EDITORIAL

With Hartley Coles

Jury a wasted duty

You may have read recently that Ontario's system of justice is in trouble. Too many criminals, not enough courtrooms, too many lawyers, not enough judges, crown attorneys, etc., etc., etc.

The Province, acting according to the prescriptions of the Common Sense Revolution, is cutting back funding, consolidating courts, changing the name of the Ontario Court, general division, to the Superior Court of Justice and the Ontario Court of Justice, respectively. The latter move, according to some lawyers and judges, is to re-establish the pecking order which existed prior to 1990 when the general division was merged with the lower court.

It occurred to me after serving on a jury at Provincial Court in Milton, that part of the problem doesn't concern funding, personnel or the number of courtrooms but a lethargy in the system itself. If the preliminaries and the trial I sat in as a juror was an indication of time and money wasted, then no wonder the Province is asking for changes.

Readers who have served on a jury know how the system works. It starts with a notice that your name is in a pool which may or may not select you to sit at the Spring or Fall Assizes. Then, another letter notifying you that your name has been picked from the lottery to appear in court on a selected date with others from Halton Region. Juries are selected from the hundred or so people who appear. Those who don't show up without adequate reason are prone to a visit from the sheriff.

You're registered and given travel expenses, which can amount to an appreciable sum when you take in distances from all over the region. Then you file into a courtroom for an indeterminable wait until a judge arrives. Several false alarms occur when lawyers, Crowns and court officers enter the courtroom to exchange pleasantries, possibly some gossip, and then leave you... waiting.

On the first Monday I was required to appear, it was unsure whether there would be any cases requiring a jury that week. So a recess was called until the judge found out. More waiting. Surprise! None of the cases called were eligible or had been postponed until the fall.

Next week we followed the same routine but we were apprised that a sexual assault case was to be tried and the names of jurors would be selected. As luck would have it my name was the second drawn. With no plausible reason to be excused, the last escape route closed when the defendant and his lawyer approved me as a juror, along with 11 others. When I heard the lame excuses several others used to escape jury duty I mentally determined that in future I would be better prepared.

The case? It took three days with a no-nonsense judge presiding. Without delving into the character references of the plaintiff or the defendant, the fact the case ever got to court to me was a travesty on the system. It unfolded something like this:

Man and woman lived common-law in a Milton apartment. She has accused him of sexually assaulting her after a late night episode in her bedroom. He says the sex was consensual. Sound like Saturday night live in downtown Hooterville? The question naturally occurred to me: Should a 12 person jury, a judge, officers of the court and witnesses be bottled up for three days over a matter even Solomon couldn't solve?

Whatever happened that night, the plaintiff went to the police the next morning to have a restraining order put on the defendant. Shuttled between the police and a justice of the peace, she was convinced by a Crown attorney that sexual assault charges would be more appropriate than a restraining order.

The episode occurred in the fall of 1994. Meanwhile, after a year and a half had elapsed, the defendant had married someone else, the plaintiff had moved north and a witness testified her efforts to patch things up with him had been rebuffed. She suggested the charge was an act of revenge since the accused had no history of violence.

There's lots more details which this limited space could never accommodate but I'm sure you get the picture. The jury is left with deciding who is telling the truth, who is not, and how in heck did this case ever get this far in the first place. The judge instructed jurors the defendant is innocent unless proven guilty without a reasonable doubt.

You guessed it. The jury was hopelessly deadlocked. Hours of discussion failed to arrive at a verdict. There was considerable reasonable doubt about the circumstances of the case so it was decided to ask the judge for guidance, pointing out we were hopelessly deadlocked.

A discerning man, the judge must have understood this case would likely never be resolved. He declared a mistrial, freeing us from further useless discussion. The defendant was free to go and unless the Crown appealed, he was exonerated.

