union is now prepared to make this organization effective we should certainly welcome that and the possibilities for co-operation in this field. The universal basis is there, and has been there since the United Nations was founded.

To the extent that we can have confidence in our ability, through the United Nations, to make war impossible, the defence aspects of NATO become less important. If the danger of aggression is entirely removed, then the defence aspects of NATO become unnecessary and could be replaced by a United Nations arrangement.

We in this government have never, I believe, concealed our view that the military alliance aspects of NATO are a second-best, a regrettable, and we hope a temporary necessity. Our real objective, and this applies, I am sure, to all hon. members in this house, is and has been to secure a safe and peaceful world, with collective action in all fields and international co-operation generally organized through the United Nations. Certainly that objective is far from being achieved or even approached at the present time. Therefore, surely it would be folly for us to lower our guard so long as the present danger exists.

I am not asserting that the professed Soviet desire in this proposal to join with the west in effecting arrangements for collective security is completely insincere. I do not know. I may perhaps be giving hon. members a somewhat pessimistic first interpretation, though this seems to be justified by the proposal itself and the experiences we have had.

But I think one can be pretty sure of this, that it would be fatuous to suppose, after the events of the last ten years, and while millions of people in Europe are held in subjection, that the fears and suspicions which Soviet actions have engendered in the minds of most of us west of the iron curtain will be easily or quickly removed by a few diplomatic notes. These fears were indeed engendered not by words but by deeds.

But it would be equally wrong and dangerous to think that the suspicions and fears which at present divide the world can never be overcome. If the Soviet rulers are sincere in their desire for collective security, then I am confident that they will not find the governments and peoples of the western democracies unwilling to listen to any serious overtures they may make. We will persist in our determination to meet any genuine overture for peace halfway, and indeed more than halfway.

[Mr. Pearson.]

I read these words the other day, Mr. Speaker, and I would like to conclude my statement with them. I quote:

> Those who are prone by temperament and character to seek sharp and clear-cut solutions of difficult and obscure problems, who are ready to fight whenever some challenge comes from a foreign power, have not always been right. On the other hand, those whose inclination is to bow their heads, to seek patiently and faithfully for peaceful compromise, are not always wrong. On the contrary, in the majority of instances they may be right, not only morally but from a practical standpoint. How many wars have been averted by patience and persisting good will! Religion and virtue alike lend their sanctions to meekness and humility, not only between men but between nations. How many wars have been precipitated by firebrands! How many misunderstandings which led to wars could have been removed by temporizing! How often have countries fought cruel wars and then after a few years of peace found themselves not only friends but allies!

Those words, Mr. Speaker, were written by one who has never been considered naive, soft, or indeed especially meek. Those words by Sir Winston Churchill provide a good and wise guide for the conduct of the foreign policy of Canada, both at the forthcoming Geneva conference and in the critical times ahead.

This debate, Mr. Speaker, which now ends, will also be of real assistance to the government in this regard. It has provided both spurs to and brakes against action, and has also indicated, I believe, that the broad objectives and underlying principles of our foreign policy are generally approved both in this house and by the country.

Motion agreed to.

CRIMINAL CODE

REVISION AND AMENDMENT OF EXISTING STATUTE

The house resumed, from Monday, March 15, consideration in committee of Bill No. 7, respecting the criminal law—Mr. Garson—Mr. Robinson (Simcoe East) in the chair.

The Chairman: I believe the understanding is that I shall call group 3 first. Clause 134.

On clause 134—*Instruction to jury.*

Mr. Diefenbaker: When this matter was up for discussion originally I brought to the attention of the minister the requisite that has been part of the common law of Britain and also a rule of practice, with the authority of repeated precedent behind it, that it would be dangerous to remove the requirement that the jury should be directed that it is unsafe to convict on charges of this type unless the evidence of the prosecutrix is corroborated in some material particular. That has always been the law and it has been based on experience of generations of law and justice. It

has been incorporated into the laws of practically all countries which have as their basis the common law of England. I asked the minister whether or not consideration would be given to its continuance in the code. In view of the fact that corroboration is now required under statute in so far as certain sections of the code are concerned, I pointed out that it would be tantamount, in my opinion, to giving the strongest possible support to this view. The fact that no reference is made to it in the section in question would indicate that parliament had intended that the direction heretofore given by judges in their charges to the jury and required to be given would be no longer necessary.

Mr. Garson: I think perhaps my friend the hon. member for Prince Albert has been thinking of the law of England when he states that the law requires that the court's direction in a charge of indecent assault must be that it is not safe to convict upon the uncorroborated evidence of the prosecutrix. In Canada that has not been the law. The Canadian law has not been the same as the British law. In proof of this I would refer my hon. and learned friend to the case of Cullen *v.* the King, 1949, Canadian Criminal Cases, 337, where he will see in the judgment of Mr. Justice Locke of the Supreme Court of Canada an indication of that court's opinion, put in these words:

> As to those portions of the charge dealing with the necessity for corroboration, the learned trial judge was clearly in error. There was in law no necessity for corroboration but, had there been . . .

And Mr. Justice Locke then goes on to indicate the evidence which constituted corroboration.

Mr. Diefenbaker: What was the nature of the case?

Mr. Garson: It was a case of indecent assault. I agree with my hon. friend that what we are doing now is to provide what we think should be the law from this point on. After careful consideration of the point which my hon. friend had raised on a previous occasion, we have come to the view that whatever the law of Canada may have been up until the present time, from this point on it is desirable that our law in this regard should conform with that of the United Kingdom. I would therefore propose, Mr. Chairman, that one of my colleagues would make the following motion:

> That clause 134 be amended by deleting therefrom lines 11 and 12 and substituting therefor the following:
>
> "charged with an offence under sections 136, 137, subsection (1) or (2) of section 138 or subsection (1) of section 141, the judge shall, if the"

Then it goes on as the clause reads at the present time.

Mr. McCann: I so move.

Mr. Diefenbaker: Has the minister a copy of that amendment? It is difficult to follow it without a copy.

Mr. Garson: Yes. I will send one over to my hon. friend.

Mr. Diefenbaker: I think that amendment covers the situation. I thank my hon. friend for having allowed this clause to stand and for having listened to the arguments advanced. After all, what we are trying to do here is to have a Criminal Code that will be in keeping with present-day conditions and meet the situation prevailing today. I think the acceptance of those suggestions is something that indicates the degree to which all of us are prepared to co-operate in order to make the code an effective instrument to assure justice.

Amendment agreed to.

Clause as amended agreed to.

Clause 141 agreed to.

On clause 142—*Incest.*

Mr. Fulton: The hon. member for Digby-Annapolis-Kings requested that this clause stand. The hon. gentleman is not able to be here owing to the fact that a short time ago he had to go to the hospital for a while. It was nothing serious, and I am glad to be able to say that he will soon be back. However, I have not been able to have that communication with him which I should like to have. I think his point was that it might be made subject to the same direction as that applying in clause 134.

Mr. Garson: I have my hon. friend's point and we were proposing to meet it. The hon. gentleman's point was that he considered that in respect of the offence of incest there should be required corroboration of the female complainant's evidence. Again after careful consideration of the offence of incest, along with the other sexual offences in this part of the code, we agreed with the suggestion that there should be the same degree of corroboration in this offence as in the other comparable offences. Therefore I would suggest that the Minister of National Health and Welfare might move the following motion:

> That subclause (1) of clause 131 be amended by adding thereto, immediately after the figures "140" in line 11, the figures "142".

Mr. Martin: I so move.

Mr. Knowles: I have no objection to this amendment being made. In fact, I am glad

to see it being made, but I think attention might be called to the fact that procedurally we are setting a precedent which might be remembered on some future occasion. Clause 131 is not before us. It was passed on a previous occasion. I offer no objection to this being done because I know the minister will take exactly the same attitude if we want to open some clause that has already been passed.

The Chairman: I was going to inquire of the committee whether the minister had leave. Do I understand that he has leave?

Mr. Knowles: Yes.

Mr. Fulton: On behalf of the member for Digby-Annapolis-Kings I should like to express the thanks of those who hold the same view. We are glad that the minister has seen fit to adopt the point of view previously put forward.

Amendment agreed to.

Mr. MacInnis: Both clauses 141 and 142 carry whipping as a punishment. I am not going to talk about that because a parliamentary committee is inquiring into the subject matter, and a report will be introduced in this house later. I want to make it clear that is the only reason I am not objecting to whipping as a punishment in this or any other section.

Clause agreed to.

The Chairman: Shall we now proceed to group 2, clause 222?

On clause 222—*Driving while intoxicated.*

Mr. Fulton: Perhaps we could deal with clauses 222 to 225 as a group. I think when they were stood that was the intention because they all deal with offences with respect to motor vehicles which may give rise to accidents on the highway. I should like the remarks I have to make to apply generally to the three clauses because I want to suggest a point of view in connection with these matters which applies to the question of safety on the highway generally.

The Chairman: Is it agreed that we shall deal with clauses 222, 223, 224 and 225, at this time?

Some hon. Members: Agreed.

Mr. Fulton: My point was that the remarks I wanted to make applied to all that group of clauses. One of my colleagues has an amendment to move with respect to one of them in particular. I think if we might be permitted perhaps a general discussion on the subject, it might advance the subject. I am not going into detail, although some of my colleagues have particular comments to make.

[Mr. Knowles.]

When these clauses were stood it was after there had been some discussion on the question of safety on the highways geperally, and the urgent necessity of taking effective measures to eliminate or at least reduce the appalling toll of death which now takes place annually on the highways of this country. In so far as the improvement of the standard of safety on the highways is concerned it was recognized then, and it must of course always be recognized, that a good deal of the responsibility, both literally and from the point of view of administrative responsibility, rests with our provinces. Therefore no action purely federal in scope is going to provide the whole answer to the problem.

The provinces are concerned from the point of view of licensing both the drivers and the vehicles which they drive, the limitation of speeds on the highway, the standard of road construction, and so on, all of which are elements in this problem of safety on the highway. There are certain aspects of it of a purely federal nature, upon which we can comment. One of these is that the approach, in part at any rate in so far as the Criminal Code is concerned, seems to have been along the line of increasing jail sentences or fines for this offence. It is our view that does not provide anything like the answer to the problem.

In the first place, since a good many of these problems relate to matters which arise out of the use of alcohol, it is going to be difficult for juries to convince themselves that a person was guilty of a crime which always imports, however much we might attempt to refine it, into the minds of the jury, and properly so, an element that the person committing the crime must have intended to act as he did. It is going to be difficult for juries to convince themselves that anyone, having possibly become involved in a fatal accident as a result of liquor, intended to do what he did. It is going to be difficult for juries to convince themselves that when a person becomes involved in a fatal accident as a result of fatigue or a mental lapse brought about through lack of caution or liquor, that person is guilty of a serious crime, and the consequent heavy jail penalty if he should be found guilty.

I feel it follows, from that, that the answer is not to greatly increase the jail sentences, and here I am dealing with the sections as a whole because juries are going to be reluctant to convict. On an earlier occasion I said I felt that this was, in a sense, only a quasi-criminal offence, and therefore the solution to the problem did not rest in increasing the penalties of a purely criminal nature. I believe that part of the answer at any rate

lies under section 225 where a judge or a magistrate is empowered to impose, in addition to any jail sentence, a restriction on the right to drive. That is what I would call, for want of a proper description, a purely civil penalty as opposed to a criminal one of a jail sentence. I think that possibly we should give more consideration to the question of further increasing the power of judges and magistrates to suspend the right of the accused to drive if he has been found guilty under one of the sections covered by section 225.

The sections covered by section 225 include what used to be called motor manslaughter. We have the new section, I think it is 192, which covers the offence of criminal negligence that causes the death of another person, as well as the lesser offence of intoxicated or impaired driving. While it is true that in no case will a man come before the court under the sections unless he is charged with an offence, and therefore to some extent we are trying to lock the stable door after the horse has been stolen, nevertheless, thinking of the potential danger in the future, it does seem to me that in sections 192, 193 and 207, whether or not a person has been involved in an actual accident, we should give particular consideration to increasing the power of the judge to suspend or cancel the right to drive.

Where a man has been involved in an actual accident, consideration should be given to increasing the powers of a judge to suspend or to cancel his right to drive. This should be possible where it has been demonstrated that a man, however innocently, has taken a chance which has resulted either in serious injury or, in some cases, in fatal accidents. I do not think it would be placing too much power in the hands of our courts to say that, in addition to the penalty which could be imposed upon him, we would protect society in the future and also protect the driver himself by cancelling his right to drive for a substantial period of time. To that extent society would be protected against any recurrence of accidents brought about by that particular offender.

Then there are other points which should be made in connection with a consideration of this subject. We in the official opposition believe it would be well worth while to call a conference of dominion and provincial officials for the purpose of considering this whole question of deaths on the highways. My colleagues have some specific suggestions as to what might be discussed at such a conference, and I shall indicate generally the ground which could be covered.

First I suggest consideration of a standardization of tests required for the issuance of drivers' licences, and the qualifications to which persons must conform before they are issued licences and placed in the position where they are in charge of these dangerous weapons, high-powered motorcars, and turned loose on the highways.

There is also the question of working out the standardization of equipment on automobiles and a standard degree of excellence in respect of brakes, headlights, shock absorbers, steering mechanism and the like which would be required before licences could be issued. While these may be matters within the exclusive jurisdiction of the provinces, it does seem to me that there would be an improvement in the situation on our highways if there could be worked out a uniform set of standards which would have to be met before licences could be issued to drivers.

Then, attention could be given to the question as to whether there should be a limitation of the age below which persons would not be issued drivers' licences. Should some attention be paid to a uniform speed limit? That is, should the speed limit be lowered, or made lower than the limit now permitted; and, if so, what problems of enforcement would this create? There would not be much use in lowering the speed limit unless the provinces were prepared to accept the additional onus of enforcement that would go with it.

Those are matters which can and, we feel, should be discussed by such a conference. We believe the discussions would be useful. Quite possibly helpful information might be obtained through prior consultation with representatives of insurance companies, or by permitting them to attend such a conference. These people are engaged in the fields of automobile and liability insurance, and these matters present a very real problem to them.

I have indicated some of the questions which in our view should be considered in any effort to come to grips with this problem of death and destruction on the highways.

I would conclude by repeating that in our view the answer does not lie merely in increasing the jail sentence. That is all very well for the person directly involved in the accident, but it does not solve the problem. In our view other matters must be considered, but no step, however unpleasant or difficult, should be left untaken if it is felt that by taking such a step a contribution could be made to the solution of this most pressing problem.

Mr. Knowles: In my view, Mr. Chairman, the hon. member for Kamloops has made a

very satisfactory summary of the points advanced by members in his own party and by others of us on this side of the house when this matter was under discussion at an earlier date. I wish to support once again the proposal that much more serious consideration is required in connection with this problem than simply increasing the penalties provided in the Criminal Code.

When the matter was last under discussion the suggestion was put forward that a conference should be called by the federal government, so that this matter could be studied with those provincial authorities who are charged with the responsibility for highway administration. On that occasion I suggested to the Minister of Justice that advantage might be taken of the fact that his colleague, the Minister of Transport, was proposing to call a conference of ministers of highways in the various provinces for the purpose of dealing with another matter. I do not suggest that there is any relationship whatsoever between the other matter, which is a constitutional one, and the subject before us now. But it does look as though the same people who might deal with this problem would be involved in the conference called by the Minister of Transport. I understand he has now issued invitations to that conference, and that it is to be held in Ottawa in the near future.

I suggest strongly to the Minister of Justice that consideration be given to this suggestion. In other words I am urging that this is not something that should be done next year or five years from now, but that it should be done now. I suggest strongly that consideration be given to the holding of another conference, with those same people attending, to deal with this serious problem of the death and destruction that takes place annually on the highways of this country.

I shall not take the time to repeat the points I made when the matter was under discussion before, or to repeat the suggestions made just now by the hon. member for Kamloops. Unless I overlooked it, however, there is one point that I believe he did not make—and it involves a word that one always uses with caution in this federal parliament; I refer to the word "education". I trust no one will throw back at me the suggestion that I am ignorant of section 92 of the British North America Act. It does seem to me that that stricture does not apply here. Surely there is room for the federal government, in such a conference with provincial authorities, to do all it can by way of urging that there be increased education in connection with the driving of motor vehicles.

[Mr. Knowles.]

As the minister knows, the province from which he and I come has been doing a pretty fair job recently in respect of this matter, and particularly in the greater Winnipeg area. To refer to a point made by the hon. member for Kamloops, in Winnipeg the requirements for obtaining a licence have been made more strict. But it is something more than that. In the very process of making the tests, many of which are given several times over, the provincial authorities themselves are educating the drivers in the matter of safe driving habits. Not only is there that kind of education given to people coming to take tests but, under the supervision of the highways department in Manitoba, training is being given to high school students in the safe and proper methods of driving motor vehicles.

We all know that unless something is done in the course of the next few years, a great deal of money will be spent, and a great deal will be lost, in accidents that will take place and property that will be destroyed—to say nothing of the tragic loss of life that will take place.

I suggest that a mere fraction of that amount of money spent on prevention and on the education of our drivers and potential drivers would be a wise economy, even looking at it from that point of view.

As I say, I do not intend to take the time to repeat the things the hon. member for Kamloops has said, but I do join with him and with others on this side of the house in urging the minister to take very seriously this suggestion of a conference between the federal authorities and the provincial authorities so that something can be done. I urge the minister to look upon this not as a suggestion with which he merely agrees and hopes that something might be done five years or ten years from now, but something on which to act right now. Let him face it as a challenge to prevent the loss of certain lives that otherwise are going to be lost on our Canadian highways unless something is done.

