stantial advantage. We have had so very few appeals from the decisions of our courts in criminal matters, to the Judicial Committee of the Privy Council, that it can scarcely be said to be a practical question, or one of such a character as to necessitate the interposition of Parliament.

Mr. WELDON (St. John). I agree with the hon. member for Bothwell that such cases may be very rare. But according to this section, if the court in the first instance is unanimous, there is no appeal at all provided for, therefore the party accused would be entirely without remedy, although there is a royal prerogative. The effect of the section will be to take away entirely the right of appeal. In the case to which the Minister of Justice alluded, the court was unanimous; but we find cases where the prerogative had been exercised, and where the decision of the court was reversed, even where there was no appeal. The case of the Queen against Bertrand, in New South Wales, a very important point was raised on which the decision of the Privy Council was entirely adverse to the decision of the Supreme Court of that colony.

Mr. SKINNER. This section says that it shall apply to Courts of Oyer and Terminer or Gaol Delivery. So far as that wording is concerned, it would be applicable to the Province of New Brunswick. Now, the County Courts in New Brunswick are not, in the common law definition of the term, either Courts of Oyer and Terminer, or of Gaol Delivery, therefore they would not be comprehended within that section. I think it would be better to introduce two or three words to cover the County Courts of New Brunswick. I cannot speak with the same information with reference to the other Maritime Provinces, but I can say that, in so far as I understand this section, it would not cover the County Courts of New Brunswick; and a very large proportion of the criminal business in New Brunswick is tried in the County Courts of that Province.

Mr. WELDON (St. John). I think the County Courts have concurrent jurisdiction in criminal matters. A large portion of the criminal business is exercised by the County Courts. The judge there has the same power as the judge of the of the Court of Oyer and Terminer. To meet the suggestion of my hon. colleague, I would propose to introduce the words "or before any other court of criminal jurisdiction."

Mr. THOMPSON. In order to meet the suggestion in regard to the County Court of New Brunswick, I propose to amend this section by making the words in the first line read thus: "Any person who has been convicted of an indictable offence, or whose conviction has been affirmed before any Court of Oyer and Terminer." It applies now to any person who has been convicted, or whose conviction has been affirmed.

Mr. WELDON (St. John). The judge has now the power of reserving a case. Under the criminal law it is entirely in the option of the judge who tries a party, whether there is a case reserved or not. If he declines to reserve the case the party has no appeal, or practically none. It is, therefore, within the power of the judge who tries the case to exercise a power that is not correlative to any other power which he holds. I may instance a case which occurred in New Brunswick. A case was tried before the judge of the County Court and objection was taken to the verdict. The case was argued before him, and he refuse to reserve it. Eventually it was brought before the Supreme Court by writ of *habeas corpus*, and the Supreme Court decided that the County Court judge was wrong. A very grave question was raised as to whether the Supreme Court could do that in that way; but the effect was that if there had not been that means of acting the party might have been without resort. Some modification should be made, because power is given to a single judge who hears the case whether he will reserve the case or not. If we do away with the royal prerogative when the court below is unanimous, that would practically take away the right of appeal. Although there are five judges, two may form a court, and the mere fact that the judges below are unanimous does not necessarily imply that the full bench is unanimous. No doubt the Minister of Justice has often succeeded in reversing unanimous judgments in civil matters before the Supreme Court of Canada. I do not see why the same rule should not apply to criminal cases. Since the opening of the court there have been very few criminal cases appealed, but it is in the interest of justice that an appeal should be given, more particularly as the royal prerogative is proposed to be taken away by this Bill.

Mr. THOMPSON. As regards a general amendment in the direction indicated, I hardly like to deal with that matter in a Bill of this kind, although I think the suggestions of the hon. member are worthy of attention. I think the true way to consider this Bill is not with relation to appeals given from the various tribunals of first instance in the Provinces, but rather with a view to the proper conduct of criminal justice, so that there shall be no appeal out of the country to the Judicial Committee of the Privy Council. If the law is not sufficiently liberal at present, it can easily be made so, either by amending the Criminal Procedure Act or by the intervention of local statutes under which the courts are organised. It is quite true that the judges of first instance have the discretion to prevent an appeal by refusing to state a case. I was not aware that in any Province two judges could form a quorum of the court for cases reserved. It is not so, I think, in any other Province except the one mentioned by the hon. member for St. John (Mr. Weldon).

Mr. WELDON (St. John). There is nothing in the constitution of our Supreme Court that requires the majority of the judges to be present. Two judges can form a court as well as six.

Mr. THOMPSON. I may mention a case which occurred a year ago in the Province of British Columbia. Ample time had been given for a full examination of the case by the Supreme Court of the Province, and after a further stay had been given in order that every opportunity might be afforded, an appeal was asserted to the Judicial Committee of the Privy Council. If that appeal had been followed and allowed, we should not have got rid of it for something like a year or two. In the meantime the criminal law of the country would have been entirely paralysed in that particular case, and the execution of the law eventually, after the lapse of so long a time, would appear cruel, as public attention would have become disassociated from the crime itself.

Mr. WELDON (St. John). There is a marked contrast between the law here and in the neighboring Republic, for across the border there are too many appeals. I quite agree with the Minister of Justice that the appeal to the Judicial Committee of the Privy Council might be done away with, but when we undertake to take away the royal prerogative the hon. gentleman should not leave it entirely to the tribunal of the first instance. As the law stands now, and the hon. gentleman is changing the law, it provides that there is no appeal to the Supreme Court where the court below is unanimous. But there is always the right of petition to the Judicial Committee of the Privy Council. The hon. gentleman proposes to take that away. I would suggest the striking out of the provisions depriving the right of appeal where the court below is unanimous.

Mr. THOMPSON. I cannot do more than promise to carefully consider the hon. gentleman's suggestions. I think we are doing no more than simply declaring what has always been considered to be the law, that the decision