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COURTS OF APPEAL IN CRIMINAL CASES.

In the House of Lords, on August 15, Lord Fitzgerald, in asking whether the Government would take into consideration during the coming Parliamentary recess the question of constituting an effective Court of Appeal in criminal cases tried in the Superior Courts of criminal jurisdiction or at quarter sessions, and, if deemed expedient, present a measure to Parliament during the next session to effect that object, made the following observations: 'The absence of a Court of Appeal in criminal cases had for years been condemned, and by successive Governments. A commission sat in 1878, composed of Lord Blackburn (who presided), Mr. Justice Montague Smith, Mr. Justice Stephen, and Lord Justice Barry (of the Court of Appeal in Ireland) among other members. Their conclusion was unanimous that this blot upon the criminal jurisdiction of England, which did not exist in any other civilized country, ought to be removed. In addition, Sir J. Holker and Mr. Justice Stephen between them prepared a bill, which was presented to Parliament in 1878. Again, the Government of which Lord Herschell was Solicitor-General in 1880 presented a bill in the House of Commons having the same object, but it was not carried through. Recent circumstances had forced those questions on their attention. There was a remarkable contrast in that respect between civil and criminal jurisdiction. While life and liberty were left entirely at the mercy of the primary tribunal, civil rights of property were continuously protected and guarded. Upon a recent occasion there was a case before the House of Lords in which the sum in controversy between the parties was 11*l*. It had begun in the County Court, and had gone first to the Divisional Court, thence to the Court of Appeal, and finally to the House of Lords. Where a sum of 500 rupees was involved one of Her Majesty's subjects in India would be entitled to carry a case through the Courts in that country and finally to the Judicial Committee of the Privy Council. He did not conceal from himself that the subject was one of very great difficulty. The difficulties, however, were not insuperable, and he had brought the matter forward now with a view to its being considered during the recess. In the present state of things, when there was an appeal to the mercy of Her Majesty for the remission of a sentence, it was based on the supposition that the conviction was right. Her Majesty exercised her prerogative of mercy through the Home Secretary. The Home Secretary was not a judge, and he had not the power of a judge; he had not power to examine witnesses or to administer an oath; he carried on his inquiry or rehearing of a case as best he could, with the aid of the report of the judge before whom the trial had taken place. When he advised Her Majesty upon the subject he gave no reason whatever for his advice. The whole proceeding appeared to be anomalous, illogical, and in some respects unconstitutional. He would substitute for it, if possible, a Court of Appeal—appeal upon the facts and the merits, where, if a mistake had been committed, a new trial might be accorded, or, at any rate, right might be done according to law and justice. The time for action seemed to be opportune, because public attention had been directed to the subject, and no commission was required to obtain materials, which would be found in the report of the commission of 1878-79. While, no doubt, there were difficulties to be encountered in dealing with this subject, there was scarcely any one who doubted that the law of England ought to be altered. A bill was presented in 1878, and another in 1881; and the fault of the former probably was that it was too extensive and attempted to cover too much ground. A measure of a limited character ought to be passed at first, and he saw no impracticability in a measure of that kind being introduced and carried by the noble lord on the woolsack, whose experience specially fitted him for the task. There was a class of cases in which it was