

*Administration of Justice*

taken it upon themselves as a public duty to provide assistance in these criminal matters through the organization of the Legal Aid Societies, thus supplying trained counsel to represent those who may be charged with a criminal offence. But I think that despite this a gap is left.

The resources of the state today are such that in the prosecution of criminal trials tremendous power lies in the hands of the Attorneys General to a much greater degree than was the case before. All too often the assistance provided through the format of the Legal Aid Society does not meet the requirements of each case. I think that we must work out and devise some means by which we can supplement what has been the practice in the past.

Some very fine quotations were cited in the debate, and I approve them. My own few comments, Mr. Speaker, will be based on my own personal experience in the practise of law in a small community as a student and as a member of the Bar for over 40 years, a period which includes the depression days when funds were not very large. I would say that a large number of the cases in which I appeared in the criminal courts were of a variety which today would be the subject of a motion of this kind.

It is true that in many cases, particularly in murder trials, some assistance is given by provincial Governments. In my province I think back to the days when it was provided that counsel would be remunerated to the extent of \$50 a day for two days, which would include appearance before a coroner's inquest, appearance at a preliminary hearing, briefing witnesses and appearing at the trial itself. As anyone can well realize, the opportunity to provide an adequate and proper defence should not be determined in any given case, whether the case be a murder case or any other criminal matter, by the meagreness of funds provided not only for the accused person to be represented by counsel, but for the proper opportunity to brief witnesses and to prepare for trial. The proper place to commence this exercise is following the first interview with the accused. There is initiated the course of action in the matter of seeking out evidence, in the matter of making proper preparation for the preliminary trial, in the matter of seeking professional and technical advice, and finally in the matter of appearing before a judge or a judge and jury. The length of time involved, the amount of work entailed and the expenses incurred in proceedings of this kind are very substantial.

They were substantial in previous days, and of course they are even more substantial today.

I think it is a shocking thing that in our vaunted approach toward a more equitable society we fail to provide adequate assistance to people who are charged with criminal offences. There is a tendency for people who watch television programs such as *The Defenders* and the *Perry Mason* series to think that all that is needed is brilliant exposé in the courtroom. But that is not the case, Mr. Speaker. In our profession, genius in these matters is defined by the capacity to take infinite pains. The time available is such that with the detail involved counsel for an accused person cannot discharge his or her responsibility to their client under the hit or miss arrangements which have so far prevailed.

I made reference to my experience in capital offences, of which there have been almost a score. In all but two I was paid through the provisions of the provincial Government. In one case I was paid by the Department of Indian Affairs, I happened to be the only Tory lawyer in the whole north country at the time, which I think was the only reason I was engaged. But there a more reasonable arrangement was made. I think this is the kind of thing we should consider. I do not know what the present arrangements are, but the Department of Indian Affairs should make provision for a per diem allowance for preparation and a per diem allowance for appearing at a preliminary hearing and at a trial.

● (5:10 p.m.)

While referring to Indians I think we should bear in mind that for some reason the department has said yes, in connection with capital cases, they are prepared to retain counsel, but they will not retain counsel in other cases. Much of the work I have done has been in connection with the Indians and Metis in the north country, some of them charged with offences other than murder. I have always thought it monstrous under the circumstances, as they were not subject to provincial jurisdiction, that the Federal Government should reject out of hand any suggestion that some form of assistance should be provided. I think it is not right that the opportunity of an accused person to present an adequate defence should be predicated upon the willingness of some individual lawyer to appear as counsel for him or her.