

*Supply—Justice*

**Mr. Garson:** If my hon. friend wants it, here it is. I hope he will not complain or call this unparliamentary, because he is the one who asked for it.

**Mr. Diefenbaker:** That is all right.

**Mr. Garson:** I quote:

Dear Andy:

Could you, without too much trouble, get for me particulars of the number of prosecutions for drunken driving; the number of acquittals; the number of convictions; the number of cases in which the accused, upon being convicted, had his car impounded for three months or more; and the number of cases in which the conviction was remitted by the board of remission or by the cabinet.

I think that in all frankness I should disclose to you my purpose in seeking this information. In a debate in the house yesterday, John Diefenbaker made the following comments upon the subject of drunken driving.

I have read the remarks to the committee already. I continue:

I certainly do not think that this is a fair representation of the administration of the sections of the Criminal Code or of the law generally relating to drunken driving in the province of Manitoba where there is good administration of the law; and by way of doing a little boasting about my province, I would like, when I get on my estimates, to just explain to the House of Commons how the law is administered in Manitoba; and incidentally, show how it could be administered in any province whose attorney general desires to administer it properly.

**Mr. Smith (Calgary West):** Good old Andy!

**Mr. Garson:** I continue:

If you can give me any information that would be of help in this connection I would appreciate it very much.

In this connection, by the way, I would be glad to have your personal views as to whether you think that an amendment to the present sections dealing with drunken driving is necessary and what form it should take. My own impression is that in those provinces, and I dare say they exist, where the enforcement of the present provisions is extremely lax, we would have no reason for supposing that the enforcement of any stricter provisions would be any more efficient; and indeed the enforcement might be in the inverse ratio to the severity of the provision.

Yours sincerely,

I want to say that I would not have read the letter if my hon. friend had not asked for it.

**Mr. Diefenbaker:** It is a nice compliment to yourself.

**Mr. Garson:** Just to indicate that it is by no means an isolated matter in Manitoba, may I say that if anyone takes the very figures which my hon. friend was quoting from, namely, the statistics on criminal and other offences, which is a break-down for Canada as a whole, he will see that the very item he was quoting from, namely, prosecutions for drunken driving, in 1948 for Canada as a whole amounted to 1,746. Of that

[Mr. Diefenbaker.]

number there were 265 acquittals and 1,481 convictions. It is rather significant—

**Mr. Diefenbaker:** How many of the 1,481 pleaded guilty?

**Mr. Garson:** There is no record of that.

**Mr. Diefenbaker:** That is the information we must have.

**Mr. Garson:** In all these cases there were 1,465 jail terms, indicating two or three things: first, that contrary to what my hon. friend says the present section of the code is enforceable. In cases where charges are laid a very large percentage of convictions is secured without any breath tests or blood tests or any outside assistance, and that in connection with these matters the accused is not let off with a fine but is sent to jail.

I make these points to indicate that the present law is not without its merits if it is properly enforced. Take the average man of moderate respectability. Some may say that it is a matter of indifference to him whether he goes to jail; but any one of us knows that for a man with any standing in the community at all who has never seen the inside of a jail and who never would in his lifetime for any other reason, to have to spend seven days there, and have his car impounded so that no one can use it for a period of three months, and lose his licence for six months—that is a very severe penalty.

As a matter of fact when we recently polled the attorneys general of the provinces to see whether they wished to have the present minimum sentence maintained or relaxed about a third of them felt that this minimum sentence in jail, with all the social and other implications it has, was such a severe penalty that in some cases its severity might make it difficult to secure convictions. They pointed out that it meant that a man who might have a respectable position in society, and who misconducted himself only once might be ruined.

I myself took such a case to the Manitoba court of appeal. This was the case of a man with a long seniority on the railway. It was not one of drunken driving but just of being drunk in a public place. I applied to the court of appeal in my province asking them to try to find on the evidence, on a point of law, that the place in question, which was a general store after closing hours, was not a public place. They could not so find, with the result that the man lost his seniority, and lost his job at a time rather late in his life.

I am not suggesting, not for one moment, that we should not consider these matters of breath tests, blood tests and so on. But I ask: Even if we do adopt these blood tests,