

and so far as the government is concerned, their final advice, and their only advice, except in regard to the postponement I have described, was that they could not recommend any interference with the sentence of the court.

But under the law, any judge of the court before which a prisoner has been tried, has power, upon good cause, in his opinion, being shown, to postpone the execution of the sentence; and acting under that power there were, from time to time, I do not know how many different postponements of the execution of the sentence in this particular case. For those postponements, no member of the government has the slightest responsibility. His Excellency did not intervene; the decision of His Excellency under the advice of his council was that the law should be allowed to take its course; and no doubt the law would have taken its course, and wrongly, as it afterwards appeared, but for the circumstance that on different occasions some member of the court intervened and ordered another and still another delay of the execution. Ultimately, under these delays, the case was heard before the Court of Appeal when that court reassembled after vacation, I think in the month of September last year, and upon argument before that court, that court ordered a new trial, being of the opinion that the learned judge who had presided at the trial upon which the prisoner was condemned had omitted to charge the jury upon one very important issue in the case. It was entirely within the power of the court, it was the duty of the court, if the court saw error in law in the course of the original trial, to order that a new trial should be had, and the court having so ordered a new trial, its action would seem to have been justified by the fact that upon the second trial, and upon the jury at the second trial having been properly instructed as to the law, the second jury found the prisoner guilty, not of murder but of manslaughter. In the special facts of the case the whole question turned upon that distinct issue. The case was in many respects a very terrible one. The prisoner, in a condition of more or less intoxication, had beaten his wife and she died as the result. The question of his intention in striking her was all important. If he intended to kill, it was murder; if he intended but to chastise and was mistaken, if his blows were more violent than in his drunken condition, he knew, he was not in the eye of the law guilty of the more heinous crime of murder, but guilty of manslaughter. The jury having received from the court the proper instructions as to their duty in the matter, and having their attention drawn pointedly to the question which they were deciding, decided upon the evidence which they heard, and of which they were the proper judges, that the man did not in-

Mr. AYLESWORTH.

tend to kill. I have not seen the evidence taken upon the second trial. The sentence not having been a capital one, that evidence did not in any way come under review before His Excellency's ministers. With regard to the evidence which was given at the original trial, I have read it, necessarily studied it, with all the care that it was possible for me to apply to it. I had my view, other members of council, upon the report which I made, and upon the discussion which took place in regard to the case around the council board, had their view. I am free to say that there was not unanimity among the individual members of the council on the subject. But that is just the kind of thing that to my mind, shows plainly that it is not in the public interest that the papers should be brought down, and that the advice in matters such as this given by council to His Excellency, should be canvassed, even in this House. I hope my hon. friend, under the circumstances, will not press his motion, but that, having had the discussion that there has been, having heard the explanation of the state of the facts which I have made, will see his way to withdraw the question from further consideration.

Mr. SPROULE. This is not a question upon which a layman would be expected to say anything, and but for the fact that it is equally important to the layman as to the lawyer that the public should have the greatest confidence in the impartiality of the administration of justice, I would refrain from speaking. But I have always held the opinion that one of the safest and surest guarantees for making the people believe that there is perfect impartiality is to give them the ground upon which the reasoned judgment was reached. I have heard the Hon. Mr. Blake say in this House once: 'I care very little for a man's judgment, whether he be high or low; but I care a great deal for his reasoned judgment, for then I can bring my intelligence to bear upon the question, and endeavour to satisfy myself at least whether he reached a sound conclusion or not.' Now I may say what may not be known to the Minister of Justice and the government, that there is a growing impression in the country that certain lawyers have such an influence with the administration of justice, or the government, or the Minister of Justice, that they can get almost any criminal off, or they can get the verdict of the court quashed. Now that impression that certain lawyers, whether it is due to the accident that they happen to be of the same political persuasion as the Minister of Justice and the government who are in power for the time being, or whether it is not, that impression is growing rapidly in the country, and it must be apparent to the Minister of Justice, as well as it is to every member