

JURIES OFTEN BIASED WHEN CORPORATIONS ARE SUED, IS CLAIM

Ellis Bill Is Given Second
Reading and Sent to
Committee

JUDGE ALONE WOULD ACT

That juries are frequently prejudiced against municipal corporations and public utilities, awarding excessive damages against them in the belief that they were well able to pay, and that actions against such bodies should be tried by a Judge without the intervention of a jury, was the contention of Arthur Ellis (Conservative, Ottawa South) speaking in the Legislature yesterday to the second reading of his bill to take such cases away from a jury.

The bill, which would have a far-reaching effect, in that it would take from plaintiffs their time-honored right to have a case against municipalities, Police Commissions, Transportation Commissions, Boards of Education, telegraph and telephone companies and steam railways tried before a jury of twelve of their peers. It was given second reading and referred to the Legal Committee, but Hon. William Finlayson, Minister of Lands and Forests, who spoke for the Government, quite candidly did not hold out much hope for its passing.

Often Excessive Damages.

Stating that the bill would have all such cases tried by a Judge alone, Mr. Ellis said: "I believe a condition exists today that justifies a bill of this kind. I am sure any member of the legal profession who wishes to be frank will acknowledge that juries are biased and susceptible to arguments of solicitors. This is true in actions against wealthy bodies. Often excessive damages are given.

"In a number of cases juries are hopelessly biased against corporations. Their sympathies are with the plaintiff. Courts of Appeal are hesitant in interfering with the findings of a jury, and they rarely interfere with findings of fact."

Mr. Ellis stated that certain cases at present, where actions are launched because of snow or ice on sidewalks, etc., must be tried by a Judge alone.

W. E. N. Sinclair, Liberal House Leader, agreed. "It does seem to me that all cases like this should be left in the hands of a trial Judge without a jury. Such actions are apt to be disastrous to municipalities," he said. "I do think the bill should go to committee for discussion, so as to see what can be done. No hardship would result to litigants with a just case. Often damages are given where the injury is not directly traceable to the municipality."

Hon. Harry C. Nixon, Progressive Leader, opposed it. "I feel that we would be making a very grave mistake to adopt the principle of this bill. We should retain the right of trial by jury.

The member from Ottawa South would lead you to think that judgments from Judges are better than from juries. But many of them are upset in appeal," he argued.

Says Railways Protected.

D. J. Taylor (Progressive, Grey North) said: "I am opposed to the bill going to committee. It is a strange thing to me that those who have favored it should be of the legal fraternity. Street railways are now well protected. They have a legal status. While we are proud of our Judges, Judges, like our lawyer friends, might let the same feeling enter into the case."

"I do not feel that this should be disposed of in such a summary way," said Hon. William Finlayson. "Those who have court experience know that things are slowly being taken away from juries. We may not live to see that day when all will be taken away."

"Is that the hope of the legal fraternity?" interjected Mr. Taylor.

"If it was a matter of legal fees, lawyers would be all in favor of jury trials," replied Mr. Finlayson. Personally, I have not yet reached the stage where I am willing to extend the power of the Judges at the expense of a Judge and jury. That system has worked out very well. Damage actions are particularly matters for a jury, and I agree with the member from Brant that we are not yet ready to take it away. But we quite realize that, the way a jury is picked, you are quite apt to strike a jury that feels strongly on a matter." He was agreeable to it going to a committee.