

jury of 12, or of one in the case of a jury of six, should not prevent a verdict. I shall just read the argument I addressed at that time to the House in 1893:

"My proposition is that it simply shall not be necessary that the jury shall be unanimous but the verdict of guilty may be returned even though one member of the jury dissents. Hon. gentlemen are all perfectly aware that the ends of justice are continually defeated by some one juror who is either obstinate or a crank, or perhaps in sympathy with the criminal. A crime is committed, reasonable evidence is produced of the guilt of some particular person, and that person is brought before the magistrate; the magistrate finds there is sufficient *prima facie* evidence to commit him; he is committed and afterwards he is brought before the grand jury. The grand jury as a rule seem to think it their duty to find that the circumstances are very strongly in favour of the innocence of the accused. In fact, in a great many cases the grand jury refuse to find bills against a man of whose guilt there is very little doubt. So, justice as you see has to run this gauntlet. There is first the committal by the magistrate, then the case comes before the grand jury and then trial before the petit jury. The evidence may be so clear that the judge and eleven jurors and every one in the court are satisfied of the prisoner's guilt, but if there happen to be on that jury a man who may be a connection or a friend of the accused, a crank of some sort, or a man with peculiar views as to the capital punishment, or an anarchist, or an enemy of society, that one man can render all the expense and trouble that have been taken utterly useless, and defeat the ends of justice and turn the miscreant out to prey upon society."

I do not think that state of things should be allowed to continue. Those were my sentiments in 1893 and they are my sentiments still. At that time the hon. gentleman from Calgary agreed with me.

Hon. Sir RICHARD CARTWRIGHT—While I am not prepared either to assent or dissent, it is a very important change in the Criminal Law which the hon. gentleman proposes. He offers it near midnight, on the last day of this session. I do not think that the Senate should act in a matter of that kind, except on a special Bill brought in and adopted deliberately in due course and form. I must, therefore, on principle, oppose the motion on the ground that this is not the time nor the way to introduce an important change in the whole Criminal Law.

Hon. Mr. POWER—If we are in the dying hours of the session considering this Bill, who is responsible for that? The Senate

have been here prepared to consider this measure at any time during the session. It is not as though it were an entirely new measure. It was approved by a joint committee of the Houses in 1892, and I think passed the Senate three times. It is a very simple thing; if it does not meet with the approval of the Minister of Justice in the other House, it will not be accepted. It is an amendment which must appeal to the common sense of every hon. gentleman present.

Hon. Mr. DANDURAND—Does not the hon. gentleman realize that this is an amendment which opens up a very wide horizon on our present institution, because the question may be taken as to obtaining a verdict by a simple majority, as in Scotland. Instead of reproaching the government for bringing down the measure somewhat late in the session, the hon. gentleman should himself have moved at the beginning of the session by a separate Bill.

Hon. Mr. POWER—I was waiting for the government to act.

Hon. Mr. DANDURAND—The hon. gentleman could well afford to wait until next autumn to make the change.

Hon. Mr. BEIQUE—It is a change of such a radical nature, that the opinion of the attorneys general of the provinces should be had before it is made.

Hon. Mr. LOUGHEED—As I appear to have agreed with the hon. member from Halifax in 1893, I cannot very well go back on him even at this late stage of the session; but I would suggest that inasmuch as the measure must necessarily be a very controversial one, and would raise such a discussion in the House of Commons as to preclude our agreeing upon it.

Hon. Mr. POWER—It would raise the Senate in public estimation.

Hon. Mr. LOUGHEED—I would suggest the propriety of dropping it this session, and the hon. gentleman can bring in a Bill early next session.

Hon. Mr. POWER—I accept the suggestion made by the right hon. leader of the House and concurred in by the leader of