The Bill reads:

Section nine hundred and thirty-three of the Criminal Code, chapter one hundred and forty-six of the Revised Statutes of Canada, 1906, is amended by adding the following proviso at the end of subsection one thereof:—

"Provided that the Crown may not direct any number of jurors to stand by in excess of forty-eight, unless the judge presiding at the trial, upon special cause shown, so orders."

What must the Attorney General do in the effort to get a fair-minded jury? Let us bear in mind the fact that the verdict of the jury in criminal cases must be unanimous. If by hook or by crook the friends of the prisoner can succeed in getting upon the jury, one man who will hold out, there will be no conviction and the accused will go scot-free, because the jury will be discharged. There may, of course, be another trial, but, by the exercise of equal ingenuity, it may be possible to get another obstinate juror who will hold out for the prisoner, and the accused will go free. I have known that to be the case in the administration of the criminal law in my province. Juries were discharged, not only upon the first trial, but upon the second trial, and the result was that prisoners who there was the strongest possible reason to believe were guilty, were allowed to go free. The Attorney General must exercise his right of peremptory challenge first, before he can order the jurors to stand by. The Minister of Justice was wrong there.

Mr. DOHERTY: If the hon. gentleman will look at the Criminal Code, I think he will see that I am right.

Mr. PUGSLEY: I think not; I will find the section later. The Attorney General exercises his peremptory challenge first. In a case of murder—in fact, in any criminal trial—he may challenge four of the jurors. The prisoner's counsel has the right to challenge peremptorily twenty. If the Attorney General, the prosecuting officer acting for the Crown, has reason to believe that there are men on the jury whom it is not desirable to have sworn as jurors, he orders them to stand by. In ordinary cases forty-eight would be a sufficient number to be allowed to stand by, but in cases which I have known, at least one hundred jurors have been called by order of the judge, because it was necessary to call that number in order to get an impartial jury. In a case where jurors have been called to a number exceeding seventy-five or a hundred, we will say, as soon as the Attorney General stands by forty-eight, his right of stand by is exhausted. The names must then be called again, and he is obliged to allow to be sworn on the jury any juror whom he may have ordered to stand by, but whose name may be called again, and whom he is not able to challenge at all. That is a most important right. I have never known it to be exercised arbitrarily, because we all know that in the administration of criminal justice the Attorney General—and the same may be said of counsel who are appointed by him to prosecute criminal cases—considers himself in the position almost of a judge. It is his duty to consider the accused innocent until he is proved guilty, and to give him every fair chance. In the trial the Attorney General places himself almost in the position of the judge.

Now, what does this Bill provide? It provides that after he has stood by forty-eight he must apply to the judge if he wants to stand by any more. He cannot give his private views to the judge, but must show special cause, which means that notice is given to the counsel for the prisoner, and that the Attorney General has to produce affidavits to show why such and such a juryman should not be sworn. Affidavits are also presented on the other side, and the whole question of the desirability or otherwise of having a jury against whom the Attorney General may have the strongest possible objection has to be tried out in public before the judge, and the judge must give his decision whether special cause has been shown, and whether the Attorney General shall be permitted to stand that jury by. What is going to be the effect of that? The Attorney General has to show cause. He has to show partisanship. He has to show that a man is not worthy to be a juror as between the Crown and the criminal. He has to establish special cause, to satisfy the judge that in the interest of justice that man should be stood aside, and if the judge decides that the cause is not sufficient, he has to allow that man against whom this charge has been made, which has been tried and decided against the Crown, to be called as a juryman to try the case as between the Crown and the accused. I hold that that would be very objectionable indeed, and it would in fact paralyse the administration of justice in important trials where great public interest and strong feeling has been aroused. My hon. friend from Gloucester (Mr. Turgeon) will remember the case which was tried in the county of Gloucester a good many years ago where it was exceedingly difficult to get a jury. There was a strong feeling of sympathy with the prisoners,