

Legal Procedure Needlessly Long In Criminal Cases

Members of Legislature Give Views on Sinclair's Bill to Effect Abolition of Grand Juries

ATTORNEY-GENERAL SEES DIFFICULTIES

That there is an unnecessary amount of legal procedure in criminal cases through which accused persons have to go before justice is meted out to them, was the consensus of members of the Legislature who spoke yesterday on the second reading of the bill sponsored by W. E. N. Sinclair, Liberal House Leader, to amend the Jurors' Act so as to abolish Grand Juries. Hon. W. H. Price, in discussing the matter, agreed that too many hearings were necessary, and stated he had been considering abandoning Coroners' inquests to some extent. Mr. Sinclair's bill was accorded second reading and referred to the Legal Committee for further study.

"I think there are too many hearings, although I am not sure this is the one which should be abolished," said Colonel Price, referring to the Grand Juries. "Take the case of an accident. There is the Coroner's inquest, the preliminary hearing before a Magistrate, the Grand Jury and the petit jury hearings.

Price States Opinion.

"This means that there are four times witnesses have to be produced. I have been thinking that it might be very well, where it is quite obvious that there is to be a criminal trial, to do away with the Coroner's jury. There are cases, of course, where inquests should not be abandoned, as they give every one a chance to see that the case is investigated, but that might be left to the Crown Counsel to decide," said the Attorney-General.

In opening the discussion, Mr. Sinclair stated: "Changes are constantly being made. In private life useful things are being maintained, but unnecessary things are being discarded. So in public matters the endeavor is being made to cut down expenditures in every branch, and yet retain efficiency. We are doing away with non-essentials.

Grand Jury's Function.

"It is true that the Grand Jury is an ancient institution. I have not been able to find its origin. But its functions have changed. What does it do? It is simply an annex to the jury court. It presents bills. Crown witnesses only are called. The accused and his counsel are not present. It is not a trial in any sense of the word. The petit jury tries the accused and hears the evidence. The evidence given to the Grand Jury is the same as that which is given before the Magistrate who commits for trial. The function of the Grand Jury is really concurring in the findings of

the Magistrate. The Grand Jury seldom returns a 'no bill,' and in such a case the petit jury would very quickly acquit anyway," said Mr. Sinclair.

"We are getting a better type of Magistrate, and if he has heard the evidence and thinks that the case should go on for trial there is no necessity of the evidence being gone over again before a Grand Jury. And the Grand Jury deals only with cases which go before a petit jury. If they go before a Judge, there is no Grand Jury hearing.

Not Used Elsewhere.

"So, if the Grand Jury is not required where the trial is by a Judge alone, why is it necessary in the other cases? It is not used in Manitoba, Saskatchewan or Alberta, and they get along well without it. Another duty of the Grand Jury is to visit public buildings. In all these cases the buildings are inspected by Government inspectors, and we should have enough faith in our inspectors to see that the inmates are comfortable and the buildings proper," continued Mr. Sinclair.

"The Grand Juries make recommendations and in nine cases out of ten no action is taken on them. So when it does function no results follow. They cost a lot of money also," said the Liberal House Leader, in detailing how the time of courts was wasted with them, how Crown Counsels and court officers had their time taken up with them, and how the mileage allowed the jurors mounted up.

"I am satisfied that no county gets away under \$1,000 costs, and in most counties it is much larger. The taxpayer is not getting value for the money spent in this respect," he said.

Unnecessary Luxury.

"The Grand Jury is a luxury, and one which might be dispensed with. It is an unnecessary appendage to the court. It wastes the time of the court, and the expense should be saved. I feel that the time has come when legislation abolishing them should come into effect in Ontario. I submit that we are moving on. We do not require to continue institutions just because we have had them.

"Institutions can be dispensed with when they are no longer necessary. This would be a saving, and trials could be held more expeditiously. It would not weaken the administration of the criminal law," Mr. Sinclair concluded.

"I agree with what the speakers have said with respect to Grand Juries visiting institutions," said Attorney-General Price. "Their recommendations are not taken very seriously, and as far as that is concerned their functions are not very effective."

Petit Jury Important.

"We all feel that the petit jury is a very important institution. A man feels better about a prosecution if he knows he has been tried by twelve of his peers," he remarked. Colonel Price then traced the development of the Grand Jury and referred to difficulties in dispensing with it. Any action taken would have to be in conjunction with Federal authorities, as legal procedure was under the

Criminal Code, and it was now stipulated that cases going before petit juries had previously to be heard by a Grand Jury. So this would have to be straightened out, he said.

The Attorney-General remarked he had much correspondence from Crown Counsel throughout the Province on the matter. Many felt that to dispense with the Grand Jury would be to place a heavy responsibility on the officers of the Crown. "And I am not so sure that I favor that. There would also be a big personal responsibility in border-line cases."

Simplification Possible.

The bill, as presented, could be greatly simplified, he thought, referring to its several clauses. "I have the power as Attorney-General to lay an indictment before a Grand Jury, and naturally that power would be gone. There are many difficulties in the way, and I think the members should have a chance to hear Mr. Bayly (Deputy Attorney-General), who is an authority on the matter. There should also be a real investigation so as to see that whatever action is taken covers the ground thoroughly. I would be very glad to see it go to the committee."

Hon. H. C. Nixon, Progressive Leader, gave the bill his whole-hearted support. "If the Grand Jury ever justified its existence, that time is long past," he remarked. "I have often wondered why it lingered so long. I heard of one, in Middlesex County, I believe, that, in spite of the Judge, visited all the institutions and carried on for a week. It handed in an astounding bill when through."

"I had some doubts about the bill, but they have all been removed by the remarks of the member for Ontario South (Mr. Sinclair)," stated Wilfrid Heighington (Conservative, St. David's). "It is interesting to notice the practice that has grown up in Ontario of having them visit all institutions. I once heard Chief Justice Meredith say that they had no authority to visit any except the jail. It just goes to show how far-reaching the Grand Jury system goes. They even visit homes for the feeble-minded, where, I understand, they could be refused admittance."