

of a crime"; it says, "convicted of a crime." So if any of my honourable friends should be so unfortunate as to be brought up before a court and found guilty, no matter how innocent he might be, he could never prove his innocence and would forfeit his seat in this House. The only remedy he would have would be to apply to the Department of Justice and ask for the mercy of the Crown. The Crown could pardon him of an offence which he had never committed.

I have not framed this Bill or brought it into the House without giving it some consideration. Prior to the year 1907 there was no court of criminal appeal in England, although it had previously been discussed for about eighty years. The question was introduced Session after Session. By one Administration a committee were appointed to consider the matter, and they made reports on it. As you know, it is a very difficult thing to get a departure from the regular course of procedure in a country like England. However, after various Bills had been introduced on many occasions in the course of many years, the question was referred to a Board of Judges, who took it up and reported favourably on a Bill to reconstruct the criminal law in so far as it related to criminal appeals. A Court of Criminal Appeal was finally established on the recommendation of those judges, and after an investigation by the British House of Commons into two very glaring cases in which persons entirely innocent had been convicted of offences and undergone punishment. I will not enter into the details of those cases, because I have dealt with them before. The only way in which the convicted man in either of those cases could obtain any remedy was to go to a member of the British House of Commons and ask to have his case investigated by a committee of the House. Accordingly that was done, and in those instances that I mentioned the office of the Home Secretary, who dealt with applications of this nature, was severely criticized. It was pointed out by the gentlemen composing the committee in the British House of Commons that if there had been the right of appeal in criminal matters the accused would never have had to undergo the punishment which he did.

One of the writers on this matter has pointed out why, in his opinion, there should be a court of appeal in England:

Mr. Boulton, one of the members of the British House of Commons, in the introduction to his work on the Court of Criminal Appeal said:

Both the public and the profession had therefore arrived at the conclusion that some review of the evidence upon which convictions in criminal cases rested was necessary.

The disadvantages of the late system may be summed up in a few words. In the first place, the Home Office has no power, if it is dissatisfied with a conviction, of quashing it. If, after full inquiry, the case appears doubtful, the Home Secretary may advise the granting of a pardon to the prisoner, or he can grant a remission of the imprisonment. But the Home Office can give no definite and final judicial finding such as a court of law can give.

In the second place, on a petition to the Home Office the prisoner's case only is before it. The result of that is that the Home Office has to discover the case against the prisoner, to test his conviction and his guilt in order to establish, if possible, his innocence.

In the third place, there is no legal finality in the position of the Home Secretary. The consequence is that, although he might come to a clear and definite decision, he is always exposed to pressure to reconsider his decision.

In the fourth place, the Home Office cannot, as a general rule, state its reasons for its decision.

Fifthly, the Home Office cannot take fresh evidence on oath and allow the cross-examination of witnesses.

The Home Office inquiry is not conducted by legal minds. There is no representation of the accused and no argument. The reasons upon which the decision is based are not disclosed, and therefore unknown to the public.

Of late there has undoubtedly been a tendency to criticize proceedings of the Home Secretary in a tone which would not be tolerated by any judicial tribunal in the country. There must, therefore, be a great advance in our legal system if the burden of an investigation, which must be essentially judicial in its character, is cast upon a judicial tribunal. The Court of Criminal Appeal will be composed of judges of the King's Bench Division. It will have the power of quashing a decision, and thus removing the effect which a conviction must have upon the status of the prisoner. Its decisions will, save in exceptional cases when an appeal to the House of Lords is permissible, be final, and it will be enabled to hear both sides, and, if necessary, to take the sworn testimony of fresh witnesses, or hear fresh evidence and allow of cross-examinations. Finally, it can give the reasons for its decisions.

The Home Office, too, will have an added advantage.

In the first place, the number of cases which come before the Home Office for interference will be greatly diminished, though they will certainly not be altogether removed.

In the next place, it will have a choice. The Home Secretary can either deal with the case as heretofore by confidential inquiry, and arrive at an independent judgment if necessary; or he will be able, under the power given by the Act, to refer the whole case, or any point in connection with the case, for the opinion of the Court of Criminal Appeal.

The Bill at present before the House, honourable gentlemen, is not framed in such a way as to create courts of criminal