25 years it has been the instrument on a number of occasions whereby the jury has been in a position to bring in a verdict of not guilty. After all, on the basis of equality there cannot be any loaded dice as against an accused on a charge such as this.

We go back to Lord Coke's definition that these are the easiest charges to lay and the most difficult to answer. Anyone charged with them, whether he is acquitted or not, leaves the court with a stigma that does not leave him with the years. This clause was based on the experience of many years, and remains in the British common law and the criminal law as well. The provision should not be deleted from our code without the utmost frankness, on the part of those who would remove it, as to the reasons for its removal. The removal of the provision will make possible the conviction of those who should be found not guilty.

Certainly, we should not widen the scope so those who are morally innocent, though physically guilty, will thereby be convicted. If we wanted to widen the scope, then there was no justification for the addition to clause 138. If there was any justification for subsection 3 of section 138, there is every justification for the same type of subsection in section 143.

It occurred to me, Mr. Chairman, that these commissioners might have kept records when they made the examination of the sections in question, giving their reasons for the changes. I have seen nothing to indicate the reasons for these changes. I feel that the committee of this house should be fully advised; for certainly on the basis of practice in the courts changes such as these, while they may appear to be advantageous at the moment, usually have one result, namely numberless appeals in order to once more re-establish what the law is. That law, having been established over a period of 60 years, and having been dealt with by various courts, ought not seriously to be changed unless there is good reason for it.

Mr. Fulton: May I say a further word in favour of the reinsertion of this paragraph? I refer the minister to the authority of Tremeear, fifth edition, at page 206, where it is said:

> Without consent there can be no seduction.

So you do lay a charge of seduction if there has been consent; otherwise it is rape. Therefore it is obvious that there must be the possibility of blame attaching to the female party to the act. I should think it very possible that consent might be freely given, and then a change of heart take place and a charge of seduction laid. It is not easy for judges and juries to decide in these cases, because this sort of offence is not committed in public and we do not have the opportunity of knowing exactly what went on except what the parties say.

That, it seems to me, is the reason this provision was put in, that if the accused could bring outside evidence of other actions or any other evidence which would indicate that the girl was not seduced, that in fact she herself was largely responsible for the position she subsequently found herself in, that evidence would exonerate the man. That was a sensible provision in the code before, and it would be sensible to continue it in the present revision.

Mr. Barnett: I rather hesitate to interject any remarks into this discussion but on listening to it I fail to see why the protection for the accused which my learned friends are apparently seeking is not provided in section 131. I personally would like to have their views as to whether section 131 does not in fact provide the protection they are seeking.

Mr. Fulton: The explanation is very simple.

Mr. Garson: The suggestion which has been made by the last speaker is a good one. Section 131 provides:

> No person shall be convicted of an offence under section 140, 143—

That is the one we are discussing here.

> . . . upon the evidence of only one witness unless the evidence of the witness is corroborated in a material particular by evidence that implicates the accused.

What I put to the hon. member for Kamloops and the hon. member for Prince Albert is this. Where you must have the lady in the case in court testifying, and you must have corroboration; and the court is of the opinion that the evidence does not show that as between the accused and the female person the accused is wholly or chiefly to blame, the court by applying ordinary common sense will not find the accused guilty at all in those cases where the female person is of the age of 18 years.

Mr. Fulton: That is between 16 and 18.

Mr. Garson: At between 16 and 18 they have reached that age of intelligence and sophistication that it is not necessary to retain this saving clause, subparagraph 3 in relation to them, but we should retain it in these other cases under clause 138 where the female person is of more tender age and where therefore the court does not know but that she may have been imposed upon. And we also should retain it in clause 145, where the female person is in a position in which the accused might influence her