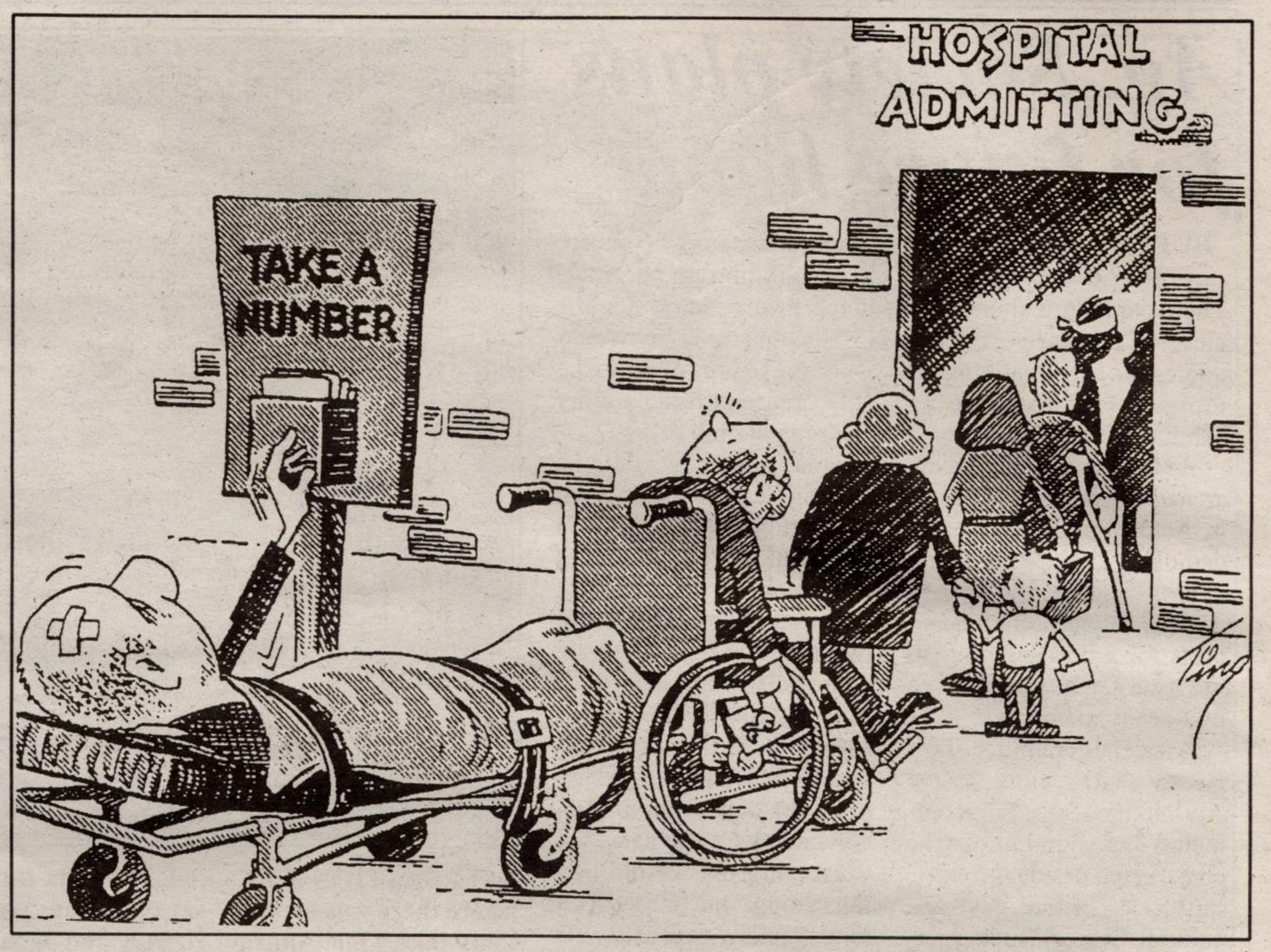
Clearly, many of the jury thought the case was a colossal waste of time and money to have got this far in the judicial system. We dispersed, shaking our heads over the experience, the first for all.

