

some parts of his story. The very failure to tell a narrative correctly from beginning to end several times over, is liable, in the opinion of certain people, and according to the criticisms of able counsel, to put such a prisoner in an improper and sometimes unfortunate position before a jury. It has often been a matter of comment in papers and magazines, which have discussed this subject, that it is a most difficult thing for an honest and innocent man, with the fullest intention of telling the truth, to relate a narrative two or three times over, and make it exactly the same each time. Embellishments are often made; matters which the person telling the story considers of small importance, are frequently changed, and finally, if the story is told four or five times over, many important differences will occur. Any person who is at all familiar with the practices of the courts of law, will see that the weakness of human nature is taken great advantage of in these courts; the witness is compelled time and again, and no matter how long the interval which may have elapsed between the different examinations, to tell the story over and over again for the purpose of seeing how his different accounts of the same incident compare. Are we to place prisoners under this law—prisoners around whom so many protections are thrown by the laws of our country, and the laws of the Mother Country—in such a position as that? The hon. gentleman who has charge of this Bill will, perhaps, tell me that he has made provision for that by the clause to which reference has already been made, and which gives the prisoner an option—he will say that this clause will protect an innocent man whose counsel thinks him too weak, or too illiterate, to stand a cross-examination, innocent though he be. In answer to that argument, I would point to the experience which was had under this very law in the State of Maine, where this clause was held and proved to amount to nothing. Judge Appleton, in giving his opinion on the question when it was brought before the Supreme Court on a writ of error, stated, that whether the Legislature had enacted that clause or not, made little difference, as it amounted to nothing in effect; and he held that it was no misdirection on the part of a Judge in *Nisi Prius*, to instruct the jury that the fact that the prisoner did not go into court and tell the whole story, was a strong feature in proving his guilt. Whether the law was so or not, or whether he was right or not, I say that ten men out of twelve on a jury, who see a prisoner who is charged with a crime, stand in the dock day after day during his trial without opening his lips in reference to the testimony, would infer that his silence was an admission of guilt—they would infer that there was something wrong; and yet that prisoner might simply be obeying the instructions of his counsel, who, not with a fear of any admissions of guilt, but believing that it would be injudicious and unadvisable to put a man of his temperament or education in such a position of peril, advised him not to give his evidence. The result would be a miscarriage of justice. I say, further, that the old theory or maxim, that no one is bound to criminate himself, is a healthy one, and the moment this question is brought up these legal reformers will have to step into another department. They will have to pay attention to civil matters, where no effort has been made in the direction of change in this respect; for if this new principle is right, then the old maxim to which I have referred, and under which our laws are administered in the courts every day, is wrong. I contend that the very fact that able men such as Stephens himself—a man of high and admitted influence in England, to day—have failed in all their attempts to induce the British House of Commons at this period of their history to make a reform of this kind, augurs very badly for the principle of this Bill, and that such a result must have been attained from the experience of countries which are now working under measures similar to this. I think I have already stated, that a very strong

argument against this Bill is the one in connection with the encouragement of the crime of perjury. It is well to bear this in mind, for there will no doubt be great inducements, especially to the hardened and clever villain, to take advantage of this Bill. It is often said that it is a difficult thing to tell what is not true in such a way as to bring conviction to the minds of a jury. But, under such a measure as this, there will be given an opportunity for the clever, cunning, and experienced criminal to take the stand and by making one simple statement avoid the danger which he would incur by telling a long narrative. Thus, instructed by his counsel, giving the finishing touch to the fiery eloquence of that counsel—sometimes not much better than himself—and giving him the opportunity of making a simple contradiction of the most important evidence adduced by the prosecution. Any gentleman who is at all conversant with the administration of criminal justice even in Massachusetts will admit that such things frequently occur. This was notably the case in the Piper trial, in which the prisoner was proven guilty of a shocking murder by evidence which I consider was clear and unmistakable. The press of the city of Boston, in which the trial took place, commented very strongly on the subject and contended that there was not the slightest room for doubt as to the guilt of the prisoner. But this man Piper was so astute and conducted himself with such a degree of cunning that the first jury before whom he was tried disagreed upon their verdict. That was the argument of the prisoner's counsel, and so well did he succeed that, as was afterwards shown, the prisoner almost escaped. If we can mention cases of that kind it is not hard to believe that there would be many other far more alarming cases happen in our midst. For my part, I cannot bring to bear on this subject the great experience of the hon. member for Quebec Centre; but the short experience I have had in another Province has induced me, perhaps at too great length, to occupy the attention of the House in defending the maintenance of the present law in this respect, and in opposing this clause of the Bill. In conclusion I may explain that I formed one of the Special Committee to which was referred the Bill (No. 6) which contained this clause. I was not then aware that it was irregular to serve upon a Committee on a Bill to the principle of which one was opposed. In regard to the other clauses of the Bill I am highly in favor of every one of them.

Mr. ROBERTSON (Hamilton). I desire to say a few words in reference to that part of this Bill which formed the Bill which I introduced into the House. I refer to clauses four, five and six. With regard to the first three clauses of this Bill, I agree with almost everything that has been said, and said so well, by my hon. friend from Pictou (Mr. Tupper). I also was a member of that Committee, having been appointed to it in my absence, and my own Bill was referred to the same Committee. I have very great doubt as to the advisability of enacting the first three sections of this Bill. The remarks of the hon. member for Quebec Centre are to my mind very forcible. I cannot understand, if a person is qualified to give evidence on his own behalf in a case of misdemeanor, why he should not be equally qualified to give evidence in a case of felony. I know that some of the County Judges of Ontario are in favor of a law of this kind; but after a good many years experience at the bar, I cannot say that I have come to the conclusion that it would be desirable to amend the law in the direction of the first three clauses of this Bill. With regard to the other clauses, which have been so strongly opposed by the hon. member for Quebec Centre, I wish to state, first of all, that although the Bill originally containing them was introduced by me last Session, and again this Session, I did not do so because I have the slightest sympathy with those people who profess not to believe in the existence of a God. I wish it to be distinctly understood that I have no sym-