

last year. It was not reached in the other Chamber. Now, I take it for granted that it cannot be reached this session.

Hon. W. B. ROSS: Why?

Hon. Mr. DANDURAND: Because only public Bills fathered by the Government can be advanced in the other Chamber. So if the opinion of the Minister of Justice is to-day what it was yesterday, the Bill has not the ghost of a chance in the other Chamber. My honourable friend could perhaps test the House of Commons next year by having the Bill presented there.

Hon. Mr. McSWEENEY: What is the date of that letter of the Deputy Minister of Justice?

Hon. Sir JAMES LOUGHEED: March 21st.

Hon. Mr. GIRROIR: Honourable gentlemen, we are perhaps taking a wrong view of the powers of a department over legislation that we feel disposed to enact in this Senate. It has been my belief—I may be wrong, and if I am wrong I should like to be corrected—that the Canadian Senate has absolute power to pass legislation upon the subjects over which it has jurisdiction, without the permission of any department of Government.

Hon. Mr. DANDURAND: And against their consent.

Hon. Mr. GIRROIR: And, if you wish, against the consent of any department of Government. We naturally look with respect upon the opinions of a department, or the officers of a department; but we are in nowise bound by those opinions. If in our judgment certain legislation is necessary and desirable in the interest of the people at large, it is our bounden duty to pass that legislation without regard to the opinions of the deputy minister or the minister of any department of state in this country.

The opening paragraph of this letter would indicate that the Deputy Minister of Justice has not a very clear idea or understanding of the purport of this Bill. He says:

The executive, in the exercise of the prerogative of clemency, has ample powers to mitigate every sentence so as to adapt it to the justice of the case.

—Those who are behind this Bill admit that the executive, in the prerogative of clemency, has ample powers to mitigate every sentence; but it has never admitted that the exercise of those powers did as ample justice to the accused as the provisions of this Bill would do.

The objection to bringing an appeal from a conviction before the executive, under the powers which they at present exercise, are many. In the first place, it is pointed out that, before you can get your appeal before the executive, the man has been branded as a criminal. He may be perfectly innocent, according to the decision of the executive, when the case comes to them, but in the meantime he has been branded throughout the length and breadth of the land as a criminal; his reputation stands ruined, and in consequence perhaps his business has been ruined. In England, to which we look for guidance in many matters of legislation, and wisely, the legislators have come to the conclusion that this appeal to the executive for the exercise of the prerogative of clemency does not meet the case. Therefore they have passed legislation with ample provision enabling an accused to appeal from the court which has convicted him to a higher court in order that his sentence may be reviewed, in order that the decision against him may be inquired into, and if injustice has been done that it may be remedied.

One of the honourable senators who supported this Bill the other day has put the case this way. A man is accused of a crime; he is brought before the court; he is convicted of that crime. Under the present law, there is only one court open to him. If a question of law is involved he has an appeal; but on a question of fact there is only one court open to him. He must employ counsel and he must send his counsel to the city of Ottawa, or employ agents here; a petition must be prepared; his counsel must come here before the Department of Justice and must stay here day after day until he gets an opportunity to present his case. A man may be convicted in the extreme West or in the extreme East of this Dominion, and if he wants to have his case considered by the Department of Justice, he is bound to send some one all that distance at great expense to represent him. I have had some experience in bringing matters of this kind before the executive, and I know the expense involved.

Hon. Mr. POIRIER: Cannot that be done by correspondence?

Hon. Mr. GIRROIR: It may be done by correspondence, but does any man believe for one moment that an accused, who perhaps has very little means at his disposal, is enabled to as effectively prosecute his appeal by correspondence as he would if he were represented by counsel? No practising