Mr. Shaw: Because of the mounting accident and death rate on our Canadian highways, I agree with most of what has been said by the hon. member for Kamloops and the hon. member for Winnipeg North Centre. I realize fully of course that much of the responsibility for what is done in this field rests upon the shoulders of the provincial government.

As I see this problem, it falls into two general classifications. There are those accidents resulting in my opinion from persons who just simply should not be driving. One

hon. member said that we should raise the age limit at which they are licensed. If that were to be done I would say we should also examine the problem from the top, namely, the problem of those over-age drivers who may be physically incapable of managing motor vehicles properly.

Mr. Knowles: In our province their record is very good.

Mr. Shaw: That is quite possible; it is still a problem that should be given consideration at this time. As far as faulty vehicles and certain classifications of carelessness are concerned, I would say that education would perform a most valuable function. I am pleased to note that in many parts of the country more and more consideration is being given to this matter in the schools. Many youngsters who are not yet old enough to qualify for drivers' licences, but who will soon be, are receiving information along that line. That is one aspect of the problem; but when we come to the other aspect of the problem, namely, drunken driving, driving while one's ability is impaired, I personally think there is only one solution to it, and that is a definite stiffening of the penalties which may be imposed upon such persons following convictions.

I notice that in certain parts of Canada provinces are taking rather strong measures in this respect. For example, I noticed only very recently that my own province of Alberta has raised from six months to twelve months the period during which a driver's licence will be suspended, following a conviction for drunkenness, and there is an automatic jail sentence for a person who does drive while his driver's licence is suspended. That may seem very severe to some, but in my judgment lifting those drivers' licences for a longer period of time will probably have a greater effect upon individual drivers than any fine that one could think of imposing. I certainly hope that right across this country the provincial governments will take very firm action with respect to extending those periods during which drivers' licences are suspended.

I can see a good deal of good arising from a conference of representatives of provincial governments. It may possibly mean a certain standardization as far as penalties are concerned, and that would be a very good thing. I do not think it is necessary, Mr. Chairman, for one to speak longer with respect to this matter; but there is room for much to be done, first in the field of education, and second, in the field of penalties, particularly, as I say, where drunken driving and impaired driving are involved. In my opinion, there is no excuse for it. I think that those who flout the laws against drunken driving and impaired driving cannot complain, no matter how stiff the penalty may be. I hope that the provinces right across Canada will give consideration to the suspension of the licence for a year or even longer of a person who is convicted of those charges.

Mr. McIvor: At the lakehead we have had brought to the attention of the Fort William city council the causes of accidents, because the lakehead is pretty well the centre and away from other places. Men driving big trucks drive for a long time, and sometimes they are so tired that it is difficult for them to keep awake. Another cause of accidents is that trucks have been going for a long time over rough roads and the tires have become weak and they burst. The city council at Fort William feels quite keenly about this.

Mr. Campbell: I have one suggestion I would like to make. The hon. member for Kamloops suggested a conference of the provinces with the dominion authorities. One thing I should like to see taken into consideration is the matter of putting governors on the high-speed and high-powered cars. Today we can buy automobiles with over 200 horsepower motors in them. If we had a governor on the car, perhaps it would hold the speed of the car down to say 50 miles or 60 miles an hour, or whatever the speed limit was in the province in which it was operating. If that were done I am quite sure we would cut down the rate of accidents quite a bit.

I had a little experience last year. As an experiment we tried putting a governor on one of our trucks. That truck had no accidents during the year. Not only that, but it came back from its summer service in far better shape than the trucks that were allowed to run wild. In the matter of upkeep of the vehicles alone it would be of value to the owners, and it would make it impossible for drivers to get up to speeds of 80 miles, 90 miles or 100 miles an hour.

As I have said once before in this house, you cannot put enough police cars on the highways to keep the speed limit down to even 60 miles an hour.

Mr. Starr: I should like to say a few words in support of what has already been said in regard to the serious number of highway traffic accidents with which the provinces are faced today. I am firmly in agreement with the idea that some leadership could be given by the federal government in calling a conference of the departments of highways of the various provinces to see whether some solution could be arrived at to cut down the

mounting number of fatal accidents in the provinces, irrespective of their causes.

I have some figures in support of what I have to say. I obtained these figures from the traffic accidents statistical branch of the motor vehicles department of Ontario. These are the statistics for 1951, and are the only ones that I have been able to get. They show that there were 87,659 male drivers and 4,972 female drivers involved. Male drivers to the number of 1,045 and female drivers to the number of 40 were involved in fatal accidents. Involved in personal injury accidents were 21,752 male drivers and 1,323 female drivers. Involved in property damage accidents were 64,862 males and 3,609 females. The total number of accidents in the province of Ontario in 1951 amounted to 54,920.

There has been an increase over a period of years in the number of accidents. The average figures available for the combined ten-year period from 1942 to 1951, broken down in various age groups, show a total of 39,833. In 1950 this showed as 72,788 and again in 1951 it jumped to 92,631, or an increase of 27·3 per cent. The significant part is that the age group involved in the most accidents was the group between 25 and 40 years. The number of accidents in their case was much higher than any other group from 18 years to 65 and over.

Mr. Garson: Twenty-five to forty?

Mr. Starr: Twenty-five to forty.

Mr. Garson: That is a pretty big group of course.

Mr. Starr: Yes, it is the biggest group.

Mr. Garson: What about from 25 to 30?

Mr. Starr: It is not broken down. The groups are from 18 to 24, 25 to 40, 41 to 54, 55 to 64, and 65 and over. In all these groups the increase, compared with 1950 and 1951, was much over 25 per cent in accidents of all types. Of course there is a drop when you compare 1951 and 1952 showing an increase of about 7 per cent over 1951.

Nevertheless the total number of accidents on our highways presents a very serious problem. I realize that the provinces are doing everything they possibly can to cope with it, but we find that even on our superhighways, where everything possible has been done to prevent accidents, accidents are still happening. A solution might be found if the federal government took the lead in initiating a conference with the provinces for the purpose of seeing whether the accident rate cannot be cut down in some way.

Mr. White (Middlesex East): I want to make a few remarks in support of those made by the hon. member for Kamloops. I realize that the highway accident problem is largely the concern of the provinces. There are a few things I want to bring to the attention of the committee with respect to the suggestion made about the possibility of the calling of a conference with the support, as it were, of the federal authorities. One point I wish to make has to do with the large number of accidents caused by persons who are financially irresponsible. Sometimes I think they are also irresponsible in other ways. I believe that the experience with the unsatisfied judgments fund in Ontario has proven that it is not a satisfactory solution. It has not turned out to be as good as was hoped. I think we are going to have to come to the position that whenever a licence is issued for the operation of a motor vehicle there will also have to be assurance that if the man to whom the licence is issued goes out and damages life, limb or property he will be responsible for it. That is one of the things that I hope can be provided for through such a conference.

I think the modern phrase is that we should lock the garage door, instead of the stable door, before the damage is done. Inquiries should be made before accidents occur and not afterwards. I think the old saying that an ounce of prevention is worth a pound of cure is true. I think we could reduce the death rate and the amount of damage caused very considerably by a course of prevention rather than trying to cure the situation afterwards by resorting to the Criminal Code.

Mr. MacDougall: I was not present when the first few speakers rose to discuss this problem. However, I did hear the remarks of the hon. member for Red Deer and I agree with him one hundred per cent. In this whole problem it does not make any difference basically and fundamentally where the location of the accident or potential accident may be in Canada. It is a question of the individual. It has been suggested by one member that the installing of governors on cars would possibly be a deterrent to increased speed, but in my opinion the fundamental factor in that regard is the man or woman behind the wheel. In my view education with respect to safe driving can be carried out more satisfactorily by teaching the younger people of Canada.

I am sure I am no different from a great number of members in the house who have driven in other than their home province in Canada. I recall that some three years ago I took a short motor trip over a week end, and I do not think at any time in my life was I more glad to steer my car back into

the garage than I was on that occasion. One of the reasons for that feeling was not that the people behind the wheels of the cars I either met or passed were impaired or drunk but was entirely due to a lack of rigid control over the vehicle itself and the lack of inspection of such vehicles.

My own province of British Columbia, as you all know, has had a terrific increase in population in the last fifteen years. A former provincial administration instituted a system of rigid testing of every vehicle and truck in the province, and that system is being carried on by the present administration. That may seem a bit expensive and it is, but that method of testing has cut down the number of accidents in the province of British Columbia. How is it doing it? First of all, it keeps off the road the "jalopies" that have nothing as effective in their machinery or chassis as the horns.

In addition, the system prevents men and women from driving cars in the province of British Columbia who are detriments behind the wheel of a car. They are a danger to life. In other words, not only is the vehicle and its mechanism tested but before a driver's licence is issued the driver, male or female, must pass a very rigid examination to obtain a licence. In my humble opinion the testing of the mechanical and human factors is most necessary.

I am sure that there are other members who have found themselves in a similar position to what I have been in myself on occasion. Possibly you are hurrying to get to a destination for no particular reason. It would not make very much difference whether you were five or ten minutes late. But on a congested street or highway you get slightly irate. If you do not move away with the green light as soon as it flashes, a hundred cars behind you will honk at you to get going. These things upset the capability to drive of the man or woman behind the wheel. They get mad and it is useless to assume that when they get mad and annoyed they are as efficient as when they are calm and collected. During holiday periods we find people massing the highways, bumper to bumper, with the car behind continually nagging the man in front to get going. A governor in that situation would not be very much good because you do not go from a standing start to 60 miles an hour. I have no quarrel with the introduction of a governor, but I believe a basic and primary factor in consideration of this matter is the human factor itself.

If by a process of education we can improve the qualifications of potential drivers, I am sure we will cut down the accident rate all over the country. I would emphasize that I am not opposing in any manner or form the suggestion made that a conference should be held between the federal government and the various provinces. But we must not forget that you can have all the conferences in the world to discuss means of eliminating dangerous driving without making any headway unless each province of itself takes measures on its own initiative to see to it that vehicles and drivers are tested. Unless that is done a conference between the provinces and the federal government will not amount to very much.

Many accidents are caused by excessive speed, but it should be remembered that you cannot retard progress as regards speed. What have we today in the modern world which induces excessive speed? First of all, we have the superhighways. They invite excessive speed. Then you have the modern motorcar with, as one hon. member pointed out, about 200 horsepower under the cover. That also induces excessive speed. But you cannot turn the clock back without waking the rooster. These things are part and parcel of our modern transport system.

If we are to deal adequately with this problem of accidents on the highway, it seems to me we must first of all accept the modern methods of transportation and frame our preventive measures accordingly. I might add that since the establishment of testing schools in the city of Vancouver the accident rate has been cut and quite a number of people have been prevented from driving.

Additionally, we have to contend with the vast increase in the number of cars, the increase in the population generally, which in turn creates a greater number of potential drivers. It seems fair to say that if each one of the provinces would, I do not say adopt an exact copy of what has been established in the province of British Columbia, but adopt methods of testing vehicles, that in itself might well cut down the accident rate. Some provinces may have a better system than that which exists in British Columbia, and in that event it would be wiser to adopt their methods.

But I would say most emphatically that all these things combined, together with greater emphasis on the education of drivers, will go a long way towards reducing the accident rate, provided that men and women who are found to be under the influence of liquor are adequately punished and their driving licence is cancelled for a period of time which will make them think a second time before they try to mix liquor and gasoline.

Mr. Diefenbaker: Mr. Chairman, this is a subject that naturally exercises the minds and thoughts of Canadians everywhere as it exercises the minds and thoughts of every nation in which the automobile plays such a large part. Certainly, having regard to the number killed and injured, it is one of the most serious problems we face today.

If there was an epidemic in Canada this year which killed eight people every day and injured 80 of whom 20 would be more or less disabled for life, a tremendous effort would be made in this country to deal with that epidemic.

That is the situation with regard to cars today. I have not the latest statistics but the figures for 1950 show that the number killed in Canada in car accidents amounted to 22,070, and that there had been a continuous increase from the end of the war, when the number killed amounted to 1,556. Non-fatal accidents, resulting in injury to one or more persons, amounted to 26,573, and there were 70,800 accidents in which damage was confined to property alone.

The hon. member who has just resumed his seat certainly made a most thoughtful speech on this subject. What course is to be followed?

I am speaking as one who over the years has had some considerable experience as counsel for the defence, and I know what men charged with an offence under the Criminal Code most fear when it comes to a car accident. What they most fear is the loss of their licence. That is one thing they impress upon you from the time you commence to act for them. "I am not worried about a fine, but I do not want to lose my licence. After all, it is something which belongs to me and I need it in my business." That and many other excuses are given as to why they require their licence.

My hon. friend mentioned the question of intoxication. The statistics tell the story in that regard. The ordinary human being who understands how to operate a motor car takes two-fifths of a second from the time he sees danger until he acts and decides on the course he will follow. With a motorcar travelling at 50 miles per hour a car would cover 28 feet before a person could act. If the driver has any liquor which is detectable in his blood by examination, the time required to react to danger is immediately increased by 50 per cent and it takes such a person three-fifths of a second to act.

Much has been said about the need for education. Certainly, I believe something should be done, over the C.B.C. and also through the press, to educate the Canadian people in regard to safety. My hon. friend mentions how successful the campaign was in British Columbia. Such a campaign has been found successful beyond the dreams of those who initiated it in Michigan. But campaigns of themselves will not meet the situation. I for one over the years have been greatly opposed to minimum jail sentences by way of penalties imposed for infractions of the criminal law. A change was made in parliament several years ago whereby a section was incorporated in the code in order to meet what had become a cause of much injustice; I refer to minimum sentences for intoxication. Parliament added a section which provided that anyone whose ability was impaired would be liable to a penalty of a minimum fine of $50. When the penalty was seven days in jail, the wrongdoers were afraid and they defended, because seven days in jail is not an inviting prospect.

I should say something more. It was a difficult thing to get a conviction when the magistrate was faced with the obligation of imposing a minimum penalty of seven days. However, since we provided this alternative section, it was amazing to note the number who would admit that they had been drinking to a greater or a lesser extent. A $50 penalty is not a serious deterrent to driving a car under the influence of liquor. I suggest for the consideration of the minister that the penalty under that section should be increased. The minimum is too low. It affords an omnibus upon which all drunks ride today when endeavouring to get away from the more serious charge of driving while intoxicated. I think the penalty of $50 might well be doubled by way of an experiment. If this is found to be ineffective, a year from now alterations or changes could be made. In the second place, instead of having the law as it is today where the magistrate may remove from the individual the right to hold a licence for the period in question, where the offence the person has committed reveals gross negligence or intoxication, I think the provision should be mandatory for the removal of the licence. That type of education in advance would, I think, reduce the number of offences that would be committed. As the penalty section stands, if it is not an invitation to violate the law, it certainly is not a deterrent.

Just recently, during the Christmas season, I overheard two men discussing this matter. One of them said to the other, "I am going to take a chance tonight, for, after all, it will only be $50". They were discussing the plan in effect in this city whereby the police provided drivers for those who expected to be at a party and to imbibe too freely.

I suggest for the serious consideration of the minister those two ideas: first, the doubling of the penalty under the present "impaired" section and, second, when gross negligence is established—in other words, such a disregard of the rights of others as to constitute not a momentary lapse but a considered course of action—the magistrate should be placed in a position where there would be a mandatory loss of licence.

Today one of the reasons for lack of enforcement is that each of us is in this position, paraphrasing the words of long ago, where he may say to himself on occasion, "There, but for the grace of God, go I". I think that is one of the reasons why it is so difficult to enforce the law with regard to driving cars either in a drunken condition or negligently. Certainly juries which listen to a case in which death has resulted from the alleged action of the accused, when they are discussing the matter are prone to consider, in the secrecy of the jury room—the secrecy of which is shortly revealed after the verdict is given—the situation in this light: After all, it was a serious invasion of the rights of the public. It was gross negligence, in our opinion; but all of us felt that, after all, it is not really a crime. Anyway, there is always the possibility in the future that one or other of us might be in a position where we ourselves would be judged.

Let us have an education campaign by all means, but let it be one reinforced by teeth in the law. When I hear people say that murderers can be deterred by the death penalty, may I say that my experience is that potential breakers of the law in connection with operating an automobile will be deterred when there comes to them the realization that jail will be the result rather than the ameliorative penalty of a small fine.

Mr. Garson: I want to express my appreciation of the efforts of hon. members who have so far taken part in this debate, and my indebtedness to them for the constructive contributions which they have made towards the solution of a problem with which I think each one of us is deeply concerned. However, I have got the impression that many of the statements that were made rather implied a criticism of the efforts that are being made at the present time by the provincial administrators to prevent accidents and death upon the highways. Since, as some of the members have said—indeed, as I have said myself on previous occasions—a large part of the prevention which must be provided in this connection must be at the provincial level, it is a matter of real importance as to whether or not the present provincial administrators are justly criticized. In the few cases which have come to our own attention I am inclined to think that they are not open to criticism. In this matter I am in accord with the hon. member for Winnipeg North Centre that administrators of the province of Manitoba are not at all open to criticism, that they have done a first-class job in this connection and that they have demonstrated what excellent results can be produced by steps which they in fact have been taking.

I have said when this matter was up for discussion before that what we were concerned with here in parliament was doing our part in connection with this problem. This, in some ways, some might regard as a minor part, that is to study and define the acts which produce accidents upon the highway which should be punished as crimes. That is all we can do.

