

right of clemency which is exercised by the Minister of Justice. That will still exist, and I think properly. But, as pointed out, we who live in the West know that in many cases of that kind it is desirable that the applicant, a convicted prisoner, should be represented by counsel who will appear personally, and counsel from the West have great difficulty in appearing before the Minister of Justice in connection with an application for clemency. Under the provisions of this Bill, instead of counsel having that long and expensive journey or employing an agent here, the application would be taken before the appellate court in the province in which the prisoner had been tried and convicted. I do not think that we shall congest the courts by passing this Bill, and I think the argument that we would be reflecting upon the intelligence or the impartiality of the judges has been abundantly answered.

Hon. W. B. ROSS: The honourable gentleman from Halifax (Hon. Mr. Power) asked a question which was a well-put question, and one which I think ought to be answered. The legislation in England began with appeals from summary convictions, and it was found that this worked so well that the appeal was extended to all criminal cases. This is the power of the Court of Appeal in indictable cases:

On appeal against sentence the Court of Criminal Appeal shall, if they think that a different sentence should have been passed, quash the sentence passed at the trial, and pass such other sentence warranted in law by the verdict (whether more or less severe), in substitution therefor as they think ought to have been passed, and in any other case shall dismiss the appeal.

Hon. Mr. THOMPSON: How do those cases reach the Court of Appeal in England?

Hon. W. B. ROSS: Sometimes by a reservation of the trial judge. He will give a certificate to the prisoner that he thinks he is entitled to an appeal. If he does not give him that certificate he has a right—

Hon. Mr. TESSIER: The reservation exists here. We ask for reserved cases here.

Hon. W. B. ROSS: That is on questions of law, but this is on questions of law and of fact. It goes further: it goes to the severity of the sentence.

Hon. Mr. THOMPSON: Does not the honourable gentleman think that an amendment to our law to conform to that view would be better than referring the case to the Attorney General?

Hon. W. B. ROSS: It is a matter of opinion whether or not the Attorney General in interposing is only a fifth wheel to the coach. If that were not done, the privilege might be abused. This legislation will require a review before the Attorney General, like a review before the Minister of Justice. The Attorney General will say, "Now, is there a prima facie case?" and if he thinks there is, he will allow the application. If he thinks there is not, unless he is a very poor attorney general, he will not allow it.

Hon. Mr. THOMPSON: Once in a while there are poor attorneys general.

Hon. Mr. TESSIER: I think we have heard pretty nearly all there is to be said on this question, and it is about time for a motion, or an amendment to the motion. I understand from the remarks that fell from the lips of the leader of the House that the Department of Justice is hostile to this measure. Before going any further in the consideration of this Bill I think we ought to have a report from the Minister of Justice stating his reasons for being opposed to the Bill. The Minister of Justice is away in Europe, and as I do not think there is any great hurry to pass this Bill, I would move that the House do not go into committee now, but that it go into committee six months hence. The motion is seconded by the honourable gentleman from Moncton (Hon. Mr. McSweeney).

Hon. Mr. McMEANS: The honourable gentleman has just made a statement with which I do not agree, and which I want to contradict. I hope in doing so I am not going to contradict the honourable leader of this House. Last evening I met the Acting Minister of Justice and spoke to him for two or three minutes. I told him that I should like to get an opportunity of speaking to him about a little Bill which I had in the Senate, dealing with an amendment to the criminal law. He said, "I have heard of it, but have not considered it with the department in any way whatever." He told me that he had not had an opportunity of going into it, and consequently was not in a position to say either yes or no in regard to it.

There has been considerable discussion in regard to this Bill, and it affords me a great deal of pleasure to know that some interest is being taken in it. I must confess that I introduced the Bill off my own bat, so to speak. After I had drafted it, and introduced it in this House, I spoke to a very eminent judge, a gentleman who