

Supply—Justice

Mr. Nugent: I do not want to labour the point. I just thought it was worth while drawing to the attention of the members of this house certain facts, and asking them if we could not remember our responsibility to our system of justice, to judges and juries who try to do their job as best they can. Surely we must understand that whenever we have a winner and a loser we are going to have grumbling. We must live with this, and it is our job to make sure that since this system of justice is an integral part of the society in which we believe so much, we are wary of criticism.

I recall the Coffin case, for instance. There was an investigation in that case. It is very easy to arouse public opinion. I think perhaps it is a good thing that in our society public opinion can be aroused as it was in the Truscott case and the Coffin case, and that it is possible to have this sort of investigation. I have no quarrel with this. I think the Department of Justice did the right thing in trying to clear up these doubts. My only quarrel is with those who, even after the very careful investigation and after everything that was done to reassure us, still try to make our system of justice suspect.

They say, obviously it must be wrong. This can do nothing but harm to our country. I should like to go on to another subject for a few minutes. I come from the province of Alberta in which we have six man juries. This system was initiated at a time when the west was sparsely settled. It is true that even now we do not have a large population—only about a million and a quarter, I believe. However, it does seem archaic to me that the city of Edmonton, for instance, with a population of approximately 400,000, is still tied to the six man jury. The difference between a six man jury and a 12 man jury does not seem very much. Perhaps it only impresses counsel who has found one dissenter on a 12 man jury and who says that if he had had six they would have been unanimous whereas, having 12, there was a hung jury or a disagreement.

It is not strictly the defence lawyer who says: Give me another six men so that I have one more chance to get someone who disagrees. This statement comes from a defence lawyer who says that everything must be fair. I do not believe those who are charged with criminal offences in the province of Alberta should be treated any less reasonably or any differently from those in the province of Ontario who are charged with criminal offences. I do not believe that human nature

in Alberta is any different from human nature in Ontario. If it is necessary to have a 12 man jury in Ontario, then it is necessary to have a 12 man jury in Alberta. I simply suggest to you that today we have enough people in Alberta to enable us to go to the 12 man jury system. I simply suggest that we should now pretend that the west is inhabited, and ask whether it is not time that we were all treated equally in Canada.

You know, this question of jury trials is not too simple. There is a certain penalty attached to asking for a jury in criminal cases. I am not sure that I have any solution to this problem. I can recall the dean of our law school saying no lawyer who has a case should want to pick and choose between judges if he has confidence in his case and his client. This may be good theory, but it is lousy practice. If you ask for a jury trial when you could have had a trial by judge, and if your client is found guilty, then your client is going to get double the sentence because you have insulted the judge by asking for a jury trial. I am not saying this applies to all judges, but it certainly does to many. In fact I feel that the human element is so prevalent among our judges that perhaps we should take another close look at the Criminal Code and at the provision for election for trial by judge alone rather than by judge and jury. Perhaps the only time a man should be allowed trial by judge alone should be by the speedy trial method, so that there is no connotation of lack of faith in the judge. It would be just a matter of formality.

• (8:40 p.m.)

I do not know whether I am guilty of what I accuse the public of, namely not having enough faith in our system of justice, and perhaps in our judges. However, I have always felt duty bound to advise my client, in the event that he asked for a jury trial, that if he is found guilty the odds are that his sentence will be much higher than if he were tried by judge alone.

Mr. Brewin: Would the hon. member permit a question?

Mr. Nugent: Yes.

Mr. Brewin: Does he not think that by suggesting that judges would habitually double or increase sentences out of mere pique he is expressing a very great disrespect of the judiciary, much more so than the disrespect that he expressed when he castigated them earlier in his speech?