It is true, as several hon. members have suggested, that we might call a conference of the provinces to discuss the means by which their efforts to prevent accidents upon the highway might be stepped up. In doing that, we would be calling them together to discuss, for the most part, matters which were entirely within their jurisdiction, entirely under their control, and entirely their responsibility.

When I made that statement I was not at that time aware that there was a support for that view far more authoritative than what I said. One would almost gather the impression from the discussion that has taken place here this afternoon that no conference had been held by the provincial administrators on this matter, and that each province was not necessarily doing the best it could with its administration, and in some cases not so good a job to prevent accidents. I doubt whether, as a matter of fact, this is so. There is on this continent the American Association of Motor Vehicle Administrators. I do not know whether it includes Mexico, but it includes all the United States and the Canadian provinces. The national vice-president of that organization is a Canadian, Mr. Robert Baillie, head of the motor licence law enforcement in the province of Manitoba.

Perhaps hon. members would be interested in the views of the members of this organization of men whose profession it is to do everything they can in the various jurisdictions on this continent to prevent highway accidents. What do they say is the best method of doing so? Is it by passing amendments to the Criminal Code? Is it anything any federal government can do or is it something that falls within the provincial

jurisdiction? Is it a complicated matter or is it a relatively simple matter? What they say is this.

Mr. Diefenbaker: What is the date of that report the minister has?

Mr. Garson: If my hon. friend is interested, I have this pamphlet from the American association here.

This is what the American Association of Motor Vehicle Administrators regards as the cardinal principle of accident prevention on the highways:

> For the money spent, and in the long run, nothing will reduce traffic accidents like a good driver licence law well administered.

That is the judgment of men who earn their living, and a very good living it is for most of them, in this profession. They are intelligent, energetic men who spend their life trying to provide administration which will prevent these accidents.

It is noteworthy, moreover, that this view is supported by a man who is, I believe, recognized as probably the most outstanding individual authority on the continent, Dr. J. Stannard Baker, of Northwestern University, who is a specialist in this field. He makes that statement upon behalf of the association in this brochure to which I have referred.

If I might be permitted, I should like to lay before the members some actual figures based upon the application of the principle in its administration in my own province of Manitoba. There are in that province about 242,000 drivers. Of those 242,000 the carefully kept figures indicate that nearly all the trouble upon the highways comes from 39,000 repeaters, that is those who are not involved in one traffic accident, as any one of us might be through pure misadventure, even when completely careful and sober; but motorists who by a series of "coincidences" come to be involved repeatedly in accidents. The records indicate that these people are the cause of nearly all the preventable accidents.

One of the things we have to keep in mind in this connection is that when you have in the United States and Canada the number of vehicle miles which are now being placed upon the roads of this continent, and in some cases in very heavy traffic, we are bound to have some unavoidable accidents as well as a lot that can be prevented. There will be accidents that are unavoidably caused by the urgency or the density of the traffic, or misadventure in which the participants are careful and sober and where no amount of good management will enable them to avoid what happens. But the view of these experts is that the great bulk of the preventable accidents are caused by repeaters who, as you see, amount to about 16 per cent of the total motorists.

Then, there is another figure, 4,162 who are the really bad ones and in Manitoba they are barred from the road entirely.

Mr. Fulton: For how long?

Mr. Garson: Anywhere up to three years. The hon. member for Prince Albert says his experience as defence counsel has been, as it has always been my experience as a remission officer in the provincial field where drivers are trying to get their licences restored and in the federal field where they were doing the same thing, that the cancellation of the licence is a far better penalty and a far greater deterrent than any fine that could be imposed.

The hon. member for Prince Albert asserted that some person in Ottawa recently was saying he was going to take a chance on being impaired while he drove his car because he would only have to pay $50 fine if he were found guilty. Do you know what happens to a man who has been convicted three times for driving while impaired in Manitoba? He is barred from the roads for life. I would suggest that, while I am not for one moment decrying the possible value that might emerge from a conference called by the federal government to discuss this matter, I must say that I doubt very much whether at such a conference we will be able to tell an administrator like Mr. Baillie very much that he does not know now.

Mr. Knowles: Let him tell the others.

Mr. Fulton: He may be able to tell the others.

Mr. Garson: Yes, that is right. But I imagine in the course of conferring with his opposite numbers in the other provinces in the conferences which these officials have, it would be a most extraordinary thing if he has not long since told them what he has been able to achieve by this method. But perhaps the reason the method is not employed in other jurisdictions is that they find some political difficulty in really making these tough rulings stick.

I suggest today, as I suggested on a previous occasion, when Canada is faced with a very tough highway situation, involving on a large scale huge property losses to say nothing of life and limb, until Canadian administrators develop an attitude in the solution of such a problem which is as tough as the problem itself, we are not likely to get results no matter how many conferences we may call.

Mr. Knowles: Will the minister permit one question?

Mr. Garson: Yes.

Mr. Knowles: Would not such a conference, and the publicity that would attach to it, help develop public opinion in those other provinces, and thus aid the cause in which both the minister and I are interested.

Mr. Garson: Yes, I think it would. And I would not want anyone to assume from anything I have said, or that I may say as I go along, that I am in any way personally or officially averse to calling a conference of that sort. But I think it would be quite wrong to assume that not only Manitoba but other provincial administrators are doing little or nothing now. Moreover I think it would be quite easy to exaggerate the amount of new light that men who have been living with this problem for years would get from a conference such as that. But that of course is no reason why we should not be able to shed that extra light upon it, even if it might be small.

The hon. member for Middlesex East suggested they were having trouble with their unsatisfied judgments fund in Ontario. Well, in Manitoba this pool of motorists with cancelled or suspended licences, which hovers fairly constantly at four thousand people, is made up in part of those who have been involved in accidents when they carried no automobile insurance, or who failed to pay judgments rendered against them in damage actions arising out of accidents, and have stayed in the pool until that condition has been satisfied. I believe—certainly this was the case last time I had any occasion to check it, and I believe it is still the case—that the unsatisfied judgments fund in Manitoba is a great success, largely because in its administration the provincial authorities have pursued a fair but a tough policy.

Another impression I think we must correct in our approach to this question is that created by the use of figures. When the hon. member for Ontario suggested that the group from age 25 to age 40 were the greatest offenders, I suggest that that bare statement by itself may indicate nothing more than that the age group from 25 to 40 constitutes the majority of drivers.

What I suggest is that the method which has been evolved by these experts of measuring the accident rate is one which should be applied; and when it is applied it indicates a result far less discouraging than one might think. The method used in the United States is to take the number of deaths on highways per 100 million vehicle miles. For obviously if in 1954 as compared with 1934 they have several times the number of motor vehicles upon the highways, each one travelling more miles because of better highways, better automobiles, improved engines and the like, we must expect they will have an increase in the number of accidents both avoidable and unavoidable merely because of the volume of traffic.

To step up the volume of traffic in itself brings about an increase in the accident rate. What they have found in the United States is that at the present time they have 7·5 deaths per 100 million vehicle miles; and that is much better, indeed, than the 16 deaths per 100 million motor vehicle miles they had in the early thirties. By action taken for the most part at state level they have been able to reduce that which I suggest is a correct measurement of the highway death rate from what it was previously to what it is now.

In Manitoba, by the method I have indicated, we had pulled the rate down to a low of 6·8 deaths per 100 million motor vehicle miles, although recently I understand it has gone up to some extent. In other words at the low points we got under the average for the United States; and I would doubt whether there is any other province in Canada that has done that.

Estimating highway deaths per 100 million motor vehicle miles is a much sounder basis for any thinking that we may be doing upon the subject than simply to read in the newspapers and the statement that we have had so many deaths over this, that or the other period. For in this matter we have to make some allowance for the fact that we have many more miles of highway, and many more vehicles on those highways than heretofore. It is in relation to the volume of vehicular traffic that any sound judgment we may make would have to be reached.

I believe it was the hon. member for Kamloops who suggested that one of the advantages of a conference of this sort would be that it would be possible to standardize tests for drivers' licences, to standardize equipment, to standardize the limitation of age, and to bring about uniform speed limits. I do not pretend to be an expert in this field, but it would seem to me that there are few countries in the world in which the conditions under which automobile traffic is carried on would vary more between one province and another than they do in the provinces of Canada. The problem of automobile safety in Saskatchewan, with a very low density of traffic upon many thousands of miles of uncongested rural highway, would permit of

a standardization of equipment, of tests for driving and of limitation of age that could not be tolerated in metropolitan Montreal.

One of the reasons why it seems to me the benefits of a conference of this sort would be considerably limited is that, surely, by long odds the most effective methods we can work out to grapple with this question must be worked out at the provincial administrative level. These administrators in the provinces have to take cognizance of the conditions in their respective provinces. Rules that would be applicable on the highways through the mountain ranges of British Columbia would not apply on the prairie roads in my own province of Manitoba. It would be folly to think that it would be wise for these gentlemen to standardize their tests in disregard of these differences.

It seems to me the solution to this problem is pretty largely as the American Association of Motor Vehicle Administrators has indicated, namely that it is right at the state level, and that the biggest part of it is in licensing. I am in some doubt as to whether there is very much that the federal government can tell any of the provincial administrators on that point. I am also in some doubt as to whether the man who is dealing with the traffic problems in downtown Toronto can educate the man who is attending to the traffic on the rural roads of Alberta or tell him something he did not know before. Now, I do not want any person—

Mr. Knowles: Those differences exist within a province?

Mr. Garson: Yes.

Mr. Knowles: In our own province conditions in Marquette and in Winnipeg North Centre are quite different.

Mr. Garson: That is quite right, and that is another reason why a man from Montreal is not very likely to add to Mr. Baillie's education upon the subject. My hon. friend has supplied an additional reason for that.

Mr. Knowles: I gave that as a reason for the contrary.

Mr. Fulton: Does the minister not think that the man from Montreal would have some experience which might be helpful to Mr. Baillie in considering the problem that he has today with drivers in Winnipeg?

Mr. Garson: The experiences that we would be discussing at a conference called by the federal government would be those experiences which those administrators in conferences of their own had not previously exchanged before the federal conference was called.

Again let me repeat, I do not want to be identified by any of these statements that I have made as being an opponent of the idea of calling a conference; what I do suggest is that the idea that a problem which has resisted the very intelligent, effective and efficient efforts of provincial administrators up until the present time is going to be solved by getting them all together in a new conference called under the auspices of the federal government is a rather far-fetched one.

Mr. Ferguson: May I interject? I have had years of experience with claims of insurance companies. My experience covers thirty years. I heard Mr. Baillie. I lived in Manitoba, and I have been in every province in this country. I know the insurance companies' problems. They have the best records on automobile accidents, and ideas for prevention of accidents. I think Mr. Baillie was absolutely marvellous, and enlightened every Ontario resident, insurancewise and governmentwise at the Royal York hotel. I heard their remarks after he had spoken, and the majority said: "Why don't we adopt something of that kind here"? His suggestions were suggestions that could have been well adopted, and would have prevented accidents that are killing off people in Ontario. They could be adopted here and across the country just as they have been in Manitoba. If the provinces were brought together through the good auspices of the federal government, or of any other body, and Mr. Baillie could give his talk and the successful ideas that are in practice in Manitoba could be put into practice across the country, it would be a godsend to the Dominion of Canada.

Mr. Garson: I wish to thank my hon. friend for his interjection. Naturally, I agree with everything that he has said. However, one of the things he said or implied was that as a result of Mr. Baillie's speech at the Royal York hotel in Toronto none of these things has been adopted as yet. That perhaps is no reason why we should not once more try to secure their adoption.

My purpose in making these remarks was that if we, in consultation with the provinces, —because I do not think there will be much purpose in calling a conference in which they were not willing to co-operate—should call a conference, I will say to my hon. friends in advance: If such a conference does not produce the miracles that they are

projecting, do not blame the caller of it or the provincial administrators who take part in it.

Mr. Brooks: I did not intend to enter into this debate, but having listened to the minister and the other hon. members who have spoken I realize, as I always have, that this is an important subject. I agree entirely with the hon. member for Kamloops in his suggestion that there should be a dominion-provincial conference on this matter. After listening to the minister in the last few minutes I am more convinced than ever that there should be one, because the strongest arguments used for such a conference were those used by the minister himself. He pointed out the fact that the situation in Manitoba was better than that in any other province of Canada, and I thought it would compare favourably with any state in the United States. If that is the situation in Manitoba—and the problems in the rest of Caanda are the same as those in Manitoba—the rest of Canada should have the benefit of what has happened in his own province.

As an argument against that he said that the provinces differ. We all realize they do not differ so far as the driving of motor cars is concerned. The man who drives a car in the city of Montreal also drives a car out through the province of Quebec and in the rural sections. The man in the rural sections of Quebec must come in to the city of Montreal or to the city of Quebec or to some other city. The same thing applies in Manitoba. You have your rural drivers who come into the city of Winnipeg and the city drivers go out into the country. That happens all across the country. The people from New Brunswick drive into Quebec and Ontario. It is all one big problem as far as the provinces are concerned.

As I say, I would approve very strongly of the suggestion of the hon. member for Kamloops that there should be a conference on this matter. The people are becoming more accident-conscious all the time as accidents increase in Canada.

One matter that impressed me was the suggestion regarding education. We are discussing an offence, and the offence is committed after the drunken driving has occurred. The matter of education is one that should be considered not only at a dominion-provincial conference but in our own provinces. We should educate our young people; we should educate our older people. And we should also try to prevent the accident before it occurs. I am reminded of an accident that happened in my own province just a few months ago. The same type of accident is happening all the time. Four men were drunk in a car. They went to a filling station. The filling station operator recognized that they were drunk, but instead of notifying the police, as he should have done, the men were allowed to continue on their way and within an hour's time they were all reported dead from a serious accident. As I say, that is the type of accident that is happening all the time.

Here we are considering the offence after it is committed. More should be done to prevent the serious things from happening. I am of the opinion that if a man sees another man drunk, and allows him to go on driving his car without notifying the police, he is committing an offence. I know how difficult it would be to make it a criminal offence, but it is an offence. Perhaps we should educate our people with respect to this offence and make them more conscious of the fact that if one sees a drunken man getting into a car he should pick up the telephone and notify police that this man is not fit to drive a car. They should take steps to stop him from driving.

I just rose to say that I approve of what has been said by the hon. member for Kamloops and I believe that good results could be obtained by having a conference such as has been suggested.

Mr. Ferguson: I should like to interject this brief observation. After Mr. Baillie had spoken in Toronto these remarks were made by the majority of the people there: "It was a very interesting discussion". The men who were listening to Mr. Baillie were not top government men, and they should have been. They said: "Well, I just came down to hear what he had to say, but he certainly had the facts. If I suggested that to the minister he would tell me to mind my own business." I think that attitude is prevalent among deputy ministers and ministers. If a junior civil servant, or a top civil servant, were to listen to Mr. Baillie he would realize that what he says is true. I would ask this government to set an example and write to the premiers of each province, bringing this to their attention.

A lot of time has been spent on the subject in parliament. We could well afford to adopt Baillie's ideas throughout the country. I have probably had more to do with automobile accidents—not my own, thank goodness—as an adjuster than any other man in the House of Commons over a period of some thirty years, and I recognized very quickly why Baillie in the province of Manitoba was achieving the results he definitely did achieve. These methods are not practised in other

provinces and they should be because they have been tried and proved to be correct. They are profitable in Manitoba and would be in Ontario. There is no doubt about it. I believe the federal government can only go so far in requesting, but if they make such a request and no attention is paid to it then they will have done all they can do. Something should be done to bring the matter to the attention of the top authorities in every province.

Mr. Johnson (Kindersley): Mr. Chairman, I think the thing that should be spotlighted in discussing these sections of the Criminal Code is the matter of driving while intoxicated and driving while ability is impaired. Fifty years ago we did not have the problem of drunken driving because no matter how drunk the man was the horse still had some sense. I believe it is even claimed that the model T had a little character, but today when cars have 200 horsepower motors I think we have got to give the most serious consideration to drunken driving and driving while ability is impaired. I think it is an unfortunate thing that the term "impaired by alcohol" should ever have been coined. What standards are we going to use to determine that a man's ability is impaired? Is his ability impaired when he has had one drink of liquor or half a dozen beers? What impairs a man's ability?

A number of tests are dealt with in an article in *The Rotarian* by Don Wharton. He refers to Sweden, and I think what he has to say is of interest. The article reads in part:

> Everyone knows that heavy drinking makes for irresponsible, reckless driving. But Dr. Leonard Goldberg, of Sweden's Caroline Institute, wanted to know about the effects on driving of light drinking —just a few beers or highballs. To find out, he tested 37 skilled drivers, aged 20 to 45, most of them instructors at driving schools.

The article continues:

> Dr. Goldberg concluded that even a slight amount of alcohol "caused a deterioration of between 25 and 30 per cent in the driving performance of expert drivers." And on the three tests most closely corresponding to actual driving, ability was impaired on the average by 41·8 per cent.

These findings were confirmed by experiments conducted in Toronto recently. A study was made of 919 drivers involved in personal accidents and the conclusion was reached that alcohol became a factor in causing accidents at concentrations as low as 3/100 per cent, and such a concentration can result from one beer or cocktail. When we are using terms such as impairment of a person's ability to drive I think we should have some standard to judge the extent to which ability is impaired. In my opinion the man who thinks he is cold sober but has had several drinks is a more serious menace than the one who knows he is drunk because the reaction times of the first man are reduced. He thinks he is a competent driver and will therefore assume risks that a man who realizes he is drunk would not take.

