

Criminal Code

ficult it is to protect the interests of citizens appearing before the courts when they do not have the help of counsel.

If Canada truly wants to establish a just society, we absolutely must include in the constitution the sacred right of the citizen to counsel as soon as he is arrested. Until such time as this right is provided for in the Canadian constitution, civil liberties in Canada will be threatened.

I personally have had too much experience, in my Quebec legal practice, of people arrested by the police whose prison whereabouts were not known. They were held incommunicado several days and although I had been retained by their relatives or their spouses I was unable to communicate with them. Sometimes, after a week or two of detention, they appeared in court disfigured, having signed full confessions in jail. I consider such methods to be absolutely vile and unworthy of a so-called just society.

That is why I was so grieved to see that on the occasion of the attempt of partial reshaping of the Canadian constitution in Victoria last June there was practically no reference to the right of the accused to have the services of a lawyer immediately upon his arrest.

It seems to me, Mr. Speaker, that the principle we are discussing today is the principle which is underlying Bill C-50 introduced by the hon. member for Notre-Dame-de-Grâce. That is a basic principle in a democratic society: the principle of access to the courts and of democratization of justice.

[English]

Mr. Ian Watson (Laprairie): Mr. Speaker, I should like to join the hon. member who has just spoken in supporting the bill in the name of the hon. member for Notre-Dame-de-Grâce (Mr. Allmand).

Any society which aspires to social justice is deficient if it does not possess an adequate legal aid system. Canada, with the exception of one or two provincial jurisdictions, does not possess such a system. The province of Quebec has announced that within the next few months it will, hopefully, inaugurate a better and more comprehensive legal aid system.

• (4:30 p.m.)

The Minister of Justice (Mr. Turner) has given an indication of sympathy for some kind of national system of legal aid. I heartily endorse this proposal, as I am sure does every member of this House. The Department of Justice, through its minister, took an important step in promoting a federal initiative when it inaugurated the legal aid system in the Northwest Territories by signing an agreement in August with the commissioner of the territories. Unfortunately, the federal system as proposed and implemented in the Northwest Territories has come under what I would call unfair attack.

A few days ago in the *Globe and Mail* an argument was presented to the effect that the method of appointing counsel as proposed under the legal aid plan in the Northwest Territories was improper and inadequate. The argument appearing in the editorial was that the assignment of counsel provision appeared to be based on the fear that the system would result in one or two lawyers getting the

bulk of the legal aid business, and since there are only a handful of lawyers in the territories this might cause the demoralization of the remaining lawyers, causing them to leave, and dissuading new lawyers from coming to the territories. The *Globe and Mail* suggested this was the apparent reason for the inclusion in the agreement for legal aid in the Northwest Territories of the provision that lawyers providing legal aid would be chosen by a committee rather than by the person needing legal aid.

As provided for in the agreement, this committee would be appointed by the commissioner and by lawyers, and would name certain lawyers on a rotating basis as the judge made his circuit of communities in the Northwest Territories. The reasoning behind the decision to have a committee appoint lawyers in the Northwest Territories, for legal aid cases in all but the most serious cases in which individual accused would be entitled to their own lawyers, was based on logistics. It would be almost impossible if every accused in the Northwest Territories who was unable to pay for legal services was given a choice of the lawyers in the territories. It would mean that practically every attorney would have to accompany the judge on circuit. One can well imagine the logistical problem facing the court each time the judge flew to Frobisher in the eastern Arctic, returning through the central Arctic, back to Inuvik and down to Yellowknife. There is no possible way in which this could be handled, for it would disrupt the normal legal proceedings of the entire territories each time it occurred.

The fear expressed in the *Globe and Mail* is based on a misinterpretation of the reasoning for the provision in the agreement that lawyers be appointed by the committee. The committee is independent and is one that will reflect the views of most of the lawyers in the Northwest Territories. It will have the requirement to divide cases as fairly as possible among all practising lawyers in the territories. The Yukon territory up to now has, unfortunately, not seen fit to inaugurate an agreement of this kind with the government of Canada. I understand the Minister of Justice has been attempting to persuade the commissioner and the council there that this would be in the interest of Yukoners. I understand there is a fear among territorial councillors that the cost involved may be considerably more than initially appears to be the case. If it is simply a question of cost, I would hope a formula for cost-sharing could be worked out somewhat along the lines of that in the Northwest Territories provision, perhaps with some slight changes.

The 50-50 proposal which formed part of the Northwest Territories agreement would appear to be at least a good starting point. I urge the Yukon territorial council to reconsider its position in this case. There is no doubt in my mind that the implementation of a legal aid agreement in the Yukon would be a real step forward. If this important social reform, which I feel is one of the most important proposed in the Yukon for some time, is being prevented from implementation for purely financial reasons, I am convinced there must be a solution.

• (4:40 p.m.)

If, however, it is simply a question of the commissioner of the Yukon, who is an appointee of this government, resisting or impeding the social reform proposal that has