

appeal. There is no court created, and no additional expense put upon the country; the Bill merely enables the judges of the courts of appeal of the different provinces to entertain applications.

To-day we have the peculiar position in Canada that in a criminal case you can appeal upon a point of law stated by the trial judge; and the time of the court of appeal may be taken up for days hearing argument as to whether or not certain evidence was admissible. But the court of appeal, after hearing the argument, cannot say that in their opinion a man has been improperly convicted. They are not in a position to pronounce upon the guilt or innocence of a prisoner. If the case is referred to the Department of Justice, and it comes to a decision, the reasons for its decision are not made public; and therefore the decision is no guide to the judges or the lawyers or anybody else.

I have here the report of a case which was made in September, 1921. A woman was assaulted on the outskirts of Winnipeg and a crime committed against her. She went home and complained to her mother. The next day she went to the police and described the man, and finally pointed him out. He was arrested, tried before a jury, found guilty, and sentenced to a term in the penitentiary. The trial judge stated a case to the court of appeal on the question, whether or not the complaint made by the woman to her mother was evidence against the prisoner. The court of appeal held that it was evidence that the crime had been committed, but that the judge should have told the jury that it was not evidence against the man who had committed the crime. The court of appeal decided unanimously that there was no reason to interfere with the verdict, and confirmed the sentence. But inside of a month the prisoner was walking around the streets of Winnipeg a free man. The officials of the Department of Justice may have had reasons for what they did, and I am not making any complaint about that; but I do know that one of the judges felt that he should be informed of their reasons, and in what respect the court had erred. He wrote to the Department of Justice asking them to point out why this man, after having committed a serious crime, should be walking around free; and the answer received—I have not got it here—was to the effect that the officials of the Department were

astonished that anybody should question their decision, and that it was not usual to make the reasons for their actions public.

I am not criticizing the officials of the Department, but the system under which they work. The vast majority of cases that go to the Department of Justice go there for the purpose of review. If the Department review a case it is only a one-sided investigation; and if they come to a decision nobody knows anything about the reasons for it. If they remit a sentence, or cut down a sentence from ten to two years, or from life to ten years, it is a private matter and is no guide whatever to the judiciary or to the legal profession practising throughout the country.

I do not desire to take up any more time on this matter. As I have already stated, it was pretty well threshed out last Session. If the Bill passes its second reading, I will immediately move that it be referred to a special select committee of the House for consideration. I do not claim that the Bill is in any way perfect, and my object in moving its reference to a select committee is that the members of the committee may have ample time to consider the matter and satisfy themselves as to the facts, and, if necessary, call before them officers of the Department of Justice. If our criminal law is in such a state as I have outlined, I am quite sure that the committee will make such a report as will result in some remedy.

Hon. Mr. DAVID: Will the honourable gentleman allow me to ask him if what is proposed in the Bill is exactly the same as the law in England?

Hon. Mr. McMEANS: The law in England is different in that there is a special Act deals with the matter, creates a criminal court of appeal, or appoints certain judges to sit as a separate and distinct court. That is not proposed here. The purpose of this Bill is simply to give jurisdiction to the Courts of Appeal in the different provinces to deal with the matter. This is along the lines of the English Act, but there is no further expense put upon the country.

Hon. Mr. DAVID: Is this the same as the Bill which the honourable gentleman brought before this House last Session?

Hon. Mr. McMEANS: The honourable gentleman is probably under a misapprehension. I did not bring in a Bill last

Hon. Mr. McMEANS.