In order to assist law enforcement officers—and this is the point I want to make—I think we must strive to use all the mechanisms at our disposal to determine the state of drunkenness or impaired ability, if you wish to use that term, with which a driver may be affected. I think we all know of too many cases where the police have known that a man was drunk but could not prove it. I know of accidents in my own locality where everyone knew that the individual involved in the accident was drunk, but the standards of procedure now found in our Criminal Code are not sufficiently adequate to prove such drunkenness.

In subsection 3 of section 224 chemical analysis is mentioned but it is not related to any specific figure. Therefore it is, in my opinion, meaningless. What is the use of saying that a chemical analysis can be considered as evidence when you do not set out any range in the act? I think we should follow the advice of some of the leading countries of the world in this regard. In Sweden there is a compulsory blood test, and where a person has a concentration of 1·5 per thousand they are considered intoxicated and are sentenced to imprisonment for one year unless there are extenuating circumstances. If the alcohol concentration is between 0·8 and 1·5 per thousand the driver has to pay a fine. In both cases the licence is suspended for a longer or shorter period.

In many of the states of the United States a blood test is used in conjunction with other means of determining a man's drunkenness. If the alcoholic content is under ·05 per cent the defendant is not under the influence. Where it is in excess of ·05 and less than ·15 he may be considered drunk when that factor is taken in conjunction with other evidence. If it is ·15 per cent or more he shall be presumed to be under the influence.

I should like to see us take a firm stand on the matter. We cannot beat around the bush with our Criminal Code. We cannot expect our law enforcement officers to take a vigorous stand in the performance of their duty unless they have something to back them up. I should like to see a chemical test provided which could be used by the law enforcement officers. I would not make the chemical blood test compulsory because there are circumstances where it would be impossible and undesirable to make a blood test. I am thinking of an accident occurring perhaps fifty or sixty miles away from a hospital. I certainly

would not want to burden the law enforcement officers with the responsibility of taking a blood test in that case.

But a large proportion of accidents occur in the urban areas where the services of a doctor are not far away. At the request of the law enforcement officers a blood test should be made and refusal to submit to a blood test should be considered as evidence of guilt. Such a test would be used in conjunction with other evidence. After we have given the law enforcement officers a fair chance to interpret the law and determine if a man is drunk, why start being chicken again? The bill provides for a fine for a first offence of not more than $500 and not less than $50 or imprisonment for three months or both. I do not like the word "or" in there because I think that if an individual has sufficient money to purchase liquor he will have sufficient money to pay a $50 fine.

The purpose of any penalty in this regard is related to the principle of a deterring influence. I am more than convinced that three months in jail would do more to inhibit intoxicated drivers than any fine you could impose. These are points I should like to bring out. I should like to see very careful consideration given to introducing a blood, breath or body test of some description based on the experience in Sweden or the United States which could be used in conjunction with other physical tests. After we have given our law enforcement officers a chance to protect us by being able to know when a driver is drunk, we should then put the maximum teeth in the law to prevent future occurrences.

Mr. Garson: Before the hon. member takes his seat I wonder if he would tell us whether he read subclause 3 of clause 224 before he made his remarks?

Mr. Johnson (Kindersley): Yes, but I think there should be some statement of the percentage such as ·15 or ·10, or whatever it may be to act as a guide. I believe there should be some scale or limitation.

Mr. Garson: I believe the hon. member is under some misapprehension. The analysis is admissible. It will indicate a certain alcoholic content in the blood. On the strength of that, along with the other evidence, the magistrate can then reach a decision as to whether the accused was intoxicated or impaired.

Mr. Howe (Wellington-Huron): Mr. Chairman, I rise to take part in this debate today in the belief that we all realize there have been sufficient arguments put forward to prove to all hon. members just how tremendous a problem the question of safe driving poses. I believe every government and village council through the federal government realizes the extent of the problem we have to face in trying to control this particular phase of modern life. One thing, I believe, we overlook in so many of our arguments is the human element. On other aspects we have all the statistics we require, but there is one element on which we cannot obtain statistics and that is as to how a human being will react under given circumstances. The driving of an automobile has become one of the most commonplace things in our life today, and every child today will inevitably drive a car at some point during its lifetime.

Every day we see the ordinary, quiet individual who goes along quite peacefully and is a model of decorum under ordinary circumstances, but when he gets behind the wheel of a car his ideals change. He is in control of a monster and he does things he would not dream of doing under other circumstances.

Governments today have done everything they can to make our highways safe and to remove every obstacle to safe driving. In fact, I remember a year or so ago an officer in the provincial police addressed our service club. He spoke about that very same thing and he mentioned the Queen Elizabeth highway. That is not our most recent highway but at that time it was supposed to be the last word in safety. There were not going to be any more bad accidents. But what happened? That highway was smoother, straighter, and better in every way and people became masters of their own destiny, but they drove faster and accidents continued to occur. We have, of course, the new turnpike going into the city of New York, but on days when there is heavy traffic on that turnpike the authorities have had to instruct groups of policemen to lead these so-called sensible people into New York so they would not have an accident on the way. That is the sort of thing we are dealing with here today.

I was pleased to note that the Minister of Justice in speaking about the United States suggested that the United States average as regards accidents was probably less than in Canada. In view of that fact, and in view of the suggested conference between the provinces and the federal government, I would like to suggest, as did my colleague for Royal, that the education of our youth should be considered at that conference. I know how jealous we all are of treading on the toes of the provinces when it comes to things over which they have control, but I believe the education of our youth is one of the most essential things in regard to the removal of

the problem of dangerous driving, a problem which has become tremendous in this country today.

I am therefore in favour of this type of conference and the idea that education should be discussed at such a conference. Someone has to take the leadership and I suggest the federal government could take the leadership in calling such a conference at which the problem of education among the youth of our country today could be fully discussed.

We hear suggestions made about educating people through TV programs, the radio, magazines and signboards, but we have these things already. I maintain that the driving of a car is such an ordinary thing for a person today that the only solution is that we should have a course in safe driving for every one in our high schools. Such a course should be incorporated in the educational system and through the medium of such training the youth of today will realize that the motor car is not just something to give them pleasure, something to carry them from one place to another comfortably, but that it is also something which has dangerous possibilities. They would realize it is something they would have to control and keep under control all the time.

It is with a great deal of pleasure, Mr. Chairman, that I bring these ideas before the house and sincerely hope that if a conference is called the question of educating our youth while still in high school will be discussed.

Mr. Johnson (Kindersley): Mr. Chairman, reverting to the point raised by the minister I would like to point out that subclause 4 of clause 224 points out that no person is required to give a sample of blood. Since no person is required to give a sample of blood then subclause 3 is meaningless. Subclause 3 simply states that a chemical analysis of a sample of blood, urine, breath or other bodily substance may be admitted in evidence. But subclause 4 states that no person is required to give a sample. I would suggest that these two factors be made compatible in some way because a person can simply refuse to give a sample of blood, as they will in most cases, and in addition there is no scale of percentages which could possibly guide the law enforcement officers.

Mr. MacInnis: Mr. Chairman, I would like to say a few words on this matter largely because I do not agree with the position taken by the hon. member for Kindersley. If my memory serves me right clause 223 is a later addition to our Criminal Code. Under clause 222, driving while intoxicated, it was found difficult to get convictions. My understanding is that it was found much easier to obtain a conviction under the section dealing with impaired driving. It is also my understanding that more convictions were obtained under that section than could possibly have been obtained under the provisions in section 222. The reason for that is obvious. You do not require to prove that a man is driving while impaired. He proves that himself by the manner in which he drives when he goes through a red light, sideswipes another car, or runs into the rear of another car. If he did any of these things then the fact that he was impaired could easily be established. I am not an authority on this, but I am not so sure convictions could be based entirely on blood tests and the amount of alcohol found in the blood.

My understanding is that some men—and some women, I suppose—can hold their liquor better than can others. One man may be badly befuddled after one drink while probably another person could drive reasonably well with two or three drinks under his belt. I do not want anyone to think that he might be able to do that. I am merely saying that it just might be possible. For that reason I do not think the blood test in itself could be complete evidence of intoxication. I therefore believe—and this is really what I rose to say—that section 223 is the most effective section we have at the present time for dealing with this matter of drunk driving.

Mr. Nesbitt: With regard to this section 222, there are four aspects upon which I should like to make a few comments. The first one is with respect to procedure under this section. As the section is worded at present and as it has been worded in the past, it is up to the crown attorney to decide whether or not he will proceed by indictment or will proceed by the method of summary conviction. A number of people made it known to me that there ought to be some chance for the accused to elect trial under this section; in other words that provision should be made so that the accused may have some say as to whether he will be tried by a magistrate or will have the opportunity of being tried by a jury.

I know quite well that for practical purposes it is much more expedient to try cases under this section by a magistrate. It gets them cleared up much more quickly. Hence in practically every case the crown attorney will proceed by the method of summary conviction and not by indictment. But in cases that involve a mandatory prison sentence—as do cases under this section—it seems to me that the accused should be allowed to have to have trial by jury if he so desires. I grant you that, from the way the section is worded, if he had the right to elect trial by jury and

if he so elected, he could probably get a much heavier sentence if he were found guilty. Nevertheless, I feel that this matter should not be entirely up to the crown but that the accused should have some say as to whether or not the case is proceeded with by means of indictment or by means of summary conviction.

The second matter I should like to comment on briefly is one which was raised by my colleague the hon. member for Kamloops; I refer to the matter of the possibility of a dominion-provincial conference concerning death on the highways. The minister has suggested that there would be certain practical difficulties in dealing with this matter because conditions vary greatly as between the different provinces. For instance, conditions in Manitoba are quite different, as the minister has pointed out, from those in the city of Montreal or in the city of Toronto. I believe that the hon. member for Royal has pointed out rather well that this is a nation-wide problem, and that people who drive in Toronto today may very well be driving in the country the next afternoon and so on.

There is one other matter upon which I should like to make some comment in this connection. If such a conference were held, I believe it should take into consideration the age at which licences might be granted to people. Earlier this afternoon we heard some figures given by the hon. member for Ontario. He stated that he had certain figures which showed that most accidents were caused by people in the age group 25-40. With all respect to the figures that were given by my colleague, I cannot help feeling that rather poor statistical methods were used in arriving at this conclusion. Obviously the age group 25-40 is the one in which are—from the absolute point of view—by far the largest number of drivers. You have fewer drivers over that age and fewer drivers under that age. If the figures had shown the number of accidents per thousand in that group, they might have been a little bit more indicative of the actual situation.

What I am attempting to lead up to is this question of the age at which people should be licensed to drive cars. At the present time in the province of Ontario—I am not sure what the situation is in Manitoba which, I take it from the remarks made this afternoon, has much better arrangements, generally speaking —the age limit at which a licence to drive may be given is 16. That may be a proper age, but I certainly think the question should be looked into. People at the age of 16—and I am not so far removed from that age that I cannot remember what we used to think about at that time—have little sense of public responsibility. They are growing up emotionally and are a bit more unstable than they are at a later age.

Just by way of example, may I say that I was horrified to hear last summer, from some people who were approximately in that age group, that there is a nice little parlour game which teenagers play with jalopies which as a rule have no brakes and few safety devices, and which they had been allowed to purchase by their parents. This game is called "chicken". It is a nice little parlour game, only it is played on the highways, wherein two carloads of teenagers approach each other as fast as the jalopies will go, and the driver of the jalopy that first swerves away at the last moment is known as "chicken". They also have another little game that is played along the same lines, where they get about six people in the car, three in the front and three in the back, and the driver climbs out from behind the wheel and gets in the back seat and the next person in the front seat moves over. I understand that the rules of the game are that you must be going 60 miles an hour to do this. That again is a thing that you very often get with people who are 16 and 17 when driving cars. I cannot help feeling that this matter should be considered. I am not suggesting that, without due consideration, the age limit for licensing should be raised but I think that things like that should certainly be considered.

The third thing upon which I should like to comment is something that I mentioned in remarks previously in committee when we were discussing this section. I believe the same subject was commented upon by other hon. members including the hon. member for Vancouver East and one or two others. I refer to the situation where you find a driver of an automobile who has pulled his car off to the side of the road and who is intoxicated. The minister on an earlier occasion made some comments on this matter and there has been certain editorial comment on it; I believe that a week ago today the Toronto *Evening Telegram* had some editorial comment on it.

Just briefly I should like to elaborate my position in this matter at a little bit more length. I agree with some remarks which I believe the minister made, to the effect that if a person is drunk when he got in a car and took off he is clearly breaking the law. There is no argument about that. But let us take the situation where Mr. A, the driver, has been at a party, has maybe had one, two or three drinks, as the case may be, and gets into the car. As most people know, either by personal experience or by reading, alcohol does not take effect instantly. In fact, the

action may be delayed for some little time, depending on the person, his condition, whether he has recently eaten and so on. It may be half an hour before much action takes place.

A person may not be breaking the law when he starts off in the car at all, but as he is proceeding down the road he may find that he is becoming intoxicated. His judgment still being fairly good, he realizes that he is not in a condition to be driving a car and should not do so, and his good sense makes him pull off to the side of the road. I maintain in that case that the person when he got into the car had not been committing an offence; and whether a person, of course, was drunk when he got into the car or whether he was perfectly sober when he got into the car and became intoxicated later is a matter of evidence for the court to decide.

I believe that, on other occasions, the minister pointed out that while that may be true, if a person went to sleep in a car and woke up he might not be sober when he woke up and he might decide to drive the car. I cannot help feeling that it is a rather dangerous principle to start bringing into our law, if we are going to punish somebody for something that he might do at a future time.

I feel that the court should be allowed a little more leeway in connection with drunken driving. I am thinking particularly of the situation where a person is found in a car by the side of the road, and is intoxicated. It is settled case law that a person found under those circumstances can be convicted under this section of having the care and control of a vehicle. I feel that in such a case the court should be given a little more leeway because that person has had the good sense to remove the vehicle from the road. If he had not committed an offence in the first place, and had not been drunk when he got into the car, some consideration should be given.

The last thing I should like to bring up this afternoon with respect to this section is the question of drunks generally. A great many remarks have been made this afternoon about drunks and drunken driving in general. I made some remarks in this respect before, but I should like to elaborate upon them a little further. I feel that drunks generally fall into two classes. First of all, there is what is known in popular parlance as the social drinker. I believe that is the type of person this section of the code is aimed to hit.

I might say that the social drinker is the person—it might be any one of us—who goes to a party and has one or two drinks, but who does not drink habitually. These people are much more likely to be quickly affected by alcohol. They may drive a car and become involved in an accident. When they take the car to the party they know full well that if they get into an accident they should be punished. I agree fully with my colleague, the hon. member for Prince Albert, in the remarks he made. When you walk into a situation with your eyes open, knowing full well what is going to happen, you should be punished rather severely. But that is not the case with a person who is an alcoholic.

I have discussed alcoholism with some members of the medical profession, and I understand it is a disease. Confining an alcoholic to jail is not going to accomplish much. He will be there for seven days, then he will get out and do the same thing again. Under the provisions of clause 225 a man's driver's licence can be removed, and that might be of some help. It is a question of whether or not he gets caught. He might very easily be driving down a road while drunk and not happen to get caught. It is only when he gets into an accident he is likely to be caught. Then, of course, you do have cases where people manage to get away and cannot be found for a while.

On this question of alcoholics I should like to suggest that since they are people who are sick sending them to jail will not accomplish much. If some other method could be used in conjunction with the present penalty, it might be helpful. I am going to submit an amendment to this clause which will be as follows.

The Deputy Chairman: Order. Is that an amendment to clause 225?

Mr. Nesbitt: No, to clause 222, Mr. Chairman. The amendment I should like to suggest would be as follows. At the end of the section as it is at present, the following paragraph could be inserted:

> If any person is convicted of an offence under subsections (a) or (b) of this section, the court may, if the evidence indicates that the accused suffers from alcoholism, direct that in addition to or in lieu of the sentences set out in subsections (a) and (b) of this section the accused shall be confined to a hospital or similar institution for a period not exceeding six months and not less than thirty days for the purposes of observation and treatment.

So there is no misunderstanding of the intention I should like to point out that this suggested addition to section 222 could only be used if evidence was presented to the court which the court believed that the person suffered from alcoholism. The penalty suggested here could be used in addition to

the penalties imposed under section 222 or if the magistrate felt the circumstances warranted, the penalties contained in the amendment could be imposed in lieu of the penalties contained in section 222.

The reason I suggest this course is that it gives the magistrate or the court certain power over the convicted person. If an accused person is convicted of drunken driving the magistrate may, upon evidence being presented that he is an alcoholic, invoke the penalty contained in this proposed section. The magistrate may say he will have to take treatment for a period of three or four months in an institution and may suspend sentence. In addition, the magistrate may impose certain penalties contained in section 222. In other words, it gives the magistrate some power to make a person take some kind of treatment. There would be considerable advantage, not only from the traffic point of view but from the point of view of alcoholics generally. It is an indirect way of dealing with alcoholism to bring it under this section, but it may very well be killing two birds with one stone.

In view of the fact the minister will likely have some comment to make on this amendment, as well as other members, I am concluding my remarks to listen to the minister's comments.

Mr. Garson: I am sure that all of us are most sympathetic to those who are unfortunate enough to be alcoholics. We would like to do anything that would assist them, but it would seem to me that their treatment is something which clearly falls under the question of public health and not under the subject matter of criminal law. For that reason, I would question very much whether an amendment of this sort is constitutional, even if it were thought it was wise to enact it.

