

introduced a Bill containing a clause similar to this, and it was only after a great many years of agitation and argument that he succeeded in inducing the House to accept the principle of his Bill. But when the House reluctantly accepted that principle, they surrounded it and guarded it with this among other precautions to the public, that is that the person accused of the crime should not be incontinently convicted unless there was some corroborative evidence. That was the guard that the House in its wisdom thought fit to throw around the accused. And, for one, unless there is strong evidence that it has worked badly, I would be very loath to remove that protection from the statute-books.

The second suggestion is that in certain cases where there has been a conviction and the courts refuses to reserve a case for the Court of Appeal the party may move the Court of Appeal for leave to have a case reserved. The present law provides that he shall not so move the court where the judge refuses him leave, unless the Attorney General gives his consent in writing. My experience in criminal cases is that it is a very wise provision that, if the judge refuses to appeal or to move for appeal, the party asking for leave shall not have a right to move unless the Attorney General of the province consents in writing to the motion. And the reason is this: We know that in the United States the criminal law has become a perfect farce, in very many cases by reason of the frequent appeals which criminals can take as of right from court to court until, by lapse of time and death of witnesses there is not sufficient evidence to convict the parties. If a man is convicted after fair trial in a British court of justice, and the judge says: Your case is so absolutely clear that I will not reserve a case for the appeal court, if he seeks to appeal, he should get the consent of the Attorney General.

The last suggestion of the hon. gentleman is as to section 748, and provides that the Minister of Justice, if he entertains a doubt whether a person has been improperly convicted of a capital offence may allow a new trial. The only case that has arisen under this section is the Sternaman case. For obvious reasons, I will not discuss that case. It is now sub judice, and I hope that no hon. gentleman will give expression to any opinion as to the guilt or innocence of this woman. She will be tried according to British rules and before a jury of twelve of her peers, before a British judge, and according to the evidence, and I would deprecate any expression of opinion as to her guilt or innocence. But I would say that the suggestion of my hon. friend who moved this Bill that the Minister of Justice may be moved by political considerations is not a very weighty objection. I agree with the hon. member for West Huron (Mr. Cameron) that the Minister of Justice when exercising the great and grave responsibility which this

section casts upon him very soon sets aside any political considerations. When a matter of life or death hangs upon their judgment or determination, they have the same responsibility as a judge sitting upon the bench. I know, in this case, the Minister of Justice gave the most continued and careful consideration to all the facts before he exercised his judgment. I think the clause sought to be repealed is a good one, because there are cases known to hon. gentlemen frequently, whereby, when convictions are obtained and the death sentence passed, the Crown must either exercise its prerogative and commute a sentence to imprisonment for life or let the death penalty be enforced, and they have no power of determining or sending the case back for a new trial. Now, in a matter of pounds, shillings and pence, where three or four thousand dollars, or any other amount, is at stake, we make provision constantly that there should be new trials, that there shall not be a miscarriage of justice. Look at the case of Mrs. Maybrick in England to-day. There are many people of the highest judicial standing, amongst them the Lord Chief Justice of England, who have avowed their belief in that woman's innocence, but there is no power in the English Act, as there is in our Act, if grave doubts are expressed, as they have been expressed by the Lord Chief Justice, as to the proper conviction of that woman—there is no power to send her back for a new trial, and the Crown is left in this position, that it must either release the woman altogether or let her remain there for life. Therefore, I think we have not had that experience under section 748 of the code, which would justify us, at this stage, in repealing it. I am certain that the one case to which my hon. friend refers, instead of being an argument in his favour, is one very strongly against him. I am glad to see that his main object is established, the laudable one of bringing what he considers to be grave defects in the Criminal Code to the notice of the House of Commons and to the Department of Justice. He does not ask the House to take up any more time than the hon. members who are interested in the Criminal Code think absolutely necessary for its discussion. For my part, if he will accept the suggestion made by the hon. member for Huron (Mr. Cameron), I think the circumstances of the case will be well met, and I need not say to him, that his remarks and his Bill will have very careful consideration by the Department of Justice.

Mr. BRITTON. I do not think the hon. gentlemen who have spoken have dealt quite fairly with the argument first presented in favour of this clause. Of course, if the Minister of Marine and Fisheries intimates that it cannot go any further, I must accept that intimation. But I must