

cannot prosecute us," what a condition of affairs we shall have in this country! Is the Minister of Justice willing to put himself in that position? I do not think so. I think before this legislation goes through the Minister of Justice will see that he is simply playing a game of politics, simply working for the benefit of men who at one time thought they were in trouble, but who now think they are clear, and who came to the minister as a political friend and asked him to do for them what they thought they could not get done by the courts of their native province. It is simply prostituting the powers of Parliament to pass this legislation. It is doing what this Parliament ought to be ashamed to do, and it is creating a precedent the end of which no man can foresee.

Mr. PROULX: I asked the Minister of Justice whether he had received any requests from the Attorney Generals of this country for this legislation and he answered in the negative. We are discussing a question of procedure. This Parliament has passed a substantive law, and the provinces fix the number of jurors to be summoned. In all the districts of Ontario the number of petit jurors summoned for each sitting of the General Sessions of the Peace is 48. I think there are very few instances in which it is necessary to have recourse to a larger number. I have never seen such a case in my district. If there are such instances, the attorneys general of the different provinces would know, and would be the proper persons to ask for this legislation. The Crown prosecutors make reports to the respective attorneys general, and if there were any necessity for this law surely the proper authorities would ask for it. The Minister of Justice has told us there have been no requests from attorneys general, and I submit there is no necessity for the adoption of this law.

Mr. McKENZIE: I did not intend to say very much on this subject. It has been very well threshed out by the hon. member for St. John (Mr. Pugsley), the hon. member for Pictou (Mr. Macdonald), and the hon. member for Carleton (Mr. Carvell). I knew the Bill was on the Order Paper, and that it was liable to come up at any time, but I did not expect it would come up to-day. A constitutional question has been touched here as to whether this Parliament has a right to say anything about the number of jurors who may be appointed to sit in a case. The British North America Act contains something on the

subject, in enumerating the exclusive powers of this Parliament, among which I find subsection 27 of section 91.

The criminal law, except the constitution of courts of criminal jurisdiction, but including the procedure in criminal matters.

That is, we have nothing to say about the constitution of the court, but we have power over procedure in criminal matters. I am very doubtful whether the number of jurors is a matter of procedure. My opinion would be that it is not. To lawyers procedure is the issuing of a writ, the number of days that must elapse between its issue and its service, the number of days for appearing, and so on. The manner in which proceedings are instituted in the criminal courts, and the notices that must be served on the parties accused, and how they are to be dealt with, constitute, to my mind, the procedure in the criminal court. I may be wrong, but as far as I am capable of judging I do not think the number of jurors that will sit in a court is a matter of procedure. It is a matter of substantive law.

Mr. NICKLE: The Bill does not touch the number of jurors.

Mr. DOHERTY: It only deals with the number of challenges.

Mr. McKENZIE: I understand the effect of this to be that the number of jurors permitted to be examined or rejected is limited by this legislation. The Minister of Justice shakes his head, but according to the old story, perhaps he ought to know there is nothing in it without shaking it.

Mr. DOHERTY: It is wonderful how many things we ought to know, but do not.

Mr. McKENZIE: The view I take is that the limiting of the number of jurors is interfering with the constitution of the court, and as far as I can bring any judgment of my own to bear upon it, it is a matter for the local legislature entirely, and not a matter for this Parliament. I would suppose that a gentleman of the experience and wisdom of the Minister of Justice would have taken some warning from the difficulties in which he found himself either directly or indirectly some years ago, since he became Minister of Justice, in connection with being a little too lax about the bars of the penitentiaries in political cases. We had a famous instance before the House some four years ago, where a gentleman appointed by the Government of my right hon. friend (Sir