has been carrying on his work. The trial judge is in a better position to mete out a proper sentence than any Court of Appeal, not knowing the atmosphere surrounding the crime, could possibly be.

Hon. Mr. GIRROIR: Honourable gentlemen, I think there is perhaps a misconception with regard to this Bill. It goes without saying that the opinions of the judges, and especially the opinion of the Department of Justice, are entitled to great weight. There is no question about that. But we should take into consideration the fact that in civil cases there is always an appeal. The argument based on the fact that the Court of Appeal does not hear the witnesses is as applicable to civil cases as it is to criminal cases; nevertheless, there is an appeal in civil cases.

It might be of advantage to us to inquire what other countries have done along this line. The British Government, in 1907, I think, appointed a committee to look into this question. That committee particularly directed themselves to an examination of the laws of the United States, and their report, which I have in my hand, shows that in many of the States of the Union there is an appeal in criminal cases.

I have in my hand a book written by Messrs. Wrottesley and Jacobs on "The Law and Practice of Criminal Appeal in England." This is a very recent book; it came out in 1910; and it summarizes the law of England with regard to appeals in criminal cases. Upon an examination of this authority you will find that there are in England the very widest powers of appeal in criminal cases—in practically all cases, and in all Acts where provision is made for summary trial. Let me read to you rule 1 of the Criminal Law of England:

> Any person who has been adjudged by a conviction of a court of summary jurisdiction to be imprisoned without the option of a fine may appeal to a court of general or quarter sessions against such conviction either upon a point of fact or of law, or on the ground of the severity of the sentence.

That is a very wide rule. Under our present practice we can appeal upon a question of law; we can apply to the court to reserve a case; but we cannot appeal upon a question of fact; and the object of this Bill, which you will observe does not go as far as the English rule, is to provide that we shall have an appeal not only on a question of law, but on a question of fact as well. I have here a list of Acts under which there is an appeal, and in the case of almost every Act where a fine and imprisonment are imposed as a penalty through the process of summary conviction, there is an appeal.

Hon. Mr. DAVID: To a criminal court?

Hon. Mr. GIRROIR: To a criminal court, decidedly. I may read rule 4, which is as follows:

> Either party to a criminal proceeding before a court of summary jurisdiction under any of the following statutes may appeal against the determination of such proceeding (whether it be an acquittal or a conviction) to a court of general or quarter sessions, either upon a point of fact or of law, or in the event of a conviction, on the ground of the severity of the sentence or fine.

Look at the procedure and see how simple and complete it is. I will read rule 5:

> The appeal is made to the next practicable court of general or quarter sessions having jurisdiction in the county, borough or place for which the court of summary jurisdiction acted, and holden not less than fifteen days after the decision was given.

Then rule 6, as to procedure:

> The appellant shall within seven days after the day on which the decision of the court of summary jurisdiction was given, give notice of appeal.

He does not have to apply to the Attorney General for leave to appeal; he does not have to apply even to the court for leave to appeal; he simply gives notice of appeal by serving on the other party to the proceedings, or on the clerk or the justice, notice in writing of his intention to appeal and of the grounds of such appeal.

Rule 7 says:

> The appellant shall within three days after giving notice of appeal enter into a recognizance before a court of summary jurisdiction with or without sureties, as the court may direct, or if the court thinks fit may, instead of entering into a recognizance, give such other security as the court shall deem sufficient.

Then this question is treated under rule 8, as to the custody of the appellant:

> When the appellant is in custody, the court before whom the recognizance is entered into (or other security given) may, if the court, think fit, release the appellant from custody.

Rule 9 says:

> Either party to the appeal may on the hearing call evidence which was not given before the court of summary jurisdiction, unless the Statute under which the appeal is given provide otherwise.

Then we come to the powers of the appellate court. Rule 10 says:

> The court of quarter session may, subject to the provisions

—of certain acts which are cited—