

Criminal Code

The other sections give the right as:

(2) The judge may order the sheriff to summon a sufficient panel of jurors who speak the language of the accused unless, in his discretion, it appears that the ends of justice are better served by empanelling a mixed jury.

In some cases they have that. And that is not only in Quebec; this law of the land is in the Code. If one looks at this bill these sections are repealed and they are rewritten pretty well in the same language. I do not want to leave any misunderstanding tonight that the Minister of Justice is doing something new for the province of Quebec.

Now I will deal with the province of Manitoba. Section 556 says:

(1) Where an accused is arraigned before the Court of Queen's Bench for Manitoba demands a jury composed at least half of persons who speak the language of the accused, if that language is either English or French, he shall be tried by a jury composed at least of one-half of the persons whose names stand first in succession upon the general panel and who, not being lawfully challenged, are found, in the judgment of the court, to speak the language of the accused.

In other words, in the province of Quebec and in the province of Manitoba this law has been in effect and has worked well. I have never received or heard any complaints from anyone in those provinces as far as the judiciary is concerned—

Mr. Basford: Mr. Speaker, I wonder if the hon. member would accept a question?

Mr. Woolliams: Would the hon. minister mind asking me the question at the end of my speech because I want to keep my thoughts together.

What offences does this bill include? We now turn to Section 462.1, which is the introduction section. It says:

On application by an accused whose language is one of the official languages of Canada, made not later than (a) the time of the appearance of the accused at which his trial date is set, if he is accused of an offence . . .

What offences does this cover? It deals with treason, breaching the peace, intimidating parliament, mutiny, sedition, murder and bribery. In addition to that it deals with all offences under which a provincial judge has absolute jurisdiction, like summary convictions and some indictable offences. It deals with all offences where the accused may be tried by a provincial judge with the accused's consent. It deals with all offences in which the high court has absolute jurisdiction with or without a jury. That is under the Code.

We agree, providing the provinces consent or have a joint proclamation, that a person should be tried in one or the other official language, similar to the provision in sections 555 and 556 of the Criminal Code. We agree providing the provinces consent or have a joint proclamation. A person should be tried in one or the other official language similar to section 5(55) or 5(56) of the Criminal Code. I have asked the question, what does the Code say today? I have recited what it states in Quebec and Manitoba. We have mixed juries in both Quebec and Manitoba. These are some of the things we must think about when the bill gets to the committee level.

[Mr. Woolliams.]

● (2122)

Let us not create an expectancy for Canadians that we cannot fulfil. I know something about the make-up of this country. I know what goes on in Vancouver, Victoria, Edmonton, Calgary, Winnipeg, Toronto and other major cities in Ontario, Quebec and the Atlantic provinces. Let us not create an expectancy for Canadians we cannot fulfil. The minister was fair in that regard in his speech. I will deal with Calgary. I know more about it because I live there. If you want to have a trial in the French language, unless you can find a venue like St. Paul, you will not get a fair trial. There are not enough people who speak the language fluently.

The practice of law and the judiciary is very sophisticated. In order for a person to make a proper defence, there must be proper communication. The judge can in his discretion change the venue. The big thing in the bill is that there is nothing about the cost. Will the federal government underwrite these costs, particularly in such places as the Atlantic provinces and the western provinces of Saskatchewan, Alberta and British Columbia?

I can understand the situation in Ontario because it is part of central Canada. The two provinces of upper and lower Canada are side by side. There is greater communication and immigration from one to the other, if you can call provincial exchange of citizens that. Therefore, you have a greater population of both races and the problem is different. In some areas, it may be very difficult.

What about the practical approach? If you are to have a fair trial, the clerk, registrar, court reporters, judge and jury must speak that official language. If you are to phase this in by federal proclamation without the provinces having a say in it, you are thrusting the problem on the provinces, creating some aggravation and some irritation by these added costs. That is why provincial rights must not be run slipshod over.

Our constitution, the law of this land sets out that the administration of justice falls under the jurisdiction of the provinces. Criminal law falls under the jurisdiction of the federal government. Section 92(14) reads:

The administration of justice in the province, including the constitution, maintenance, and organization of provincial courts, both of civil and criminal jurisdiction, and including procedure in civil matters in those courts.

One then asks, is this bill constitutional? The Supreme Court of Canada has said that the administration of justice falls under provincial jurisdiction. The administration of justice is one of those provincial rights that a province has and each should have the right to proclaim this legislation. If they so wish, before the law is enacted it may be done jointly with the federal government and the provincial governments. Is that too much to ask when it is within the provinces' jurisdiction? I do not think so.

That is why we say we agree with the spirit of the bill, but that we will ask, urge, seek and press for that amendment at the committee level. We shall insist on an amendment to this bill after the words: