in this country, because of the fact that three political friends of his, charged with political crimes or misdemeanours, were on trial in the province of Manitoba.

That is what my hon. friend is doing by this legislation. In other words, instead of proceeding to disallow the legislation of Manitoba, the hon. gentleman undertakes to get at the question in a different way by declaring that the legislation being in existence and 96 people being summoned, the old law should be changed and the number of people who may be permitted to stand aside, to use the language which is well known to every hon. gentleman who has ever had anything to do with a criminal case in which a jury is empanelled, should be limited. My hon. friend proposes to restrict the right of the Crown to direct any number of jurors in excess of 48 to stand by unless the judge presiding at the trial upon a special case so orders. My hon. friend from St. John (Mr. Pugsley) has very aptly pointed out the difficulties under which crown counsel must be in reference to the question of asking jurors to stand aside. Every one who has had any experience, in either prosecuting or defending, knows how much judgment must be exercised by the crown counsel in dealing with a question of this kind. It is the proud boast of Canadians and Britishers that under the administration of our criminal law, the person to whom is entrusted the task of prosecuting an alleged criminal is not supposed to do so with that pertinacity, and that desire to secure a conviction at all hazards, which characterize the administration of criminal law in the United States. He is there to protect the interests of the people and where he obtains possession of information with regard to the possibility of certain persons who may be summoned on the jury panel having some sympathy one way or another
4 p.m. and exercises his judgment in the interests of the people, if he must submit, in the presence of the prisoner and counsel for the prisoner, to the judge the reasons why he should ask any particular persons to stand by, it will produce the great miscarriage of justice indicated by my hon. friend from St. John. Yet, the Minister of Justice wants to disarrange the whole procedure of the criminal administration in this country simply because he started out to disallow this Manitoba Act and he proposes to get at the same result in another way.

There is a question as to whether the Dominion Parliament has any right to deal with this matter at all. The question of the number of men to sit upon a jury, and thus to complete the organization of the court that is to pass upon the guilt or innocence of a prisoner, is a matter that goes to the constitution of the court itself. The court which is to finally determine this question of guilt or innocence is made up quite as much of the men who compose the jury, because they have to find on questions of fact, as it is of the judge who decides on questions of law. The appointment of a judge is a matter which is reserved to the federal power but the constitution of the criminal courts is unquestionably within the sole power of the Provincial Governments, the only limitation in regard to the constitution being upon the question of procedure. In all the provincial statutes there is to be found legislation determining the number of jurors who can sit upon a case and bring in a finding. The question of the constitution of the grand jury in any particular province is a matter which is fixed by a British statute. The Attorney General of Manitoba, in discussing with the Minister of Justice the question of interference by disallowance with the Manitoba legislation, urged that my hon. friend had no right to interfere with that legislation because the power to pass it was a matter which related peculiarly to the constitution of the court and was not a matter of criminal procedure purely. He pointed out to my hon. friend what Edward Blake said, when Minister of Justice, about legislation of similar character Mr. Blake gave his opinion with regard to the Manitoba Act of 1876 in these words:

> Many of the provisions of the Act appear to touch upon criminal procedure but it is to be observed that an act substantially the same passed by the Quebec Legislature in 1869 was left to its operation, being reported as free from objections.

That was the attitude assumed by Mr. Blake. The Minister of Justice would be well advised to leave untouched the legislation that has been passed by the provinces dealing with the number of jurors to be summoned and other conditions relating to the constitution of the jury, which my hon. friend is absolutely interfering with by this legislation. All over this country we have varying conditions as to population and other matters. It may be that in one province a certain rule will obtain and be absolutely satisfactory to the people while in another province situated in another part of the Dominion an entirely