My hon. friend says or implies that it is not the alcoholic's fault that he is an alcoholic, and if he were a genuine alcoholic I suppose we would all agree with that. But I do not think it is necessary for an alcoholic to attempt to drive a car while he is under the influence of liquor any more than it would be for the diabetic or the person suffering from tuberculosis. If alcoholism is not a crime but a disease, and that seems to be the argument, then all the alcoholic has to do to avoid conviction under section 222 is not to drive a car while drunk.

Mr. Nesbitt: Will the minister permit a question at this point? The minister says the the person who is an alcoholic does not have to drive a car, and I would agree except that when the alcoholic is in that condition he is not capable of forming a judgment or knowing what he is doing. The minister stated this was a question of public health, but the code does attempt in other places to deal with the criminal sexual psychopath, inasmuch as they are a menace to the public just as the alcoholic is.

Mr. Wylie: Before the minister replies, I would ask him to speak a little louder because we cannot hear a word down at this end of the room.

Mr. Garson: The hon. member has suggested that an alcoholic in driving a car while intoxicated is in a different position from a person who is not an alcoholic. The argument that I was attempting just now to develop was that to excuse an alcoholic for getting drunk does not involve our excusing him for driving a car while he is drunk. If my hon. friend says, as I understood him to say, that such person drives a car while drunk because he is drunk, and does not know any better, I suggest the same could be said of a drunken man who is not an alcoholic.

I think certainly it would be a retrograde step to put in the Criminal Code a provision which would enable a man to create a defence for himself by saying that he was an alcoholic. While my hon. friend does not suggest that, exactly, he suggests that—

> —the court may, if the evidence indicates that the accused suffers from alcoholism, direct that in addition to or in lieu of the sentences set out in subsections (a) and (b) of this section the accused shall be confined to a hospital or similar institution for a period not exceeding six months and not less than thirty days for the purposes of observation and treatment.

Upon what principle of observation of civil liberties and the like could the hon. member justify sending a man to a hospital for six months as punishment under the criminal law because he happened to be brought up on a charge of driving while drunk or driving while impaired. It seems to me that the punishment would be out of all proportion to that particular offence, because it may be in addition to the existing penalties. And in any case, as my hon. friend clearly indicates, the alcoholic is to be committed to the hospital for the alleged purpose of observation and treatment.

The treatment of alcoholism I would suggest is a matter of public health. I would not think it wise to attempt to pass this amendment; and even if our power to do so were unquestionable—which I do not think it is—I do not think we should pass it anyway. For my part as minister of the justice department, I would not dream of imposing this sort of burden upon municipally or provincially operated hospitals without consultation with them. How do we know what

facilities they have to care for and guard a prisoner who came to them as the result of a magistrate's order in the manner suggested in my hon. friend's proposed amendment?

I have no objection at all to giving consideration to my hon. friend's suggestion, and discussing it with provincial authorities to see if it is workable and whether and if perhaps the same result could be achieved by constitutional amendment to provincial law to the same effect. If my hon. friend would be content to accept my undertaking in that regard, I would be glad to give it. But I am afraid if the amendment is put to a vote I would most certainly have to oppose it strenuously.

Mr. Fulton: Is not the same principle involved as when a man is committed to a mental institution for observation? Has he considered whether we are imposing a burden upon the provinces when a man is confined to a provincial mental institution as the result of a jury having brought in a verdict on a capital charge to the effect that the accused is insane? Admittedly there might not be as many who would be placed in those circumstances as there would be of those found suffering from alcoholism; but I suggest the principle is the same.

If under the criminal law we have in the one field the right to impose certain administrative obligations upon the provinces, then it seems to me we have the same right in the other field. The minister is no doubt correct when he suggests that where there is a heavy burden imposed there should be the opportunity of prior consultation; but it seems to me the principle is the same.

Mr. Garson: I think if my hon. friend will examine the statutes he will find that persons are committed to provincial insane asylums and hospitals and the like under apt provincial or municipal laws in that behalf.

Mr. Fulton: Not where they are found not guilty by reason of insanity on a capital charge.

Mr. Garson: Oh yes. They are found not guilty because of insanity, under the criminal law. But when it comes to getting them into provincial institutions they have to be certified as being insane, under the legislation under which the institution operates. And of course there is no difficulty in getting a certificate because a psychiatrist is only too willing to give it. That is the basis of their admission. But here the hon. member suggests that we use the Criminal Code as the basis for admission to a provincial institution.

The other point my hon. friend raised was the age at which a licence should be given, and he implied that the young driver was the dangerous driver. These figures offered as a sample of provincial experience might be of interest to him. From 16 to 19 years of age the figures show that there were nine involvements per hundred drivers; from the age 20 to the age 24 there were 12·1; from 25 to 34 there were 9·8. And the figures go on progressively, showing a steady decline from the group aged 20 to 24. So that these figures do not support my hon. friend's suggestion that it is the drivers from 16 to 19 years of age who cause the greatest risk.

The Deputy Chairman: Is the committee ready for the question. The question is on the amendment. All those in favour will say yea.

Some hon. Members: Yea.

The Deputy Chairman: Those opposed will say nay.

Some hon. Members: Nay.

The Deputy Chairman: In my opinion the nays have it.

Amendment (Mr. Nesbitt) negatived.

The Deputy Chairman: Shall clause 222 carry?

Mr. Bell: I suggest to the minister that in view of the fact the amendment has been turned down he now has reason, by his own admission, for calling a dominion-provincial conference to study the matter.

Clause agreed to.

Clauses 223 and 224 agreed to.

On clause 225—*Order prohibiting driving.*

Mr. Fulton: This is the clause under which the right of a judge or magistrate to prohibit a person from driving is conferred. I would ask the minister whether, as a result of the discussion on the earlier occasion, any consideration has been given to the matter of laying down a minimum period for which the cancellation shall be continued under section 225 (1) (a), so that there would be uniform practice across the country and so that it might be clearly written in the clause that the suspension is regarded by parliament as a major weapon in fighting highway accidents of this sort. We would wish to be assured that it is not used lightly, and that it is for a substantial period, for reasons I advanced earlier and which I shall not repeat.

Mr. Garson: The point the hon. member has raised was considered, but the course he suggested was rejected because we are of the view that the provincial authorities who have the primary responsibility for enforcing the law in respect of drivers' licences are, in

relation to the circumstances in their provinces, in a better position to judge what would be the appropriate period of time to deprive a driver of a licence to drive which he holds from them.

As I am sure my hon. friend knows, this is not the only provision; they have supplementary provisions. As I said earlier, in at least one province in Canada when a man appears on three separate occasions his licence is cancelled for life. This is a matter which, with the provisions that we have in the code as it stands, could be very well left to the discretion of the provincial officers.

Mr. Fulton: The point the minister has raised is one which seems to me to make it desirable that there should be some minimum provision in subclause (a) because, as he has pointed out, the magistrates and judges have the right to suspend the licence for infractions of provincial statutes, or some provincial statutes, when these cases come before them. Here we are creating the right to make an order to prohibit a person from driving after an infraction of the Criminal Code. If the charge is laid under the Criminal Code, then it would not be laid under the provincial highways act or the motor vehicles act, or whatever it may be, which may create a related offence. You would not have a prosecution under the two at the same time. It may be that when the third offence is committed it can only be prosecuted under the Criminal Code.

If the minister thinks it is a good practice that in the province of Manitoba where there have been three convictions for drunken driving the licence should be suspended for life, why do we not put it in the Criminal Code here and say that after a person is convicted three times for this offence, then the judge or magistrate shall make an order cancelling the right to drive for the rest of the person's life.

Mr. Garson: For the simple reason that this law, that is the law under the Criminal Code, plus the correlative laws in provincial statutes, are no more effective than their enforcement. The policy of enforcement is one of the main factors in their effectiveness. That being so, we think that it is the course of wisdom to allow a considerable measure of discretion to the provincial authorities as to what attitude they wish to take with regard to the suspension of licences. In the case to which he referred, one provincial policy has been adopted that is not uniform. Some other provinces do not take the same view. I think my hon. friend will agree that in this, and in many other provisions of the Criminal Code, the policy of enforcement in relation to it is entirely determined by the provinces and in the end it is they who are going to decide what that policy of enforcement is to be.

Mr. Fulton: Yes. Is it not true to say that it is the policy of enforcement in so far as whether or not prosecutions will be made under the act; but surely it is the prerogative of the federal parliament to say if it is creating an offence what the punishment for that offence will be. That is what we are dealing with here. Should there be a prescribed punishment that automatically follows in every province after the commission of this offence, or will the penalty itself be left to the discretion of the provinces?

It is no interference with provincial jurisdiction or autonomy in any way to suggest that here, where the parliament of Canada is creating or defining an offence and saying that a certain course of action will be the function of the Criminal Code of Canada, we should do the other thing which parliament has always done in connection with that and say what penalty shall follow as a result of the commission of that offence, if the accused is found guilty. That surely should not be argued as taking away any right from the provinces.

Mr. Garson: I would point out to my hon. friend—and I think he is aware of it, and would agree with it—that clause 225 that we are discussing enables the magistrate, in addition to the other penalties that he may impose, make an order prohibiting a person from driving a motor vehicle on the highways in Canada:

> (a) during any period that the court, judge, justice or magistrate considers proper, if he is liable to imprisonment for life in respect of that offence, or
>
> (b) during any period not exceeding three years, if he is not liable to imprisonment for life in respect of that offence.

A magistrate has, in respect of any offence committed under this clause, the authority to order the driver not to drive for a period of three years. I am sure my hon. friend does not want that discretion increased.

Then why should we interfere with the magistrate's discretion by setting a minimum penalty for him in a manner which we have not done in any of the other provisions of the Criminal Code, except in relation to the fines imposed for driving while drunk, driving while impaired and theft from the mails. I think these are the only three cases in which we provide the minimum punishment. I see no reason why we should do so in this case.

Mr. Knowles: I have been comparing the wording of clause 225 (1) (a) and (b) with the wording of section 285 (7) (a) and (b) in the code as it now stands. While there has been a juxtaposition of words, I do not detect any difference in effect. What I should like to know is this. Since the provision, both in the old wording and the new, refers to the possibility of a licence being cancelled for any period of time only if the person is liable to imprisonment for life in respect of the offence, on what basis does our province of Manitoba suspend the licence for life in the case to which the minister referred? I am not objecting; I would simply like to know the legal basis for what is being done.

Mr. Garson: Well, as part of the provincial law in every province, the provincial administration have the right to say upon what terms they will grant licences to operate motor vehicles upon the roads of that province. Pursuant to that power, they say that where a driver has been convicted on three separate occasions of driving while drunk he shall not get a licence to drive a motor vehicle upon those roads.

Mr. Knowles: It is done under the motor vehicle act of Manitoba, rather than under the Criminal Code?

Mr. Garson: Yes, that is right. I am sorry if I have not previously made that point clear. In reply to the objections taken by the hon. member for Kamloops, my point was that every province in Canada having the responsibility for enforcing these provincial acts and the Criminal Code, and having the power to pass prohibitions of this kind, which seem appropriate to them under the circumstances in that province, we have gone a long way in clause 225, and we should not go any farther.

Mr. Maltais: I was wondering whether the minister could indicate to the committee what happens to a driver who has lost his licence under this new law. If he applies to the remittance board to get his licence back, what would be the attitude of that board? If representations are made on behalf of some province how would that affect the situation? Let me put my question this way. If a driver lost his licence by reason of a charge laid under a provincial statute, or under the Criminal Code, what would be the attitude of the remittance board in each case?

Mr. Garson: If the offender lost his licence because of a breach of a provincial statute, his application for remission would have to be made to the provincial remission board and only that board could grant remission. If he had lost his licence by reason of an order made under the Criminal Code, the application for remission would be made to the federal remissions board in Ottawa, and then this federal remissions board would have to decide on the facts of the case as to whether remission should be granted, and in each case the decision would be reached by the appropriate remission board upon the facts that were before it.

Mr. Maltais: The remission board in Ottawa would have no jurisdiction whatsoever to give back the licence of a driver who had been convicted under a provincial statute?

Mr. Garson: The matter would never come before it.

Mr. Knowles: The minister has made it clear—

An hon. Member: Six o'clock.

The Deputy Chairman: Shall the clause carry?

An hon. Member: No.

At six o'clock the committee took recess.

AFTER RECESS

The committee resumed at eight o'clock.

The Deputy Chairman: At the dinner recess the committee was discussing clause 225.

Mr. Knowles: Mr. Chairman, there was really just one more question I wanted to ask the minister before we rose at six o'clock. One realizes, of course, that one question can sometimes lead to another. The minister had indicated that in the case of Manitoba a person who is convicted three times of driving while impaired has his licence cancelled permanently, and that that is done by a court in Manitoba under the provisions of the Manitoba motor vehicle act. I take it then that the instances to which he was referring were not carried out in the sense that it was a case of a justice or magistrate availing himself of the right set out in clause 225 of this bill. What I would like to know is this, bearing in mind that clause 225 has been on the statute books as section 285. I would like to know whether there have been any cases in Manitoba or in any other province where this provision has been used under which magistrates have cancelled licences for a period up to three years or any longer period because of offences under the Criminal Code.

Mr. Garson: Mr. Chairman, I am sure I am correct in saying, although I cannot give a concrete example, that orders have been made under this section 225, because I have quite a strong recollection of having signed remission orders in relation to such orders as those under section 225. If my hon. friend looks at the language of clause 225 he will see that it does purport to authorize the cancellation of the accused's motor licence. Under this section the magistrate or judge may simply make an order prohibiting the accused from driving his car.

Mr. Knowles: Has that been done?

Mr. Garson: Yes, that has been done.

Clause agreed to.

The Deputy Chairman: We turn now to the group starting with clause 150.

On clause 150—*Obscene matter.*

Mr. Fulton: Mr. Chairman, I believe clauses 150 to 153 were allowed to stand and I appreciate the minister and the committee agreeing to that arrangement. I wanted to say a few words about this group of clauses, mainly from the point of view of objectionable literature, not so much obscene objects or other matters.

In 1949 the house passed an amendment to section 207, which now becomes clause 150, which generally speaking had the effect of making it an offence to print, publish, circulate, or sell, or have in possession for any of the aforesaid reasons, a crime comic. That was adding a new type of literature to the type of things prohibited under section 207. Then, in addition, the amendment had the effect of removing one element of the defence which previously had been that if a person could show he had no knowledge that he had in his possession for any of these purposes obscene or offensive matter it was open to him to raise that as a defence. Parliament decided in 1949 that obscene literature or objects and crime comics are to some extent self-evident, and that a person who had them in his possession and offered them for sale should know about them, and where he intended and was willing to take a profit on the sale of these things it would not be open to him as a defence that he did not know he was selling an offensive object.

I think it is fair to say that following the enactment of that amendment in 1949 that particular type of literature, which was the occasion of the amendment, namely the crime comic, disappeared for a time from Canadian newsstands. It was not very long before they began to reappear in a different form. First of all a lot of material which really dealt in pictorial form with a quite different subject matter, began to appear, but it was not very long after that before it began to reappear in something very closely resembling its original form, and we now find vast quantities of crime and horror comics once again circulating in Canada.

We had a further discussion of this question of objectionable literature in the spring of 1953 when a resolution which I moved was before the house. On that occasion I asked for the setting up of a joint committee of the house and the Senate to deal with the question of filthy literature generally, and the minister in replying to the debate on that occasion, and I hope I can give a fair summary of his argument, said that while the problem was still serious it seemed to him that the best answer to the problem lay not so much in further amendment of the legislation—I had asked that a committee be set up to study the question of recommending amendments—the minister said the main answer lay in the vigorous and effective enforcement of the existing legislation.

With respect to the matter of crime comics, Mr. Chairman, I do not wish to weaken my argument along other lines, but I am inclined to say that I agree with the minister that the legislation as it existed after amendment in 1949 was pretty comprehensive and should have been quite effective in dealing with that particular subject matter. A good deal of the reason why crime comics and horror comics have been reappearing is found in the fact that there has not been a sufficiently vigorous enforcement of the present provision. Crime comics in 1949 were fairly broadly defined. The definition was contained in section 207, subsection 3 as follows:

> "Crime comic" means in this section any magazine, periodical or book which exclusively or substantially comprises matter depicting pictorially the commission of crimes, real or fictitious.

That seems to me now and seemed to me then a pretty broad definition and yet these things reappear in increasingly large numbers.

I want to say a word about the extent of the menace presented by this type of literature, both crime comics and obscene literature generally, because I want to suggest a still further amendment to the clause. I realize at the outset that there has been a broadening of the definition in the proposed section 150, and I want to give full credit to the effect of that broadening of the definition but I suggest that there is room and indeed necessity for another amendment. That has to do with the penalty for a person who commits this offence. In order to make my case on the penalty aspect of the matter I should like to lay before the committee again some considerations as to why this thing seems to

me to be one with which it is most essential that parliament should deal and that it should impose heavy punishment on persons who commit the offence. I am not going to rehearse all the arguments that were used in 1949 and which were felt by parliament at that time to be sufficient arguments for making this type of literature an offence under the Criminal Code. However, I want to draw to the attention of the minister and of the committee the type of thing which is circulating in Canada today, notwithstanding the prohibition which has been in our law since 1949.

