

the innocent. They should bear in mind that, when once the accused had tendered his evidence, he would necessarily be subjected to a rigid cross-examination by the counsel for the Crown, and it was just likely that an innocent man under such an ordeal, conducted by an acute and experienced lawyer, would become confused—especially if he were a man of simple character—and so create the impression that he was guilty. In this way, therefore, the protection to the innocent would not be so great as it would be to a guilty person who possessed the bold effrontery and hardened conscience that would enable him to stand unmoved through a severe cross-examination. But the strongest argument that could be used against the Bill was that there was no general feeling that such an alteration of the law was necessary. In the absence of such a sentiment it would be better to leave well alone. There was also another objection to the Bill. It would tend to produce unseemly controversies at times between the Judge and the accused, because, if cross-examination were allowed, on many occasions it would become the duty of the Judge to flatly contradict the accused and to engage in discussions of a character to which we had not been accustomed. The Bill would also be introducing the inquisitorial German and French system, whereby the accused was often coerced into a confession of guilt; perhaps he might not be guilty of the offence, but would be actually driven into the confession. Under the German system, the accused was examined privately by the Judge and obliged to give an account of every event of his life, which was scarcely fair or just to the prisoner. As one member of the English House of Commons had said, to adopt the measure would be returning to the practice of the dark ages in England. The difference between the Bill of the hon. member for North York and that of Mr. Ashley was that the latter admitted a clause providing that wives and husbands could respectively give evidence for themselves. The propriety of making that change was discussed by a member of the English House who was opposed to the general principle of Mr. Ashley's Bill.

Mr. CAMERON.

The hon. member for North York seemed to think that step should not be taken, but there could be no question that, if any change in this direction were desirable, the privilege should be extended to wives and husbands. He would suggest to his hon. friend that there was no great feeling in favour of the Bill, or that, at any rate, the time was not ripe for such alteration of the law, as experience did not teach that any great hardship resulted from the existing law.

Mr. BROOKS said he had listened with great attention to the remarks of the hon. member for North York as well as those of the hon. gentleman who had just spoken. The former need hardly have apologised for bringing the matter forward, as the research and study he had bestowed upon it had eminently qualified him, as a layman, for the investigation and discussion of the measure. It had been properly said that the proposed change was more of an abstract than a practical question. In our criminal practice there had not been shown any necessity for the measure; no case in Canada had been cited in which an innocent man had been punished or a guilty man acquitted owing to the absence of any such provision in the law. There was now a Bill in the English House of Commons similar to the one introduced a few years ago, the provisions of which were much more extensive than that introduced by the hon. member for North York. The former not only extended the privilege to persons charged with felony and misdemeanour, but allowed wives and husbands to testify and also gave the same right to parties jointly charged with such crimes. When two or more parties were accused, they could be examined in behalf of each other, and no comment was allowed by counsel on the fact that a man had not availed himself of the right to give evidence. He fully agreed with what had been said about the practical result being that a prisoner charged with a crime would have his silence taken as presumptive evidence against him. Not only that, but the prisoner would be placed in a terrible temptation, of an almost irresistible nature, to commit