A FEW days ago a young German of the name of SPINASA was awaiting the penalty of death on a charge of murder. We believe most persons who read the account of the trial agreed that the offence of killing the young woman found dead near his sleeping-place was fully proved, also that it amounted in the letter of the law to murder, and also that, though legally a murder, it was morally a less serious kind of homicide. The HOME SECRETARY, after long delay and deliberation, arrived at this conclusion, and remitted the extreme sentence within less than two days of the time when it would have been carried into execution. This is just one of the cases in which the rigidity of our criminal law works injustice, and throws on the HOME SECRETARY a duty at once painful and unsatisfactory, making him the ultimate court of appeal from the decisions of the judge and jury whose duty it is to try the case. This, however, is not the worst class of appellate jurisdiction thrown on the HOME SECRETARY. Take the case of DR. SMETHURST. This gentleman was a medical man of small practice and bad character. He had a mistress of the name of BANKS who died under circumstances exciting strong suspicion. He was arrested, and a good deal of circumstantial evidence was found pointing to the conclusion that he had poisoned her. He was tried for the murder before the late CHIEF BARON, convicted, and sentenced to death by the judge, who declared that he was fully convinced of his guilt, and that the statement made by the prisoner after the verdict was pronounced had not produced the smallest effect in shaking his mind. The public, however, thought very differently. Medical men thought it extremely doubtful whether MISS BANKS had died of poison at all, and the end of it was that DR. SMETHURST was set free, the evidence at length being looked upon as so inconclusive that he was able to recover a sum for which her life had been insured in his favour. In this case the HOME SECRETARY, without holding any public investigation, without legal assistance or advice—so far as the public knew or could see—had to take on himself the duty of reversing the verdict of the jury, and setting aside the strongly expressed opinion of the learned and able judge by whom the whole case had been most thoroughly and patiently investigated.

Now that the Crown should have the power, in special emergencies, of stopping in and putting a stop to the execution of the law appears to us very desirable. There will, under any system, be a liability to mistakes which may be found out at the last moment, and the intervention of the Crown under such circumstances may be the best, and indeed the only, mode of preventing an irreparable and deplorable injustice. This, no doubt, was what was originally intended by the pardoning prerogative vested in the Crown. But the custom has got far beyond this. It is no longer a reasonable certainty, when a man is convicted of murder, that he will suffer the extreme penalty of the law. Perhaps the chance is rather against than for such a supposition. His trial, instead of being concluded when the judge puts on the black cap, has only entered on its first stage. The HOME SECRETARY has then, according to modern usage, to try the whole case over again, in secret, on quite different principles, and with no assistance except the Babel of Councillors in the press, in petitions, in private letters, in every conceivable agency by which even the calmest judgment might be disturbed, and the most determined will shaken. We say he has to try the case on different principles; for while the judge only tries whether the offence has been committed by the person accused, and whether it amounts to murder or manslaughter, the HOME SECRETARY has really to consider a third question, whether the legal murder of which the prisoner has been convicted is only a murder in law or a murder in morals. This decision is one of the most delicate and difficult that a person can have to make, and is sure, being privately formed, to excite dissatisfaction. Thus we have two excellent daily papers in London taking to an entirely opposite view about SPINASA'S case, the one highly approving of the determination of the HOME SECRETARY to remit the sentence, the other contending that if it is justly remitted in this instance it can never without injustice be inflicted in any other. But dissatisfaction is not the worst result. The chances of escape being multiplied, that certainty, which is the most deterrent quality of punishment, is entirely destroyed.

These defects in our jurisprudence point to two results. In the first place it is clear that there should be some classification of murder, by which offences, now legally bracketed together under this head, should be separated, and the capital sentence only inflicted on the more aggravated form of guilt. Had the jury been at liberty to distinguish between murder of the first and second degree, or whatever other classification may be preferred, they would probably have found SPINASA guilty of the latter and less heinous offence, in which case he would have been sentenced to a very severe penalty, which everybody would have felt that he deserved. There would have been no unhealthy commiseration, no petitions to arrest the course of the law, no appeal to an irresponsible and private tribunal, no room for public comment, no false hope held out to those whose passions might lead them in the same career of wicked violence. The law would have held its course with that inexorable justice and unswerving dignity which most impress the mind with salutary awe. Such an alteration of the law was recommended by a commission several years ago, and two bills were introduced on the subject, but unfortunately the attempt at reform has not yet proceeded further than the nebulous region of good intentions.

The other reform needed is a tribunal from which a criminal may appeal for a new trial. Is it satisfactory that such a person as DR. SMETHURST should be set free, after a jury had found him guilty, with the full concurrence of the judge, without any public investigation, on the simple judgment of a gentleman not necessarily connected with the law and not even armed with the slightest legal authority for investigating the case? If the HOME SECRETARY'S decision in that case was right, as no doubt it was, surely it would have been more satisfactory to DR. SMETHURST and to the public that his innocence should have been legally established. If a mistake were made, which, however, we only imagine for argument's sake, then the whole machinery of law would have been set aside, and the hand of justice arrested in a case where it ought to have fallen with unsparing rigour, simply because the Home Secretary for the time being wrongly set up his own private judgment against that of the public tribunals of the land. Or, take the case of JESSIE M'LACHLAN, which will probably be in the recollection of most of our readers, and of MICHAEL M'CABE, which will not be forgotten by many persons in mature life in the neighbourhood of Mirfield. In both these cases the prisoners were convicted of murder, but after their conviction circumstances were brought to light which rendered it probable that, though accomplices after the fact, they were not themselves partners in the deed of blood. The HOME SECRETARY remitted the sentence of death, and still kept them in prison, a very proper punishment, no doubt, but one entirely of his own devising. The fact is, they were both of them convicted of one offence, and punished for another; for though legally the offences might go by the same name, they are in common sense altogether different, as the different punishment sufficiently proves. Taking them as different crimes, then, what inference must we draw? Why, simply that the HOME SECRETARY has tried, convicted, sentenced, and punished them for an offence of which they are probably guilty, but on which they have never been arraigned, and of which they have never been convicted by any legal tribunal. Now all this practical injustice and confusion might be avoided by a competent Court of Criminal Appeal—not a court, as at present, just set up to try legal questions, but a court with power to review the whole case, to receive new evidence if it be forthcoming, and to deal to life and liberty the same measure of justice that it now deals to property and character. If a man libels another, he can have the case tried, and can apply for a new trial on the ground that the verdict is contrary to evidence. If a man charges another with rape or arson, the accused person is tried, and has no appeal against a verdict which utterly blights his character and destroys his liberty. If the charge is one of putting a dog to death cruelly, the law is careful to give an appeal; if it is one of the most hideous and appalling wickedness, the most flagrantly unjust verdict is, like the law of the Medes and Persians, irreversible. If the question is whether A or B is entitled to £500, no end of courts are open, and the matter may be carried up to the highest tribunal of the land. If the question is whether a person is or is not worthy of death, the law declares that one court is quite enough, and that the matter is too trivial to be carried any higher. One of the most urgent reforms of our legal system is a properly constituted Court of Appeal in criminal cases.