

*Supply—Justice*

confession is not admitted as evidence by any court. Any argument in connection therewith always takes place in the absence of the jury. If the prosecution wants to get that evidence before the court it must be proved that it was obtained voluntarily. I would not want to see any change made in that time-honoured law.

I repeat that I would not want my few remarks to influence the recommendations of the commission investigating revisions to the Criminal Code. Drunken driving is difficult to prove, but many offences are difficult to prove. That is not the fault of the law. You have perjury in practically every criminal case and in most civil cases, but that is not the fault of the law. I have never tried a charge of drunken driving as they are tried by magistrates, but I have tried many manslaughter cases arising out of motorcar accidents. The question of intoxication arises quite often and I always put it to the jury that if in their opinion the effect of spirits on the driver is such as to render him less careful than he would otherwise be in a normal condition, then they could take that into consideration as an element of negligence, and it was negligence because he put himself in that condition. In the section of the country from which I come I know that, so far as investigations are concerned where people are killed on the highways, inside of twenty minutes the mounted police are on the spot. There may be some places where it is more difficult to get them there in such a short time. The mounted police investigate these cases. They investigate the condition of the driver and also investigate what his condition was two or three hours before the fatal accident. The mounted police were always very careful to ascertain whether they could smell liquor on a person, and I want to say that I do not think all the investigations by chemicals, breathing or anything else would be more convincing to a jury than the evidence given by the Royal Canadian Mounted Police in cases I have had under my observation.

As I say, I am not against making the law more stringent. I have nothing to say about whether the method of punishment is or is not sufficient. I suggest, however, that in cases where a person is convicted of drunken driving something might be done to impose upon him a substantial assessment of damages for any wrong he may have done because of his drunken driving. I am not speaking about manslaughter cases. That would relieve those who are injured from the necessity of bringing actions in the civil courts. I say again that something should be done to help offset the fearful slaughter, and slaughter it is, caused by drunken driving in this country.

But I do not think that the common law and statute law of Great Britain and Canada should be interfered with too much, on the subject I have mentioned. The hon. member for Calgary West criticized legislation where certain inferences must be drawn. Let us suppose it is not a case of drunken driving. Let us suppose a bottle of liquor is found on a man. I believe the statutes of all the provinces say that the inference must be drawn that the man has it for illegal purposes, either for sale or for some other purpose. That is something on which the hon. member for Calgary West and I agree perfectly. The point came up in connection with some other matter that was raised in the house. I have always been against it. I do not think it is fair. I think it is an infringement of the common law that in criminal or civil proceedings the court should be forced to draw legal conclusions from certain acts when the court is quite capable of drawing proper conclusions itself in ninety-nine cases out of one hundred.

**Mr. Smith (Calgary West):** They have reversed the rule and said that he is guilty until he proves himself innocent.

**Mr. Cavers:** Mr. Chairman, in casual conversation with some of my fellow members, I was told if I made a lengthy speech at this time I would run the risk of justifiable homicide. I shall assume that risk. I assure you that I will be brief, Mr. Chairman. I wish to take some of the time of the committee to deal with the administration of penitentiaries and the report of the commissioner of penitentiaries. I do not intend to speak in detail about the report of the commissioner, although I commend it to the consideration of members of the committee.

During the last few years there has developed in this country, as well as in the United Kingdom and United States, a change in the attitude towards imprisonment from the concept of deterrent punishment to one contemplating treatment that will release the prisoner to society better equipped to re-establish himself in civilian life. In Canada this changed concept of the purpose of imprisonment was brought forcibly to the attention of the people by the report of the royal commission to investigate the penal system of Canada, commonly known as the Archambault report. That report emphasized that the proper basis for a good penal system was the protection of society. It went on to point out that, entirely apart from humanitarian grounds, from the economic standpoint it was important that people who found themselves in penitentiaries should be in a position to rehabilitate themselves again in society