members, including the hon. member for Lake Centre, the hon. member for Calgary West (Mr. Smith) and others, have asked why the crown did not appeal this case. The reason was that since the affirmation of the acquittal by the appeal court was unanimous, under the Criminal Code as it stood at that time it was not possible to carry an appeal to the Supreme Court of Canada.

**Mr. Diefenbaker:** Is it not a fact that an appeal would be allowed in the event that there was any other judgment of a superior court, such as the minister said the other day there was, under which evidence had been admitted under similar circumstances?

**Mr. Garson:** I think my hon. friend is confusing the principle of the dental supplies case with that of the tobacco case. That was the basis of the refusal of leave to appeal in the tobacco case, on application to the Supreme Court of Canada. In the dental supplies case there was at that time—it has since been changed—a provision in the Criminal Code which explicitly stated that where the appeal court affirmed an acquittal unanimously it was not possible to appeal. So we were blocked off from any appeal.

The result was that the dental supplies case was lost; but that was not all. Worst of all the court of appeal, in affirming the acquittal, enunciated what I must contend, notwithstanding the views of the hon. member for Lake Centre, was a somewhat new doctrine of corporate possession, which in cases under other reports, such as the flour report, would make it extremely difficult to use effectively the documents seized in possession of the accused corporation in order to make out a case against it. Until the effect of this judgment had been cured by legislation, our position in respect of the flour report was one of uncertainty not only as regards the facts as to which the public servants were in dispute, but as regards also the law applicable to those facts as well. Had we been challenged to prosecute—and regardless of what may be said, the fact is that I was credibly informed by a most reliable informant that we would be—then to say the least we would be in a most awkward position to accept such a challenge either before or after the date of the judgment of the Ontario court of appeal. Before that judgment of the court of appeal was delivered, the judgment of the trial court was against us; and after the judgment of the court of appeal was delivered, the judgment of the court of appeal itself was unanimously against us and we could not appeal. It is of course the effect of this judgment that we are trying to cure by the amendment now before the house.

We tried to get this amendment prepared in time for presentation to the session last spring; and as I have already stated in another debate, the first draft that the combines investigation commission were able to lay before me was dated April 7, 1949. The matter is of considerably more difficulty than appears on the surface. We considered no less than ten drafts before we brought down the bill which is now before the house. Thus it was quite impossible to get the final draft ready until some time after the beginning of the present session. As matters then stood there was no advantage to the public interest in publishing the report until we could clear up the disputed facts and introduce into the House of Commons this amendment to the Combines Investigation Act in order to neutralize the effect of the judgment of the Ontario court of appeal in this dental supplies case. Accordingly we decided to bring down our amendment to the act, to publish the report and to make the government's statement concerning it at about the same time; and that is what we have done.

Incidentally, Mr. Speaker,—and this deals with another question which has been raised—the tabling of the report on the flour-milling industry on November 7, 1949, complies with technical strictness with the requirements of section 27, subsection 5, in that the report which is now before the house was tabled within less than fifteen days from the time I received it from the commissioner in its final form. I did not have it at that interview on October 22; I remember that quite distinctly because Mr. McGregor had a copy there with him and offered to leave it with me; I suggested to him that there was no purpose in his leaving it at that time and he made a quip about it. I want to be perfectly candid with the house. I was under the impression that I had not had it before. To make doubly sure, I telephoned Mr. McGregor today and he later advised my secretary by telephone that he thinks he sent me a printed copy because he has a memo to the effect in his own handwriting on his own file. I did not have time, before the house met this afternoon, to check upon that fact. Certainly I received no formal letter forwarding the printed report to me and certainly the report which I laid on the table of the house was placed there by me within fifteen days after I received it, as one as to which I was sure that there would be no further amendments by Mr. McGregor.

In this whole matter we deny that we recklessly disregarded parliament and the statutory requirement of publication within fifteen days. On the contrary, we took both of these matters into the most careful consideration,