I should like to refer the committee to some material compiled by a Dr. Fredric Wertham, who is a very eminent psychiatrist in the United States of America and who has been working on this problem for a great many years in that country. The reason for referring to the experience of the United States of America is that, by and large, the type of pulp comic magazine that circulates in Canada today originates in the United States. In some cases it is imported in its magazine form and in some cases the plates are imported and the magazines printed in Canada. Dr. Wertham has compiled sufficient information to convince me—and, I suggest, any other thinking person who has the welfare of young Canadians at heart—that this type of literature constitutes a real threat to the welfare of the whole nation. He has recently written a book entitled "Seduction of the Innocent" which is published in the United States by Rinehart and is to be published in Canada by Clarke, Irwin and Company. I think it is April 23 that the book is to appear. I have had the privilege of reading advance proofs of the book which have been made available to me through the courtesy of the Canadian publishers. I should like to refer the committee to some of the things that Dr. Wertham has to say about the degrading effect of this type of literature. It is going to be difficult for me to refer to the pages in the book because what I have here are galley proofs, and the page references are not going to be the same. But at page 96 of the galley proofs the book contains this passage:

> I found a good opportunity to study what one might call the cultural role of comic books in small stores in very poor neighbourhoods where immigrants or migrating minorities have moved into a section of the city. For example in a small candy store frequented almost entirely by Puerto Ricans who had moved into the district there is no other reading matter aside from comic books. But of them there is a large secondhand supply limited to the violent and gruesome and sexy kinds. There are always children around, including very young ones, and this is their first contact with American culture.

[Mr. Fulton.]

Transposing it one might say—and still be within the realm of fact—with respect to immigrants into this country, it is their first contact with Canadian culture. To continue the quotation:

> They cannot even speak English, so of course they only look at the pictures. They have not yet heard that the experts of the comic book industry have found that comic books teach literacy, so they don't learn to read from them. But here their little money is taken away from them. Late in the evening, and into the night, children collect at this store, which is also a place for that much hushed-up phenomenon child prostitution of the youngest and lowest-paid kind.

I suggest to you that those are not harsh words to apply to the effects of this type of literature, namely child prostitution of the lowest-paid kind. That is going on in almost every Canadian city today.

I find today, just as we found in 1949, that there does not seem to be a general realization of the extent to which this type of literature circulates amongst children in Canada at the present time. To illustrate the effects of this type of literature on the minds of children I should like to refer to another passage in this book of this eminent psychiatrist which appears at pages 4 and 5 of the galley proofs which I have before me. Dr. Wertham describes the clinic, held at the psychiatric institute of which he was then the head, for the purpose of discussing the effects of these comic publications on a certain child who had been led to commit a crime. This child had no more criminal instincts when he was born than any other child may have; yet he had been exposed to these things and he had, for no apparent reason, shot a spectator at a baseball game in New York. They held a clinic on the boy. They were much concerned about the matter and they tried to ascribe reasons for his behaviour. The passage is as follows:

> When the Lafargue staff conferred about this case, as we had about so many similar others, we asked ourselves: How does one treat such a boy? How does one help him to emotional balance while emotional excitement is instilled in him in an unceasing stream by these comic books? Can one be satisfied with the explanation that he comes from a broken family and lives in an underprivileged neighbourhood? Can one scientifically disregard what occupied this boy's mind for hours every day? Can we say that this kind of literary and pictorial influence had no effect at all, disregarding our clinical experience in many similar cases? Or can we get anywhere by saying that he must have been disordered in the first place or he would not have been so fascinated by comic books?
>
> That would have meant ignoring the countless other children equally fascinated whom we had seen. Evidently in Willie's case there was a constellation of many factors. Which was finally the operative one? What in the last analysis tipped the scales?

> Slowly, and at first reluctantly, I have come to the conclusion that this chronic stimulation, temptation and seduction by comic books, both their content and their alluring advertisements of knives and guns, are contributing factors to many children's maladjustment.

I say again to you, Mr. Chairman, that on the basis of what I know is circulating on the newsstands of Canada today in vast quantities, that statement holds as true in this country as it does in the United States.

At this stage I should like to lay before the committee examples taken from a survey of the newsstands. The survey was made in the city of Victoria. I do not pick out that city because I wish to do a disservice to Victoria. I pick it out because I think that, in the minds of most of us, it is regarded as a staid and law-abiding city. Yet here are what have been circulating on the newsstands in the city of Victoria, as shown as a result of a spot check by an interested organization there. I am not going to give the names of the magazines, but I am going to describe the contents. Here is one number published twice monthly, every second week. Here is a summary of the crimes illustrated in most gruesome and complete detail in this book: Spears used in killing; beating with whip; strangling; skeletons of people already murdered; four killings by hypodermic needle; five murders by hired, paid, killer (killer takes drugs to forget); one knock-out and drowning; one murder with poker, pushes body in car over cliff; murderer drinks self senseless with whisky; dead men returning from coffin for revenge; one hanging; detailed formula for making bombs with piece of pipe and playing cards; one flogging of girl who refused master's advances; one deliberate running down and killing by car.

Here is another one, a story with illustrations—indeed, the story is in the illustrations: mentally deranged undertaker who has secret way of killing and restoring people he wishes to torture; has killed three shown in torture chamber, and kills girl he wants by car; uses hypo needle and keeps her in torture chamber.

Here is another one: man becomes mental and strangles two people. He is branded on back with picture of devil by monsters in picture from hell. He drowns a man. He throws a doctor out of the window; five dead, three strangled and one drowned.

Here is another one: terrifying creature comes out of the swamp, kills man; proves to be man with mask; he is killed. Three men drown by strangling, two corpses and five dead.

And so the gruesome catalogue goes on, Mr. Chairman. We are, or should be, horrified to learn that in Canada today, notwithstanding the provisions of section 207 of the Criminal Code, vast quantities of this material are circulated. Lest anyone should think that this is again a pet subject of a person who uses it just as a pet subject, let me read you an extract I found in the Ottawa *Journal* of March 11 headed "Comic book killing."

> Westville, NS, March 11.—Stewart Wright, 13, Wednesday told a coroner's jury how he shot his 14-year-old pal to death March 2 while they listened to a "shooting" radio program and read comic books about "the two-gun kid." The jury returned a verdict of accidental death and recommended that comic books "of the type found at the scene" be banned.

In dealing with this matter I believe it is necessary for us to try to assess responsibility and to provide appropriate penalties. I have said that a good deal of the answer may be found in a more vigorous enforcement. I cannot understand why, with the present provisions in the Criminal Code that I have already mentioned and the present definition of crime comic magazines—I do not like to dignify them by the word "magazine"—this material I have described to the committee is allowed to circulate in Canada. I cannot understand why more prosecutions are not launched. It seems to me one of the answers is that the quantity of this stuff is so enormous that the task of inspecting the newsstands and dealing with it would impose an almost impossible duty on the already overburdened law enforcement officers.

There are a number of interested organizations who have been trying to take some effective action to deal with this matter. But even with the help of these voluntary organizations, parent-teacher associations and so on, the task of policing and inspecting newsstands becomes almost impossible. One can see the magnitude of the task when one realizes it is estimated that about 80 million per month of these books are now published in the United States. I am satisfied that a proportionate number circulate in Canada today, and that would mean something over 8 million a month, and all these are traded about amongst the children in huge quantities. When you think of these figures, then you can contemplate the enormous profits that are made out of this kind of degrading traffic and understand why the publishers and printers laugh at the penalties. They may be penalized for one particular offence. They pay the fine, then change the name of the concern, change the name of the comic book and flood

the market with an equally undesirable type under a new name put out by a so-called new publisher.

We are not going to get effective action to deal with this matter until we make the punishment fit the crime. My suggestion is that we concentrate at the moment upon that aspect of the matter, making the punishment fit the crime. I cannot find better words than those of Dr. Wertham to describe the crime; the seduction of the innocent—the deliberate degrading of the minds of Canadian children for the motive of profit. I cannot find words too strong to condemn the type of person who will indulge in that sort of traffic.

I should like to read again from Dr. Wertham on the comparison between the sort of thing the children want and the sort of thing that they actually get. It seems to me that here he has put up a challenge to the Canadian people as well as to the people in the United States for whom he is writing. I have read you, sir, the account of what this boy got, the lad who killed the spectator at the baseball game with a rifle, and who was sent to the reformatory. I suggest that he killed this man for no other reason than that that was the sort of thing he had been conditioned to seeing in these comic books to which he had been exposed.

Some of the publishers pretend that that is what the children want and that it provides a natural escape for some of the impulses of young children. Nothing could be more ridiculous than the idea that this is the sort of thing to which children naturally turn. It is not the sort of thing to which they naturally turn, and never has been until they were degraded and seduced by the type of literature to which they are now exposed. I was particularly struck by this passage in Dr. Wertham's book, in which he compares what they get with what they really want and what they would be happy with. This is at page 140 of the galley proofs:

> One afternoon, after analyzing the content of the latest batch, I was riding on the subway. Across from me was a nice-looking little boy, totally immersed in one of the bloody thrillers I had just gone over. I found myself in a revery. In my fantasy I was addressing a huge audience of parents, doctors, legislators and officials. This is what I was saying:
>
> "Set the children free! Give them a chance! Let them develop according to what is best in them. Don't inculcate in them your ugly passions when they have hardly learned to read. Don't teach them all the violence, the shrewdness, the hardness of your own life. Don't spoil the spontaneity of their dreams. Don't lead them halfway to delinquency and when they get there clap them into your reformatories for what is now euphemistically called "group living." Don't stimulate their minds with sex and perversity and label the children abnormal when they react. Don't continue to desecrate death, graves and coffins with your horror stories and degrade sex with the sordid rituals of hitting, hanging, torturing. Don't sow in their young minds the sadistic details of destruction.
>
> Set the children free! All they want is to play, to learn, to grow up. They want to play games of adventure and fun, not your games of wars and killing. They want to learn how the world goes, what the people do who achieve something or discover something. They want to grow up to raise families with homes and children and not revel in morbid visions of Batman and his young friend. They want to grow up into men and women, not supermen and wonder women. Set the children free!"

[Mr. Fulton.]

I suggest, sir, that that is the problem, the situation which confronts Canada. It is the same situation as that which confronts this highminded man in the United States: to set the children free. It is to me a matter of profound regret that the legislation enacted in 1949 does not seem to have done the job. I suppose that no legislation of itself ever will do the job. There has to be in the public mind an insistence upon enforcement as well as an awareness of the problem.

But I believe one reason why the problem still confronts us is the reason to which I referred a moment ago, namely that there is too much profit in this type of publication, and that the penalties in comparison with the chance of profit are too light. I would point out that this is a ready-made medium of mass circulation that can be turned to the advantage of those who make enormous profit from it, and at the risk of only the light penalties now in effect.

In seeking for a way to meet the whole problem, I was concerned at first lest a new type of comic, the horror comic, might not be covered by the Criminal Code. I find however that section 150 contains a fresh definition of a crime comic and states:

> In this section, "crime comic" means a magazine, periodical or book that exclusively or substantially comprises matter depicting pictorially
>
> (a) The commission of crimes, real or fictitious, or
>
> (b) events connected with the commission of crimes, real or fictitious, whether occurring before or after the commission of the crime.

I have thought this over as carefully as I could, and it seems to me the definition is wide enough to cover even the horror type of crime comic—that is, the one which shows crime which is entirely fantastic and is committed by a fantastic creature who may exist only in the sordid imagination of its creator. What these imaginary creatures do is still a crime; those things in which they take part and are portrayed are connected with crime, whether it be before or after the commission of the crime.

I have therefore concluded that the new definition goes as far as one could go, and

is as comprehensive as one could make it. Therefore the only further approach is that of making the punishment fit the crime. I am conscious of the fact that the penalties at the present time are not light for the individual vendors. They are contained in section 154 which provides that—

> Every one who commits an offence under section 150, 151, 152 or 153 is guilty of
>
> (a) an indictable offence and is liable to imprisonment for two years, or
>
> (b) an offence punishable on summary conviction.

I suggest that in the case of an individual news vendor, and possibly in the case of the distributor—if we may take it one stage back in the line of distribution—the present provision contains penalties that are severe enough. Because it is true that there are vast quantities of these things crossing the counters of newsstands, and that many of these newsstands are adjuncts of corner grocery stores or candy stores, and that the proprietors are chiefly engaged in other matters so that they just do not have the time to cope with the physical volume of these things and do the voluntary job of censorship which would be required to distinguish the good from the bad.

The same may be true of the small distributor. At the same time however I do not hold with the brief recently submitted by the periodical distributors of Canada which suggested that the vendor and the distributor should be absolved from any liability. These men are placing in the hands of children things which are going to seduce their minds, things which are going to corrupt their minds and make for a generation of Canadians who have a completely distorted concept of morals and moral values. These people are putting into the hands of the public something which is dangerous to the welfare of our society, and I do not think they should be absolved of all responsibility.

I do suggest however that the primary responsibility lies with the person who puts them into circulation, the man who produces them, the man who first discharges into society this lethal and ghastly form of perversion. And there is where the penalty should be heaviest.

I suggest also that the present penalties provided in the Criminal Code are not nearly commensurate with the extent of the crime when we stop to think of the harm that it may do, and that it is in fact doing.

I have before me an amendment which I would be pleased to place before the committee. I wish to make it perfectly clear that if the minister would like to have time to think it over, or if he thinks immediately that it should be modified in some particular, I would be most delighted to withdraw it for that purpose, or to let it stand, or deal with it in any way he likes.

My amendment is:

> That section 150 be amended by adding thereto the following words as subsection (8):
>
> (8) (a) Every one who commits an offence under this section and who is the person who makes, prints or publishes or has in his possession for the purpose of publishing any of the things enumerated in subsections 1(a) and 1(b) of this section is guilty of an indictable offence and liable to imprisonment for five years, or if a corporation to a fine of $25,000.
>
> (b) Every one who commits an offence under this section and who is the person who distributes or circulates or has in his possession for the purpose of distribution or circulation any of the things enumerated in subsections 1(a) and 1(b) of this section is guilty of (i) an indictable offence and is liable to imprisonment for two years, or (ii) an offence punishable on summary conviction.

As the committee will appreciate, that preserves with respect to the distributor and vendor the present provisions of clause 154 in that it leaves the penalty as it now stands; but with respect to the man who makes, prints or publishes any of these things—that is, the man who initially puts them into circulation after having created them—he and he alone is liable to the penalty of imprisonment for five years or, if a corporation, to a fine of $25,000.

At the present time everyone is liable to a maximum penalty of two years or, if a corporation, to a fine provided under the general section of the act. In the case of a corporation, I submit it is not sufficient.

Here I suggest that the man who commits the initial offence should be liable, if an individual, to a penalty of a sentence three years more than the vendor, which would make a maximum of five years, or, if a corporation, to a fine of $25,000, which I submit is not one penny too much, in view of the enormous profits made out of these things and the way in which in the past the publishers have tended to laugh it off, change the names and bring them out under another guise.

In final support of my position in that regard I should like to refer the committee to the experience in the United Kingdom as described in a report in the Ottawa *Journal* of January 20, 1954, which shows that they have the same problem and that they do impose very severe penalties on the publishers. This article has a dateline of London, January 20, and states:

> The publishers of a paper-covered book which figured in a brutal murder last year were sentenced to six months in jail Tuesday after the book was judged obscene in court.
>
> In passing sentence, the judge told Reginald Herbert Carter, 34, and Julius Reiter, 46, that the

"literary pollution" they produced would "sooner or later drag the whole reading public down into a pool of depravity".

Seven books concerned in the case were entitled "Accused", "Auction", "Persian Bride", "Pursuit", "Amok", "Killer", and "Vengeance".

Their author is said to be Hank Janson, a slight little man in his 40's who lives in Spain.

A copy of one of the books concerned in Tuesday's trial was found last year in the room of Francis Wilkinson, 24-year-old furnaceman who battered a little girl to death.

In the book, a character twisted a strip of cloth around a piece of wood to make a club. Wilkinson killed the child with a chain log similarly wrapped.

He was found guilty of murder last November and was hanged.

At that time, the presiding judge asked what action was being taken against the publishers.

Tuesday, Sir Gerald Dobson said the books must have brought vividly to the jury's attention "the abyss of filth into which the nation is drifting".

"This is literary pollution", he said, and added:

"I can only hope that this trial will mean a sweep in the other direction—towards the realm of pure and exhilarating literature and not this kind of debasing stuff which will sooner or later drag the whole reading public down into a veritable pool of depravity."

In addition to the jail sentence, Sir Gerald imposed fines totalling £6,000 on three publishing and printing companies with which Carter and Reiter are connected.

While £6,000 at the present rate of exchange does not equal $25,000, yet in terms of what it will buy in England that £6,000 is an even heavier fine than $25,000 would be in Canada.

I realize, Mr. Chairman, that I have not said anything like what I would have liked to say about the question of obscene literature as distinct from the crime comic book. Perhaps as this discussion develops there may be an opportunity and occasion to say that. Notwithstanding the provision we enacted in 1949, I believe that this crime comic stuff constitutes a grievous threat; and in view of the feeling I have about it, which I submit is substantiated by the passages I have quoted and the events in Canada and elsewhere to which I have referred illustrating clearly the effect this has on children, it is incumbent on parliament to deal effectively with this threat. While I want to give credit to the minister—I am glad to do so—for having accepted the amendment in 1949 and then working out this enlargement of the definition to take care of one or two cases decided since then, I feel not even that is sufficient unless we make the penalties sufficiently heavy to be of a real deterrent nature. If we can do that, then I think we shall enlist not only the immediate active support of the law enforcement officers who feel this is going to give us an instrument through which we can really deal with these people, but we shall also be encouraging all the decent elements of the community who at the present time are suffering a little bit a sense of bafflement and frustration. They will know that now we shall have a weapon in our hands, a weapon of law and decency reflecting the opinion of decent society, which will give us a real instrument with which we can deal with those who deprave and seduce our children.

The Deputy Chairman: Is the hon. member for Kamloops moving this amendment or just submitting it for discussion at this time?

