county court, district court and superior court judges, the latter in Quebec, under the speedy trials provision. It does two things, one is to restore or provide for the right to trial by jury for all indictable offences, and the other is to extend considerably the jurisdiction of these magistrates, of course by consent.

Mr. FULTON: Does the minister anticipate that more magistrates will have to be appointed?

Mr. ILSLEY: No. I do not know whether it will work that way; it may work just the other way. Prisoners accused of crimes may elect to be tried by juries, instead of being taken before magistrates whether they consent or not, as at the present time.

Section agreed to.

At six o'clock the committee took recess.

After Recess

The committee resumed at eight o'clock.

Section 37 agreed to.

On section 38—Prosecuting officer to be notified to act where judge does not reside in county.

Mr. CHURCH: It seems to me we are practically abolishing the jury system altogether for many of these offences. The explanatory note says:

> This amendment arises out of an amendment to section eight hundred and twenty-seven by section twenty-eight of chapter fifty-five of the statutes of 1947 wherein the words "having first obtained the depositions on which the prisoner was so committed, if any" were repealed.

I fail to see why the prosecuting officer should be asked to assume such duties as this. There are no institutions available at the present time in the province of Ontario. Some of our prisons were built at the time of confederation. If this is all the law reform we have here, it does not amount to very much. The onus is on the prisoner and on the industrial worker, who have very little funds at the present moment. I fail to see why it is necessary to put the prosecuting officer in charge instead of a county court judge.

Section agreed to.

Section 39 agreed to.

On section 40—When juror dies or is discharged for illness or other cause.

Mr. DIEFENBAKER: This clause represents an endeavour on the part of the Department of Justice to meet a situation which occurs quite frequently when, through illness or death of one or more of the jurymen, trials have been abortive. This section provides that where any member of a jury is, through illness or other cause, unable to discharge his responsibilities as a juryman, the trial may proceed with a reduced number of jurymen, not less than ten in eight of the provinces and not less than five in Alberta.

With the greatest of respect, I cannot see that this section covers the situation at all. First, it merely provides a means whereby in certain cases the trial shall not be declared abortive and the jury be discharged. It requires the consent of the crown and of the defence. If this section is to be worth anything I cannot understand why the consent of the crown and the defence should be necessary. The crown has been able to pick the members it wants on the jury, first by standing-asides, and, secondly, by challenges, either peremptory or challenges for cause, so the twelve men on that jury represent a group, each and every one of whom has been accepted by the crown. The defence is limited sometimes in the case of lesser offences in the number of challenges it may use; four, twelve, and in serious offences twenty challenges. With only four challenged, the jury chosen is sometimes not exactly the jury that counsel would have chosen. But once the jury is chosen, every one of its members has been accepted by the crown and the defence.

My first suggestion is that we delete the words "subject to consent being given in writing by or on behalf of both the crown and the accused." Alternatively I again place before the committee the suggestion I made some time ago, that supernumerary jurors be sworn in; that over and above the twelve jurors in the eight provinces and six jurors in the province of Alberta, fourteen and eight jurors be sworn in respectively, and that, in case of illness of any one of the jurors, one of the extra men becomes a juryman. In that way a number of trials which have been declared abortive during the past year would have been continued to a verdict by the jury. I ask the minister whether he has given consideration to the latter suggestion, and if he has not and does not want to give consideration to it, then let us make this section worthy of parliament so that it will work.

Here is the practical position as I see it. After a trial has been under way for two or three days, counsel for the crown has some idea of the attitude of the jury, and counsel for the defence sometimes has the same idea, although they are never quite so astute as crown counsel in that regard. Suppose that crown counsel has concluded