

Supply—Justice

Mr. Diefenbaker: It is in effect what the minister said—"Give us time; we are looking into it"—while time rolls on and men and women are dying in consequence of a failure to put teeth in the law, as they have done in the United States.

The hon. member for Inverness-Richmond asked the number of those whose deaths were attributable to drunken driving, and when he asked his question I was not in a position to give him the figures. Those figures show that approximately 1,800 have died each year in motor accidents. The question arises as to the percentage due to alcohol, and drunken driving.

Dr. Joslyn Rogers, the analyst and pathologist in Ontario, says it is 45 per cent. Chiefs of various city police forces have placed the figure from 15 to 35 per cent. The minister says this indicates that it is not so seriously regarded. Well, the inspector of the Toronto Police traffic division, Inspector Page, said the other day:

Drunk drivers are a greater menace every year.

If that be so, then certainly there is something wrong with the enforcement of the law. I have one other quotation, and then I shall have finished. I will then leave it to the Canadian people as to whether public opinion will be aroused in order to meet a situation to which opinion has been directed.

The minister says, "Oh, it is easy to get a conviction", and he calls on the deputy attorney general of Manitoba and asks for an opinion. I give him now the opinion of Crown Attorney J. W. McFadden of Toronto, a man who was trained in the west and who before he went to Toronto was prosecutor in the city of Saskatoon. These are his words, and this is my answer to the minister, from a man whose record in prosecutions is worthy of the highest tradition in crown prosecution. This is what he said:

"Many border-line cases who are admittedly dangerous as car drivers have to be overlooked because we could never make the charge stick in court," Crown Attorney J. W. McFadden, of Toronto, says.

The minister referred to statistics and said that there were 1,481 cases with less than eight per cent acquitted. As Mr. McFadden points out, there are many cases where the crown realizes that if it is to get a conviction it must proceed with a reduced charge. He says that tests are no good until they have been established. Everybody wants established tests so that no innocent man shall be convicted.

Mr. Garson: That is what we all want.

Mr. Diefenbaker: The minister referred to Glaister, and although I have not Glaister

[Mr. Garson.]

before me at the present time I know that he says that intoxication is established when there is a percentage of 1.5 or more in the blood. The court of appeal of Saskatchewan accepts that. In any event it is interesting to note that in all the quotations it is pointed out that the medical evidence alone would not be sufficient. But there would be the evidence of the police officers and of possible bystanders, which evidence would be emphasized by the toxicological investigation. The article continues:

David Archibald, psychologist investigating the alcohol problem for the Liquor Control Board of Ontario, says: "If police could use tests like those accepted throughout most of the United States, Canada could make some strides in this tragic business of drunk driving."

My hon. friend has quoted authorities, all dead, but I should like to quote Dr. Joslyn Rogers, who says:

Chemical tests get right to the crux of the matter—how much alcohol has the man got in his brain? If his blood has a 0.15 per cent alcohol concentration he's a lying fool when he says his dizziness was due to indigestion.

However the minister may look at it, if public opinion is aroused to the need of something being done, something will be done irrespective of the wishes or desires of the minister. Out of this discussion—we must have an exchange of opinions, in order that both sides may be presented—I hope will come a full consideration of this matter to the end that the horror thus created on the highways will be reduced, as it can be reduced with laws that have teeth in them.

Mr. Carroll: Mr. Chairman, I had no intention of entering into this debate because I realize that there is a commission investigating the revision of the Criminal Code and we may expect its report at the next session of parliament. I would not want any remarks of mine to influence the recommendations to be made in that report. British law and Canadian law have always stood for the principle that a person is presumed to be innocent until he is proved guilty by evidence which convinces a jury or magistrate beyond reasonable doubt. It has also been a principle of British and Canadian law that no man shall be forced to give evidence against himself, either in court or otherwise.

I fear that if a provision were put in our Criminal Code to make it incumbent upon a person accused of drunken driving, or of anything else, to give evidence against himself it would be a far-reaching and dangerous thing and absolutely against British and Canadian law in the matter of prosecutions for criminal offences. The same thing applies to confessions. If a confession is obtained by force from a person accused of a crime, that