Mr. Fulton: I should probably move it, in order to get it before the committee in concrete form. I therefore move the amendment, Mr. Chairman.

Mr. Garson: I doubt if there is a single member who will dissent from the excellent and comprehensive expression that the hon. member has just made of our disapproval of these crime comic books. I am very gratified to know that my hon. friend thinks that the legislation that we have upon the federal statute books now in the existing Criminal Code, or if not in that, certainly the amended definition of crime comics in the new Bill No. 7, is adequate for its purpose.

My hon. friend has been good enough to express appreciation of our having accepted his amendment in 1949. For the purpose of the record, Mr. Chairman, it is necessary to say that we did more than merely accept his amendment. His amendment, in the form in which it was presented to the house, in our judgment was quite unenforceable. And that is not surprising, because I am sure that when I received it I did not feel myself any more competent than my hon. friend to draft an enforceable amendment for the purposes that he had in mind. With a view to preparing the enforceable provision which we are now discussing we took my hon. friend's amendment, in the form in which he had presented it, and sent it to the various provincial attorneys general of Canada. We asked them, as the ministers responsible for the enforcement of the Criminal Code, to say what they would like to have in this amendment in order that it might be enforceable. In response to our request we received great co-operation and courtesy. Nearly all of them replied to our inquiry. They did not all raise the same points. Some of them had different points that they thought should be covered by the amendment. We re-examined my hon. friend's amendment in the light of the information which we so secured, and worked into it the ideas which we had received from all of the law officers assisting the attorneys general of the provinces of Canada.

There were two reasons for our doing that. In the first place, it seemed to me that that was the most likely way in which we were

likely to get an enforceable amendment that would not have some holes in it through which a coach and four could be driven. In the second place, it seemed most important that those who would have the responsibility of enforcing this new law should be consulted concerning the terms of the law which it would be their duty to enforce. The result of these efforts was the law which is now being carried forward in Bill No. 7, changed, I believe I am right in saying, only in respect to the definition of crime comics in order to take care of certain points which had been raised in connection with that definition as it is in the existing code.

My hon. friend is quite right in saying that last year, 1953, a debate took place in this house in which, if I remember correctly, he was urging at that time that the reference to "obscene material" or to the term "obscenity" in the legislation was not satisfactory and that, as he thought at that time, it was desirable that we should provide a statutory definition of "obscenity" in order that any obscurity of that term might be removed.

Well, the position which I took at that time is the same position which I take tonight, namely, having regard to the very great care indeed with which the material upon which we based this legislation was gathered and the care which we took in drafting these provisions in the light of that material, we believed that we had in this law a provision that was quite airtight; and that the time had come, as my hon. friend now agrees, to enforce the law. Now we cannot enforce it; we can only enact it. That is all we can do in this parliament.

Since last spring, when my hon. friend was questioning the adequacy of the term "obscenity" in this provision, a case arose in the city of Ottawa, Regina versus the National News Company Limited—a corporate defendant—which was concerned with a number of books; "Diamond Lil", "Women's Barracks", "Tragic Ground", "Jurymen", and others. The defendant was ably defended by very competent counsel. Every possible attack on, or perhaps I should more properly say defence to legislation was made that could be made. Expert witnesses were brought here to testify that the material complained about was really not obscene at all. The argument has been made that the books complained of were sociological studies and the like.

Trial Judge McDougall of the Ottawa court found no difficulty at all in deciding that the material which was then before the court was obscene within the meaning of the statute and found the accused guilty. From his decision an appeal was taken to the appeal court of Ontario. The judgment of that court was given by Chief Justice Pickup and by Mr. Justices Laidlaw and Hope who agreed with him, by Mr. Justice J. K. Mackay, who also agreed in the result, and by Mr. Justice F. G. MacKay who dissented only in part.

I think that anyone who has read that judgment—and I assume that perhaps the hon. member for Kamloops has done so—will agree that here is a judgment which seems to settle beyond any peradventure the adequacy of the legislation in so far as prohibiting the sale of obscene literature is concerned. My information is that an appeal was taken from the judgment of the court of appeal of Ontario to the Supreme Court of Canada and was later abandoned. Therefore at the present time this Ontario court of appeal judgment would seem to establish quite conclusively that the provision we are discussing is certainly enforceable if there is any serious disposition to enforce it.

Mr. Fulton: Will the minister say what penalty was imposed in that case?

Mr. Garson: I doubt if I can. I may be able to check it later and tell my hon. friend, but it does not appear in the court of appeal judgment.

Mr. Fulton: I am sorry that I have not my record before me, but my recollection is that it was a trifling sum compared with the size of the profits made by the corporation concerned.

Mr. Garson: Yes, that may be quite true, but I will deal with that point before I take my seat. But in the meantime I might say that it was not trifling because of any provision in the law. It was trifling because the judge who tried the case thought that in his view he was applying appropriate punishment. I was particularly glad to hear my hon. friend say tonight that he thought the law was now quite enforceable and that in his view the thing to do now was to enforce it.

Mr. Fulton: And to make the punishment fit the crime.

Mr. Garson: Yes, also to make the punishment fit the crime, with which I will deal in a moment. I was glad of that for this reason, that if by any chance the law were not in satisfactory form at the present time, as my hon. friend was arguing last year—

Mr. Fulton: May I just make this point? I did not have time in my argument tonight because I did not want to confuse the two things, but I am still not convinced that the

law with respect to obscenity is in satisfactory form. My agreement with the minister that it was in satisfactory form was confined exclusively to the crime and horror comics aspect of it.

Mr. Garson: I can only say that if it is not in satisfactory form now when we have a statutory provision that has been interpreted by the appeal court of Ontario as meaning something very definite, and that interpretation is spelled out in an excellent judgment of the chief justice of Ontario, then I think it would be very difficult indeed to get anything that would be satisfactory. And if it were not satisfactory the only way I can see in which we could make it any more satisfactory would be to go back to those whom we consulted in the first place, namely, the provincial attorneys general and ask them to indicate what in their view they thought would be more enforceable and more satisfactory than that which they previously had told us was enforceable and satisfactory.

It is for that reason that I must emphasize tonight, as I said last spring when the matter was under discussion, that the only thing that we can do in this parliament is to enact the criminal law. Once we have enacted it we are completely powerless to enforce it ourselves. The enforcement must be provided by the provincial law officers. For that reason the great bulk of my hon. friend's argument tonight might more appropriately be addressed to the law officers of the provinces of Canada and not to the federal government or federal parliament which can do no more than what we have already done, namely, to enact the law. There is of course a single exception which my hon. friend raised concerning an increase of penalty which is covered by the amendment he has just moved.

The penalty for this offence at the present time is provided in clause 154 of the bill which reads as follows:

> Every one who commits an offence under section 150, 151, 152 or 153 is guilty of
> (a) an indictable offence and is liable to imprisonment for two years, or
> (b) an offence punishable on summary conviction.

My hon. friend says that he is satisfied to leave the two year penalty so far as the retail distributor is concerned but he wants a much more onerous penalty for the larger companies, the wholesale distributors or, best of all, the publishers who, as he claims, are making large amounts of money from this nefarious practice. To that end he suggests an amendment which would authorize the imposition upon them of a fine of $25,000.

Mr. Fulton: In the case of a corporation.

Mr. Garson: In the case of a corporation. I would point out to my hon. friend that if he will look at clause 623 of the present bill he will see that it provides as follows:

> (1) Notwithstanding subsection 2 of section 621, a corporation that is convicted of an offence is liable, in lieu of any imprisonment that is prescribed as punishment for that offence,
> (a) to be fined in an amount that is in the discretion of the court, where the offence is an indictable offence . . .

My hon. friend will agree that the offence we are discussing tonight is an indictable offence, and the punishment which may be imposed upon a corporate defendant under section 623 is not $25,000 or $50,000 or $100,000 but it is any amount that the court sees fit to impose, without limit. Thus the effect of my hon. friend's amendment would be, not to increase the fine but to reduce the fine as it is set out in Bill No. 7, and indeed as it is set out in the existing code, which it enables the judge or magistrate to impose upon these large corporations that engage in this nefarious practice. It would be, I think, very difficult indeed for my hon. friend to argue that he is imposing a heavier burden upon these corporations by limiting the amount of the fine which can be imposed to $25,000 when they are now liable to a fine without any limit whatsoever. For that reason I suggest, with respect, that the passing of the amendment which the hon. member proposes will not improve this legislation. On the contrary it will have the opposite effect.

Mr. Fulton: May I ask the minister a question? Does the minister know of any case where a corporation convicted of an offence under this section has suffered the imposition of a fine as high as $25,000? I do not know of one, and I have never heard of one.

Mr. Garson: I do not know that they have been but I suggest, and this is something we should remember, that all we can do in this parliament is to empower the courts to impose a penalty without limit. Whether they do impose it is for the courts to decide on the evidence before them. Then if the attorney general's department which is prosecuting the case believe the penalty which has been thus imposed is inadequate, they can launch an appeal as to sentence if they so wish and ask for a heavier penalty. In any event all we can do here is to empower the courts to impose a fine and we have done that in the present instance without setting a limit.

Mr. Knight: I do not want to approach this question from a legal angle, but I would like to express an idea or two about the subject in general. This discussion of the

Criminal Code is boiling down to a very small section of the house. I notice that my hon. friends on the opposite side have little to say about it, in spite of the fact that there are so many legal lights in the House of Commons. I have the greatest of respect for my learned friends and I think a certain number of them are useful in any House of Commons. While I am in the same jovial mood I might suggest that if we want to get the Criminal Code done up in a hurry, and in more of a hurry than I believe it is going to take place, I believe we should send the hon. member for Kamloops, the hon. member for Winnipeg North Centre, and the minister to a dark room somewhere where they can write it all down and bring us the results on which we might pass approval. I am speaking for myself, of course.

But speaking seriously now, Mr. Chairman —and I have not been speaking seriously up to the present, in case someone misunderstands me—I am interested in this whole question of literary censorship. I am in the rather hopeless position of being able to see much of both sides on this particular question. I might start by saying that I believe the hon. member for Kamloops deserves great credit for bringing this thing to the attention of the public. It is a controversial subject. That is all the more reason why it should be brought to public attention. Just as in the case of Dr. Hilda Neatby: whether one agrees with her or not, I believe that she has certainly done a public service for education in Canada by bringing a controversy in regard to it out into the light of day.

But I was talking about the subject of censorship generally. Censorship is something I am afraid of, and I believe there is only one case in which it is justified and that is when we are dealing with children, and with very young children, children who are in the formative stage, children who are going to get those tastes which are cultivated, and which by their very nature must be cultivated tastes. It seems to me that if you are going to cultivate a taste in anything, the only way to cultivate a taste for these things is to do these things. The way to cultivate a taste for good reading is to read worth-while things. I would suggest that there is perhaps more than just the negative approach here of applying restrictions, applying the law, and fines, and threatening jail; because there is also the positive approach of seeing to it that these people, if you do not want them to read trash, have something decent to read.

I believe that is definitely a factor in this particular argument. As I said, I am afraid of censorship. I am afraid of any interference with intellectual freedom or liberty. I want to read all sides of any question and having read them I want to make up my own mind in relation to whatever the issue may be. May I add that it is a pretty poor cause which cannot stand on its own feet and which cannot be judged or subjected to the judgment of the public.

This legislation in regard to the crime comic book has not, I believe, been as successful as it might have been. That has been admitted here by the hon. member for Kamloops and by the minister who is piloting this legislation through the house. I submit the reason that it has not been as successful as it might have been is because the public is not seized as much as it might be with the importance of this particular situation. To my mind this is more a matter of public education than of punitive legislation. Of course, the question then arises, how is that education to be effected? How are we to affect adults, shall we say, or have adults seized with the importance of the situation when these adults have themselves been brought up on this brand of crime comics, or similar types of literature.

I see another situation concurrent with this legislation and that is the growth of the sale in drugstores, poolrooms, and places where this literature is exposed, of a different and perhaps even worse type of—I shall not dignify it with the name of literature—reading material which you now find in such places. I can understand the feelings of the hon. member for Kamloops when he said he had a feeling of bafflement and frustration when he was faced with that sort of thing. I must admit to that same feeling of hopelessness. One wonders what one can do about it. We in Canada, and I think this is a fair criticism, are not, generally speaking, a reading people. I am hoping that we will turn out to be a reading people. We have been going through the pioneer stages. I know we have had difficulties of communication. We have been digging the stump and stone in this country and we have not had the time nor the leisure nor the money to cultivate ourselves in some of the finer things of life. But the day has come when Canada should take her place, in a literary and artistic sense as well as in a material sense, among the nations of the world.

I am hoping that day will come soon, but the way to approach it and the way to make it a reality is through our children when they are at that pliable age. I believe we must admit that we are not a reading people, and that it is very seldom people will read anything which takes them more than ten minutes. The general situation, if one may

judge by looking around, is that most people read the sports page and the headlines and, may I say to my hon. friend from Kamloops, the comic strip.

That is a rather blue and hopeless picture. If we are not a reading public in the adult sense, may I submit this thought for your consideration. We have not in this country any great body of children's literature. In that matter I think we are particularly wanting. I think one must be struck by a visit to Britain——which is a country with which I am most familiar outside of this one—at the contrast one finds there both in the plentifulness of adult literature and children's literature. I could, of course, go on and say what some of it is but I expect that the minister over there on the other side of the house is getting rather impatient and wants to get back to these dry law tomes in which he is more interested, I must say, than I myself am.

As to this business of forcing people not to read what we think they should not read, that is where we come up against this matter of censorship. Who is to decide what I am not to read and what I am to read? As far as I am concerned, as an adult I want to read what I like. I admit that for my grandchildren I may have a different view. While I am talking about my relation to my grandchildren, may I say that I think the parents have some responsibility in this matter. If we are ever going to have in our children that cultivated taste for decent reading of which I have spoken, the parents will have to show more responsibility in the home. We have no homes any more in the sense that we used to have homes when I was a boy. We have not that attitude of gathering the children around the fire of a winter's evening and reading them stories from a book which was chosen by a literate and loving mother. That is an ideal situation in which we could inculcate into those children the taste for reading the things which we, rightly or wrongly, think they ought to read.

As to the failure of this particular legislation, I think the reason for it is that the general public is not sufficiently seized with the importance of the reading habits of their children. I do not think that laws are going to be very successful until the public is aware of their importance.

Those are one or two thoughts along this general line. On balance, I am in favour of the positive rather than the negative approach. I am in favour of the idea of weaning our children onto the stronger food of decent literature rather than of the idea of punishing somebody for selling them something else. I say that I have a feeling of hopelessness when I see the counters of the bookstores flooded with the sort of thing we see there; it is a hopelessness and a frustration produced, not because the people who are selling it are being allowed to sell it but because the general public must be showing a taste for this sort of thing when it is there on the counter so prominently displayed and so generally purchased.

I realize, Mr. Chairman, that I have not made much contribution to this particular act. I have read this amendment that has been proposed by my hon. friend. I think that all I shall venture to say upon the matter is that I think it puts the emphasis in the right place, if in fact this type of legislation is desirable. It puts the emphasis on the punishment of the publisher rather that the poor little chap who, in his day-to-day chores of fixing up his cigar stand, his literature stand, his fresh fruit stand and the rest of it, is quite ignorant, in most cases, of the type of tripe—he may be in the butcher business too—that he happens to be selling. Whether or not I would free him of all responsibility, I am not too sure. But if this type of legislation is justified at all, then the penalty should be made heavy for those people who have the opportunity to know what it is, since they produce the stuff, rather than on the little man who is trying to make his living by selling it.

Mr. Hansell: Mr. Chairman, some of us have been interested in this subject for a good many years and have spoken on it from time to time in this house. As we all know, the hon. member for Kamloops brought this matter rather forcefully to our attention in the last parliament and, as has already been stated, proposed and was instrumental in having passed through this house an amendment to the Criminal Code. While it may be said that the amendment may not have been as successful as some would have desired it to be, I rather believe that it has been quite a success to this extent, namely that we have not seen on the newsstands or coming into our homes the same type of crime comics that appeared before his bill was passed by the house.

What has happened, of course, is that the same publishers have gone into a slightly different field. They have given their publication desires a little bit of a twist. Now, instead of giving out with what is known as crime comics, they give out with horror magazines. The daggers, the guns and all that goes with it may be there just the same; they may show the thumbscrews, the torture racks and a few things like that, with the horror pictures. They have also gone into another

sideline, I might say. They have gone into the business of love and sex. These things are things to which some of us have serious objection. The question of how to cope with the entire situation is one that, I agree, presents a problem.

I always listen with interest to the speeches made in this house by the hon. member for Saskatoon. I go a long way with him in his view that public education is what is needed in Canada today. But I do not think the matter ends there. I believe that you must go further than that. When we emphasize the necessity for public morals, what we have is a sort of race between those who take part in education in the field of public morals and those publications which are actually educating in the realm of immorality; and it is a matter of who can get there first. In our various cultural organizations, our homes, our churches and our reform movements are we strong enough to educate the public with regard to these morals and cope with the power of all the immoral publications which are being openly distributed on our newsstands and are going into our homes, and the like?

Now, there has to be a stop somewhere, and I realize that the public conscience should be a deterrent to this sort of thing. But the more wide open this thing becomes, the longer it continues, it seems the greater is there a sort of softening up process whereby the thing becomes more or less acceptable. Something which perhaps years ago would have been seriously frowned upon, is now accepted. I do not quite agree that even as adults we have a right to read what we want to read. Supposing you take that logic into other realms of life. For instance, take the trafficking in dope. Is it right to say, "now I am an adult I have the right to drink or take by the needle or some other process whatever I want to take"? The obvious thing is that I have not that right. There is a place where it ceases to be good for one to take or absorb this or that. There is a difference, of course, between trafficking in dope and trafficking in this sort of thing, but the difference is only in a different field of morals.

