

across the continent to obtain a hearing before the Department of Justice.

I have a very strong view with regard to this Bill. I would like to see it become law because I can see that it might do a great deal of good, and I cannot see how it would reflect in any way on the judges or how it could injure any person.

Hon. Mr. WILLOUGHBY: I should like to make a few remarks which I did not make when the Bill was before the House on a previous occasion, as I was not present. I am not going to discuss the principle of the Bill at any length, because we are in Committee of the Whole, but I want to deal with one or two points.

Hon. Mr. BOSTOCK: I would point out to my honourable friend that we are not yet in Committee of the Whole. I think it would be better to go into Committee before we proceed further.

Hon. Mr. WILLOUGHBY: The Bill itself is not as wide in its scope as is apprehended by some honourable gentlemen who have spoken on it. It deals only with a conviction for an indictable offence. The offences for which the honourable gentleman from Antigonish states that an appeal to the quarter sessions in England is provided, might be only cases of summary conviction under our code. This Bill would not deal with such cases, because they are not indictable offences. Offences of a much more serious character are contemplated—offences that are usually tried at assizes or by summary trials under the Criminal Code. I would have liked to see the honourable gentleman (Hon. Mr. McMeans) bring in a Bill for a Court of Appeal. The powers of the Court of Appeal in England are very wide. The court as established in 1907 is given power to deal with any case referred on a point of law. It takes the place of the old Crown Cases Reserved with which all members of the legal fraternity are familiar. First, on the pure ground of law, there is a right to appeal to that Court of Appeal; secondly, on the point of fact, or on the mixed ground of fact and law, with the approval of the judge of first instance, or, failing that, the approval of the Court of Appeal; and there is also a right of appeal in cases of general public importance. So the right to appeal in England now exists on questions of law and fact, either with the approval of the court of first instance, that is, of the judge presiding, or that of the Court of Appeal;

Hon. Mr. ROSS.

and the Court of Appeal, on hearing the case, has the right to alter the conviction, imposing such sentence as might be imposed under our Criminal Code, that is to impose the right sentence under the law; but it has also the power to increase or diminish the sentence—the very power that is asked in the Bill which is now before us.

Hon. Mr. GIRROIR: Or to reverse.

Hon. Mr. WILLOUGHBY: Or to reverse. Before the Court of Appeal in England no witnesses are heard; it is purely an appellate tribunal, such as there would be in a civil case, where no fresh oral evidence is adduced. So that the witnesses do not appear again before the appellate court, and the judges presiding have no opportunity of looking at their demeanour. Apparently they are not embarrassed by that. I would have been prepared to go with the mover of this Bill if it had gone further, and had asked this House for the establishment of a court of appeal. As suggested by the honourable gentleman from Middleton (Hon. W. B. Ross), the work of the judges need not necessarily be greatly enhanced by reason of this Bill, because before there is an appeal you must get the permission of the Attorney General of the province; and doubtless, if this Bill passes into law, the Attorney General will, for his own guidance, have established a certain code of rules, and it is only after his permission is obtained that a case goes to the Court of Appeal. We must assume that the Attorney General of a province, the representative of His Majesty in that province, is not only a competent lawyer, but is ready to administer justice properly, and that he would deny a re-hearing of a case in the Court of Appeal upon an improper or trifling application. So I do not anticipate that there will be a very large number of cases to be heard in the Court of Appeal, because anything of a frivolous nature or an improper application would presumably meet with refusal upon the part of the Attorney General. If there has been an apparent inequality in sentences, as has been suggested by honourable gentlemen who have spoken, due to the temperament of the judges, or otherwise, there would be an opportunity of meting out equality and even justice to everybody.

The English Act preserves absolutely the right of clemency of the Crown as exercised by the Secretary of State, and this Bill does not propose to take away the