

## RECENT ENGLISH DECISIONS.

must necessarily have been frequently acted on during that time, and no one has gone to the Legislature to have it altered, this Court of Appeal, even if it differed from such decision, would not now be disposed to over-rule it.

## CRIMINAL INFORMATION—LIBEL ON DECEASED FOREIGN NOBLEMAN.

The next case, *The Queen v. Labouchere*, p. 320, was an application for a rule calling upon the defendant to shew cause why a criminal information should not be filed against him for a libel upon the deceased, father of the applicant, who was the Duke of Vallembrorsa. The libel complained of, it may be remembered was a paragraph in *Truth* stating that the father of the applicant had been "an army contractor who was nearly hanged on the charge of supplying as meat to a French army corps the flesh of soldiers who had died in the hospital or who had been killed in battle." In his judgment Lord Coleridge, C.J., states that acting under the power conferred by the Judicature Acts, he had brought together five judges of the High Court, to establish, if possible, upon unusual authority some principles for the guidance of the Court in future in respect to criminal informations. The result arrived at by the concurrent judgment of all the judges is that criminal informations should be granted only in cases which come fairly within the language of Sir W. Blackstone when he says (Book iv. c. 23, p. 309):—"The objects of the other species of information filed by the master of the Crown Office upon the complaint or relation of a private subject are, any gross and notorious misdemeanours, riots, batteries, libels, and other immoralities of an atrocious kind not peculiarly tending to disturb the government (for these are left to the care of the Attorney-General), but which, on account of their magnitude or pernicious example, deserve the most public animadversion." Therefore the ap-

plication was refused in the present case, the applicant being a private person, and the libel in question not falling within the above language of Sir W. Blackstone. It was observed also that the fact that the applicant did not reside in England was a strong reason for rejecting the application, and moreover that weight of authority was in favour of the view that an application for a criminal information for a libel upon a deceased person made by his representative will not be granted. Denman, J., finally, takes occasion to observe that he could not accept the passage from Blackstone as being quite an exhaustive description of the cases in which the Court ought to interfere. "For example," he says, "if a newspaper or an individual were to shew by repeated attacks, and by wide circulation of those attacks, upon a private individual, whether a British subject or a foreigner, whether resident in England or abroad, a persistent determination to persecute, as at present advised I should think it would be the duty of the Court to protect the individual by granting a rule, and even, in case of further persistence, by making it absolute."

Next follows certain practice cases which will be noted in the proper place, and certain decisions on the subject of parliamentary and municipal franchise, the income tax, and certain special English acts which it is not necessary to mention, and the only remaining case which it seems important to note among the Queen's Bench Division cases, is *The Queen v. Master Manley Smith*, p. 481.

## MANDAMUS—PETITION OF RIGHT.

In this case the question is raised whether a mandamus should be granted to an applicant, when it was open to him to seek his remedy by a petition of right; in other words whether a petition of right was such a specific legal remedy that the existence of it should prevent the issuing