I should like to venture another suggestion. I do not know what is involved in "publication" here, but I think there was some discussion of this point previously. I do not see anything in the section concerning radio or television. We are getting to the place where television is a tremendously powerful thing for the guidance of our people and the molding of our public morals. Television is not mentioned, but I believe it should be or else the section should be interpreted as including television and radio as mediums of publication. I want the minister to give some consideration to that.

A while ago I said that the publishers of this sort of thing had taken a different tack and had branched out from the publication of crime comics to the publication of lurid love and sex magazines. I feel that some of this stuff is terrible. If I were to read in this house or discuss some of the things that have appeared in some of our magazines or in some of our pulp books that one can buy on the newsstand for 25 cents, I am sure, Mr. Chairman, you would rise and call me to order. I cannot read them, but I shall tell you what I will do with your permission, Mr. Chairman. I have a book here that I bought at the newsstand because the title was quite an innocent title and rather intrigued me. I thought there might be something in there of some educational value. I am not going to mention the name of the book, because I would only advertise it.

I am going to pass this book over to the minister. I have put a little slip of paper in one page, and have marked an "X" against one particular paragraph I want the minister to read. I dare not read it, Mr. Chairman. I do not want the minister to get up and read it out loud. I just want him to look at that one paragraph. Hon. members can watch the expression on the minister's face to see whether or not he thinks—

Mr. Nesbitt: It is not fair to let just the minister see it.

Mr. Hansell: Well, you can borrow it from the minister afterwards, if you wish. I think we have paused long enough for the minister to read that paragraph.

Mr. Fleming: He has read it three times now.

The Chairman: I am wondering whether or not the rules of the house are being transgressed.

Mr. Hansell: I do not know that the book from cover to cover is a particularly bad one, but I do not think a book with a paragraph like that should be printed and sold.

I was riding along on the train on one occasion and I thought I wanted something extra to read so I went into the newsstand at one of our depots and picked up a book of jokes. I like jokes. In fact, I sometimes use them on the political platform. I thought perhaps I might be able to get something valuable in that connection from this book. It only cost me a quarter so I bought it and put it in my pocket hoping to read it on the train. I am not going to pause at this particular time, but I put some slips of paper in various pages

of the book and I shall pass it over to the minister. I do not expect him to read this tonight. He can take it home and read it before going to sleep. I am sure he will get some enjoyment out of it. He will notice the slips of paper at certain pages, and on those pages there are some jokes. Those are books that can be bought by anyone and frankly I would not leave those two books lying around my home for anything in the world.

Mr. Ellis: You bought them.

Mr. Hansell: Yes, I bought them. I bought them quite innocently. As a matter of fact, I might inform my hon. friend that I read them, too, otherwise I would not be able to pass them over to the minister with any confidence that they were evidence for my case.

I simply say that I do not believe these things should be published, and when we bring them to the attention of the minister I am sure he will agree. I want to refer to another matter, in all seriousness. Some of our well known magazines today are beginning to publish articles on sex, which twenty or thirty years ago when I was a boy or young man would not have been published. They would have been considered as against the interest of public morals. There would have been such a tremendous cry of opposition against them that they would not have dared publish them any more. They are beginning to be published in the ordinary course of publication, all nicely displayed so that people will eye them and buy them.

I have read some of these articles. I do not want to be too harsh. Perhaps there is some degree of value in some of these articles. I think there are things of value in them. But when they are displayed like that and they fall into the hands of our teenagers, we will say, they are read not for the purpose of acquiring the information that is in the article, but for another purpose altogether. The article may be written by a doctor, whether it is a ghost writer, a phony name or a real M.D. The thing is luscious, and the young people, the teenagers will wallow in it, not for the purpose of acquiring information but because it appeals to certain baser appetites.

I do not know how to get over that situation. I was wondering—and I say this in all seriousness—if there is any value in that sort of thing. I wonder if it would not be a proper thing for the Department of National Health and Welfare to publish small books of this kind that could be distributed to those who would apply for them, or perhaps to home and school associations or, if you wish, even to schools, so that the thing could be brought to the attention of our young people in a proper way.

[Mr. Hansell.]

I think perhaps there might be some merit in that suggestion, although I do not know. It is difficult sometimes to know just where to draw the line. But if this goes on over the radio, over television, in these books and magazines on display in our stores and newsstands, then I personally despair of the next generation. I think we have to put a stop to it somewhere. I am a believer in punishment; I must confess that. I have often said to myself that I do not suppose I will ever be a magistrate or a judge, and I hope I will not, because I fear I would be pretty harsh.

Some people can learn only by punishment. I would not like to see the punitive angle of the law depreciated to any extent. I am in favour of the amendment that has been proposed, although I think it must be recognized that the proprietor of the small corner store or newsstand cannot possibly read everything that comes to him for sale. I believe it is the publisher who should be accused and brought to time. If the law came down on those publishers more severely it would not be long before the situation would be considerably improved.

Mr. Nesbitt: Mr. Chairman, I have just one or two brief comments with regard to this section. I suggest the saving grace of the book the hon. member for Macleod has been passing back and forth is the fact that there is no picture on the front of it, or at least nothing that was visible from this side of the house.

My understanding is that this legislation is designed to protect the children—not the adults—from the effects of this type of literature. The purpose of the legislation is to protect those of tender years who have not the ability to make their own selections of the books they should read.

Since the clause was drafted we understand a situation has developed on newsstands which was not in evidence a year ago. I believe many hon. members will have had the experience I have had when travelling by train. When one wishes to read something on a train he will go to a magazine rack and look over the twenty-five-cent pocket books. Well, the books themselves may be perfectly respectable. One I noticed particularly told about how to invest and deal on the stock market, and the picture on the front showed a lady wrapped in ticker tape.

An hon. Member: Did you buy it?

Mr. Nesbitt: The point I make is that the publishers take some incident out of a book, often an incident that is not related to the story at all and, for the purpose of selling it

they put some obscene picture on the front of the book that has no relation to the contents at all. Particularly in connection with western stories, one will see on the covers numerous people in various stages of being maimed, —blood all over the place. And on the covers of detective stories one will see dismembered corpses and other pictures of that kind.

If people want to read these books, that is their own business. I disagree with the hon. member for Macleod in that respect. But, so far as the children are concerned—well, one can always see a number of small children of perhaps six or seven years standing with their mouths open and their eyes popping out looking at the covers on these twenty-five-cent books showing the partially dismembered corpses, people being whipped, and all that sort of thing.

A year or so ago we did not see so many of those covers on books—only occasionally. If one wishes to buy a detective story or any of the good classics, which are reprinted in these cheaper editions, he would not find covers of that kind on them. But in the last year or so we do not see anything else.

I suggest that some alteration be made in one of these definitive sections which would prevent the putting of gory and obscene pictures on the covers of books. Because, while these seven or eight year old children may never read them—indeed, probably could not read them—nevertheless they can look at the pictures on the front which, I am sure, do far more harm than if they had read the books.

Mr. Zaplitny: Mr. Speaker, I wish to say a few words, not so much from the point of view that has been discussed thus far, but from the practical point of view. I may be one of only a few in the house who have had practical experience at the retail end of this so-called comic-book business, and I say that because some of them in my opinion are not funny at all.

At the outset let me say that I agree with the hon. member for Saskatoon when he says it is very doubtful if we can legislate good taste. That is something that has to be acquired, taught, developed or cultivated; but certainly it cannot be forced down anyone's throat simply by putting it in the law. I have no objection to an attempt being made to protect children from the influence of what is commonly known as crime comics, provided that in framing the law we do not do any injustice or do not make it ridiculous in the eyes of the public by trying to put into it something which is unimportant.

A while ago I mentioned that I speak from practical experience. I have been in the business of selling magazines and periodicals. Let me say quite frankly that while there may be others who hold a different view, I think it is absolutely impossible for the retailer to know at all times what he has on his shelves, whether it be in the form of comics or any other kind of reading material.

For the benefit of those who have not been in this type of business let me give an example of how this works out. When one enters the business of retailing magazines or periodicals the procedure is something like this: He finds out from someone else who the wholesalers are. In western Canada we are limited to two main companies—and I shall not put their names on the record because they may have competitors, and I want to be fair to them. But the point is that the choice is very limited. There are only a few wholesale companies operating in the different parts of the country that have a sufficient stock of interesting reading material for adults, teenagers and children.

The next thing that happens is that you put in a request for a sample order or a suggested order of this type of reading material. This company will send to you a shipment with a suggestion of what quantity of material you should order for the future, and after that they are governed by the returns. In other words, you have the privilege of sending back to these companies the material which does not sell up to a certain date limit. They judge by that what is selling and what is not. As a result, it becomes after a few months almost automatic. You do not order any more. You simply receive from these wholesale companies that which is being bought by the public and particularly so if a person happens to be engaged in the restaurant business or the hotel business or in some other business in which the selling of magazines and periodicals is only a sideline. Certainly, you cannot devote the time nor have an employee devote his time to censoring and studying it day by day or as it is put on the news racks for sale.

Let me say this: In my contact with other retailers of these periodicals and magazines I never found one—and I think I am quite safe in saying there would be practically none in this country—who would deliberately, knowing that certain literature comes within the definition of a crime comic or a horror comic, or even to use the more mild description that the hon. member for Macleod used, lurid literature, stock it, because certainly no one wants to break the law to begin with; and in the second place no one deliberately wants to put anything on his shelves for sale which would be harmful to

the children in his community. Anyone who is in that type of business knows that the children and the teenagers are his best customers, and he certainly would not want to do anything that would be harmful to them.

Reference has been made to a submission by the periodical distributors of Canada, and while I hold no brief on their behalf—I have only the same information as all other hon. members have—I believe it would be only fair that both sides of the story should be heard here tonight. We have heard a preponderance of the side which feels that there should be more stringent laws or heavier penalties to back up the law.

Mr. Fulton: Only on the people who put them in circulation.

Mr. Zaplitny: Yes. The suggestion is for stiffer penalties in so far as the publisher is concerned. Let me say while I am on that point that if there is to be a penalty at all, then I certainly agree with the philosophy that that is where the penalty should be applied; that is where the prohibition should be exercised. However, I will come to that in due course.

I believe it would be only fair to place before this committee in summary form what this organization, periodical distributors of Canada, have submitted for the consideration of the minister, so that we shall have a balanced point of view, and I am sure we want to do the right thing for all concerned. First of all, they point out that there are about 55 wholesale distributors across Canada. That would be the total number. Within that would be a much smaller number who would be doing the great percentage of the business. Some of them would be very small distributors indeed. It points out also that there are about 10,000 retail booksellers, newsstand proprietors and other news vendors. There are probably more than that. Therefore we are dealing with quite a large number of people in trying to apply this law, when you take in all the retail end of this business.

It points out also that the average distributor, in supporting their argument as to why the distributor even on that level is not able to supervise properly or censor, if one should use that word, the material which he has for distribution, has not the time. The distributor will have about 1,000 different titles of magazines and periodicals on his racks. In my opinion that is a very conservative estimate. My own estimate would be a little higher than that. So that even on that level it would be very difficult for the distributor to exercise any kind of supervision. I think "supervision" is the right term, because certainly we cannot apply censorship to something which has already been published and produced. The only place where it could be effectively censored is before it is committed to print.

Then the summary in the next paragraphs, lumping them together, points out the effects of the amendment which was passed in 1949 to the then section 207. I was not in the house at that time. But I am inclined to think that had I been here I would have opposed the amendment, because practice has shown that it has created serious difficulties, not only from the point of view of the retailer and distributor but also from the law enforcement point of view.

Let me go back to a practical illustration of that. A year or two ago—I forget when—one of the retailers in our home town was charged with an offence under one of these sections of the code, I am not sure which. When I heard of that I became interested in what transpired. Well, the thing was taken to court and great difficulty was experienced by all in trying to decide what was a crime comic when it came to giving a definition—

Mr. Garson: What?

Mr. Zaplitny: Great difficulty was experienced in trying to decide what constituted a crime comic so that a proper defence could be made to that term. I met the chief of police shortly after that and offered as an experiment to have him come into my place of business and pick out from the rack what he considered to be crime comics and to use them as an illustration so that I would not fall afoul of the law myself. Well, he accepted my invitation. He came over and examined the rack. He took a number of comics off the rack and took them along with him to his office. I cannot say that he took them home. When he brought them back to me he told me that they had been reading that kind of thing for years and as far as he was concerned they had done no harm. That was not much help to me.

I made the same offer to the crown prosecutor and to the police magistrate. They did not avail themselves of the invitation, but both told me that so far as they were concerned they were going to let the attorney general of the province decide what a crime comic was. That gives you an idea of the kind of difficulties you run into when it comes to the practical application of the law as it stands. It may be that experience and precedent will iron this out, but the injustice that is being created, or has been created by the amendment passed in 1949, is in the fact

that it places the responsibility on the person or group of persons who are the retailers and who are the least able, in my opinion, to protect themselves, or incapable of guarding against that type of literature, because they have absolutely no facilities nor the time, nor, in many cases, even the knowledge to scan through these comics and decide which would be contrary to the law and which would not.

We would almost have to have an expert and, as I pointed out in the instance to which I referred, the only expert to whom I was referred was the attorney general of the province of Manitoba. None of the lesser officials would take the responsibility of saying: This is a crime comic. That is the way in which the law operates in practice. There has been a suggestion made that the law is not too harsh, but I should like to read subsection 6 of section 150. It reads as follows:

> Where an accused is charged with an offence under subsection (1) the fact that the accused was ignorant of the nature or presence of the matter, picture, model, phonograph record, crime comic or other thing by means of or in relation to which the offence was committed is not a defence to the charge.

When we turn to section 154 we find that under subsection (a) a person guilty of an indictable offence is liable to imprisonment for two years. I am not saying that necessarily would be the penalty, but that is the penalty to which a person is liable. I have not heard anyone who could justify that approach to the retailer or operator of a private newsstand by saying that regardless of whether he knew anything about what was contained in the pages and whether he had any opportunity of knowing it nevertheless he should be responsible for what is depicted in such crime comics if it is considered that they depict crime. Subsection 7 (b) reads as follows:

> Events connected with the commission of crimes, real or fictitious, whether occurring before or after the commission of the crime.

That is pretty wide and pretty vague—"before or after the commission of the crime", "real or fictitious". It is almost going into the field of fantasy in law. I do not know how I would interpret that provision if, heaven forbid, I were a judge. The only thing I would do would be what I think most judges have been doing, throw such cases out of court on the ground that there has not been an adequate definition. I do not want to prolong that phase of it except to say categorically and emphatically that in my opinion it is quite unfair and impractical to make the retailer and distributor of these periodicals the goat for the publisher or producer who deliberately sets out to publish garbage because there is money in it. If there is to be a law and a penalty to punish the publisher or producer who deliberately sets out to put this kind of thing on the market then I would have no objection whatever to seeing such a provision on the statute books with an adequate penalty attached to it. But I believe that it is unfair and impractical to expect our law enforcement officers to enforce the kind of law that exists now, even without increasing the penalty at this stage.

I also want to mention another aspect of the matter, and it has to do with imported literature. A good part of the literature, periodicals, magazines and so forth, read in Canada are imported, particularly from the United States. It is pointed out in this brief that quite often distributors have depended upon the Department of National Revenue to establish the criterion as to what is proper and lawful and what is not. In other words, they took it for granted anything that had passed the customs was within the law and proceeded to distribute it to their outlets to be put on the market. They found to their dismay and astonishment, when in some cases they were charged under this law, that it was no defence whatever to argue that as the Department of National Revenue had passed the material through customs it was suitable material under the provisions of this law. I think that is a serious situation.

If the government takes the position that it is possible to supervise, censor or judge whether or not reading material is suitable and then admits that it is not liable to exercise that supervision, that it either lacks the facilities or the knowledge to decide what is suitable and what is not, what contravenes the Criminal Code and what does not, then certainly a department of the government can put itself beyond the law, and I think they will have to admit that they are trying to enforce a law within which they themselves are not able to operate.

The brief also refers to the fact that the organization has made two submissions to the Minister of Justice, one in May of 1951, I believe, and then more recently in January of this year. I hope that some time before this particular section or group of sections carries the minister will give the committee the benefit of his opinion with respect to whether he wishes to take into consideration the arguments put forward in the brief and in the light of that bring about any changes in the legislation itself. For myself I want to make it quite clear that what I have said this evening is in no way a defence or condonement of lurid literature, crime comics or any kind of literary garbage. I believe

there is a great field for good literature. I believe we should promote in every way possible a clean, constructive type of literature for our children.

What I have said is not in any way a condonement of crime comics, but what I do say is that it is unfair and impractical to place the responsibility on these people who have no possibility whatever of supervising or censoring the material which they have for sale. I hope that some changes will be made in order that the law will be one which will be fair both to the public and to the people engaged in this particular business.

The Chairman: Shall clause 150 carry? Carried.

Mr. Fulton: Clause 150 is not carried.

The Chairman: The question is on the amendment. Shall we take the amendment?

Mr. Fulton: No, Mr. Chairman. There are a number of members who wish to speak on the subject.

Clause stands.

Progress reported.

BUSINESS OF THE HOUSE

Mr. Harris: Mr. Speaker, we shall continue with this matter tomorrow and then take public works when it is completed.

At ten o'clock the house adjourned, without question put, pursuant to standing order.