First of all, I should like to make the position of the Department of Justice quite clear. With the necessity for some method of preventing drunken driving no one will disagree, certainly no one in the Department of Justice. With the devices to which my hon. friend has referred, we do not disagree either. We have had the commission which has been considering a revision of the Criminal Code look at these various methods, and it has been found that the employment of them on a proper basis which is consonant with British justice is much more difficult than many people think, and much more difficult than any of the remarks of the member for Lake Centre would indicate. We find it most difficult to reach a really conscientious opinion, that type of conscientious opinion which should be the basis of any legislative amendment to provide for the adoption of a blood test, a breath test, or a urine test. I want to emphasize that, particularly at the present time, we have not in any way prejudged the question. Any remarks I make today should not be considered as being in opposition to these tests; but I think that the members of this committee will not have a clear picture of both sides of this problem if some mention is not made of the opposite side to that which has been presented by the last two speakers.

Mr. Smith (Calgary West): I saw them last week, and I converted them.

Mr. Garson: If my hon. friend did convert them that problem is solved, but I doubt it. One of the best articles upon the subject is a reprint in the *Canadian Bar Review* of December, 1948, of an address delivered before the American Medico-Legal Congress of St. Louis, Missouri, January 19, 1948, and of lectures on medical jurisprudence and toxicology, McGill university. I shall not attempt even to abridge this article, because it is quite a lengthy one. All the merits of these various methods of testing for drunkenness are examined in detail. I should like to quote a few of these statements to indicate that scientific opinion on this subject is by no means in agreement. One of the conclusions reached by the author of this article, a medical doctor who specializes in medical jurisprudence, is this:

> . . . a technician, except under most careful supervision of an expert chemist alert to all the pitfalls, has no place in a medico-legal laboratory, in so far as tests for alcohol are concerned. Only the most careful attention to all the details of the test, from the time the material is being collected to the completion of the analysis, may prevent the lodging of an innocent person in jail . . .

Then there are the arguments which have been advanced by my hon. friend with regard to the liberty of the subject. No one more than he in this house has been interested in the liberty of the subject, and I am sure that we would not expect from him any attacks upon that liberty. It is my view, for what it is worth, and in this I am in complete agreement with the last two speakers, when any citizen gets himself into a condition of insobriety of any degree and then sets out to drive a car and an accident supervenes, then whether or not he is drunk, he is the last person who should be able to invoke the liberty of the subject in refusing to comply with a test which might be sought to establish his condition. It is not so much a question of whether we are infringing upon the liberty of the subject as a question as to the scientific adequacy and the scientific accuracy of those tests.

As I said before, I do not want to detain the committee with even a résumé of this article; I wish only to indicate that it ends with the conclusion that these tests cannot be relied upon, and that one cannot be sure that innocent people are not being convicted when they are employed. It is also in order to show that the author is by no means alone in the views which are outlined in this statement. He states this in his article at page 1459 of this issue of the *Canadian Bar Review*:

> In contrast to the enthusiasm of the prophets of chemical tests of drunkenness, Carlson, the physiologist in the United States, warned that there is no single test or criterion for the degree of alcoholic intoxication that has the implication of drunkenness. Newman and Fletcher stress the fact that the idea the law has in mind is to punish drunkenness and not drinking, and warns against unfair convictions possible with the 0·15 per cent rule (1·5 parts per 1,000). In England, the late Sir Bernard Spilsbury, one of the world's greatest medicolegal authorities, warned that "drunkenness cannot be boiled down to a test." Sydney Smith and Glaister, among the leading toxicologists and medicolegal experts in Scotland, warn that "chemical analysis of blood, urine and expired air does not yield information on which alone a diagnosis of alcoholic intoxication can be made or rejected."

Mr. Smith (Calgary West): When was he quoting Spilsbury? He has been dead for ten or fifteen years.

Mr. Garson: No, not that long. To continue:

> McGrath, in Ireland, warns against hard and fast limits of blood alcohol concentration. It is "evident," he states, "that blood alcohol estimation does not provide an automatic answer to the question: Was the individual drunk? The blood alcohol concentration is a far safer guide to the person's condition than even definite evidence (so often difficult to obtain) as to the amount of alcohol actually consumed, since it short-circuits and eliminates the relatively uncertain factors of absorption, metabolism and excretion. The courts, therefore, might reasonably regard the amount of the blood alcohol as being more helpful and cogent than proof of the amount of alcohol consumed. But, in all cases, it is still necessary that all circumstances of the cases including an efficient physical examination, should be taken into account when assessing the relative degree of alcoholism present.