

Mr. Garson: My hon. friend continues:

However uncertain a person may be, however much he may smell of liquor, however terrible the accident in which he has been involved, there are in the law as it stands today so many loopholes—placed there not by the accused but by parliament—that I feel it should be strengthened.

When I listened to that statement, as I said, it was so completely at variance with my own personal experience that I immediately wrote a letter to the deputy attorney