As I left, the court counsel for the accused met my eyes.

"Interesting," was his only comment as he shut his briefcase.

Same time last year ...

Actonites **Doug Fread** and **Don Lindsay** indicate interest in running for the vacant Acton-Esquesing school board seat, following the resignation of Dave Whiting ... **Project TAG** (Trafficking Acton and Georgetown) nets 14 area arrests after a two-month investigation ... **High school teachers** are reported to be "on their way to a strike."



Your LETTERS

O'Leary interpreted

To the Editor,

I just put down the June 19 issue and decided to respond to Mike O'Leary's column, to ensure that the information he reported is correct. We wouldn't want the residents of Acton to be misled by poorly interpreted information.

The changes our government introduced to Section 745 of the Criminal Code are not a joke. Mr. O'Leary makes the point that multiple murderers will not be eligible for early parole – do you not agree with this? They will serve the full term of their sentences. It should be pointed out that we have a sentencing provision in this country that gives judges the opportunity to classify multiple murderers as dangerous offenders –leaving no chance of release. Under this condition life means life.

Mr. O'Leary also points out under the current proposals that murderers will not get an automatic review after 15 years. He states, "They (murderers) would have to convince a federally appointed judge that their application has a 'reasonable prospect of success' before they will be allowed a jury hearing. A JURY HEARING. This means that a community jury will decide the fate of the applicant – not the judge. I am sorry Mike, but these changes are very real, not a charade as you suggest. If you do not trust politicians or legislators, surely you must trust a jury of your peers.

When we talked after John Nunziata was expelled from the Liberal caucus, I told you I still supported his Private Member's Bill. I have often gone public with this and nothing has changed. Just because John is no longer a caucus colleague does not mean that his is a bad bill. The current government is the first government to allow free votes on *all* private members bills, regardless of the government position.

Regarding Bill C-33, commonly called the "gay rights bill," my conscience is fine, thanks for asking. It is fine because the Human Rights Tribunal is not dictating government policy. I would like you to explain how the passage of C-33 will result in a attack on the traditional concept of family.

If you are referring to the Human Rights Tribunal decision in Moore and Akerstrom v. Treasury Board you are mistaken. This decision was not based on Bill C-33, (which was not even law yet), but on earlier court decisions primarily based on a Supreme court decision that the Charter prohibits discrimination on the basis of sexual orientation. If you want to leave the gay rights debate for another day, I would be delighted to attend. I think I have some valid points to offer.

In closing, you seem to view the family as weak and threatened. Pardon? The traditional family has been with us for thousands of years. Nothing any government will ever do can shake it. Governments do not cause the erosion of families. I see the family as strong and a bastion of personal choice and responsibility, ergo: "freedom."

Julian Reed, MP
Halton-Peel

Bonnette in the right

To the Editor,

I was very disturbed to read last week's letter to the Editor by Don Ryder, putting down Acton councillor Rick Bonnette. He referred to the lunacy of Mr. Bonnette's decision, but I think he must have written the article under a full moon. Let's get the facts straight!

Mr. Bonnette was the only councillor who voted against Acton losing seats at the Region. His proposal was merely trying to make the best of a bad situation. Mayor Marilyn Sergeantson is doing an admirable job as mayor, but as a Georgetown resident, is she really the best person to represent Acton at the Region? Without Mr. Bonnette's proposal, Acton would have gone into every meeting without a vote. The last time I checked, that only works for the communists.

Mr. Bonnette's achievements as councillor are many: he was instrumental in bringing the ambulance to town, lowering most Acton residents' taxes through market value assessment, bringing Holly Industries into Acton and obtaining GO train service, although it is now gone.

Mr. Ryder, where is the lunacy here? I think you owe Mr. Bonnette an apology. His cards are certainly all in the deck. Re-shuffle yours and admit that you were wrong.

Michael Petkoff
Tidey Avenue

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