

Manitoba, I ascertained that there existed in five other provinces legislation of the same kind under which the panel might be made to consist of an indefinite number. Again I say that I do not find in that any evil—in itself. I am free to confess, however, that that condition of the law came to me as a novelty. I, like the member for Laval, and the member for Rouville, come from the province in which, according to the member for Rouville, the administration of justice has been degraded from time immemorial because the number of stand-bys was limited through the fact that the number of jurors that could be summoned as a panel was fixed by law.

Mr. CARVELL: My hon. friend surely does not mean to intimate that in Quebec the Crown does not have the same right of standing jurors aside as it has in other provinces, and surely there must be some provision in Quebec to provide for an additional panel if an additional panel becomes necessary.

Mr. DOHERTY: Undoubtedly.

Mr. CARVELL: Then, what is the difference between Quebec and the other provinces?

Mr. DOHERTY: I said that the number of stand-bys was limited in Quebec as it was previously to its recent law limited in Manitoba, and as it still is limited in two of the other provinces. It was limited by the fact that the provincial legislation made the panel a fixed number. Take it for instance in the district of Montreal. I am not suggesting that the Criminal Code limits the number of challenges in Quebec more than anywhere else, but I am pointing out what is the practical working of the combination of the law in a province which limits the number of the panel, and the provision of the Criminal Code as it now stands.

Mr. CARVELL: I am not acquainted with Quebec law, but there surely must be in the Quebec statute some provision authorizing a panel in excess of forty under certain conditions.

Mr. DOHERTY: Certainly, there is. That is to say, you can summon another panel, but you will not take the two panels and add them together and go on "standing by" indefinitely.

Mr. CARVELL: What is the difference?

Mr. DOHERTY: You cannot do that. You have a panel of jurors. There they sit—those sixty men. Under the Criminal

Code, the Crown may stand by every one of them, but after it has stood by sixty men, then you go back again and call those same jurors, and unless the Crown can assign special reasons, then the man that the Crown stood by half an hour ago, sits on that jury. The effect of permitting an indefinite number of jurors to be summoned is that the court may for perfectly justifiable reasons say: There is a tremendous quantity of business before this court at this term; I will order the summoning of 250 jurors. That may be perfectly right and absolutely justifiable, but what is the effect that it produces if our Criminal Code be left to stand as it is? It produces this effect: That the Crown, without the assignment of any reasons, may stand by 250 men. I do not say that the Crown will abuse that power in any particular case, but I do say that that is an exorbitant power to put into the hands of the representative of the Crown. That is the evil, and may I venture to say to hon. gentlemen who have been so severe about the degradation of the law, that from a very early period it has been pointed out as being one of the methods by which a dishonest or even a zealous Crown prosecutor may deprive the citizen of the practical benefit and advantage of being tried by a jury, tried by his peers impartially selected.

We have to protect and to surround the subject with such safeguards as will withdraw from the representatives of the Crown, instruments susceptible of being abused to the unfair detriment of the accused. What is trial by jury for? Trial by jury exists as the bulwark of the liberties of the individual citizen as against possible abuse at the hands of the Crown. If you put, as the condition of this combined legislation does, into the hands of the Crown the power of taking a large body of individuals and "standing by" an indefinite number, you put into the power of the Crown to select and find for itself jurymen that the Crown may believe are absolutely to be relied upon to produce a verdict to its own liking. Perhaps it might be more correct to say that the more you increase the number of men from whom the Crown can, by this process of elimination, select the twelve that it wants, the more you increase the opportunity for the Crown to find a jury exactly to its liking.

Mr. C. A. WILSON: What becomes of a juror who has been ordered to stand aside?

Mr. DOHERTY: The juror who is ordered to stand by, stands by. He does what he