

three trials before the House of Lords sitting in this capacity; namely, the trial of Lord Byron (the poet's grand-uncle) in 1765, for killing Mr. Chaworth in a irregular duel; the trial of the Duchess of Kingston for bigamy in 1776; and the trial of Lord Cardigan in 1841 for wounding Mr. Tuckett in a duel.

These are all the Courts ordinary and extraordinary which at present exercise criminal jurisdiction of any importance in England, but great historical and legal interest attaches to the criminal jurisdiction of the Privy Council. The criminal Law of England in early times was vague and meagre, and the system by which it is administered (trial by jury) was open to every sort of corrupt influence. Indeed, the local power of the aristocracy during the fourteenth and fifteenth centuries was so great that trial by jury was in many cases a farce. There are many curious proofs of this in the Parliament rolls and elsewhere. Under these circumstances the Lord Chancellor exercised in civil cases, powers which Lord Bacon compared to the powers of the prætors and censors in ancient Rome. The intervention of the Lord Chancellor in civil cases was accepted by the public, struck deep roots in English law, and introduced by degrees the system of jurisprudence which we call "equity," and which has done much to correct the faults and fill up the deficiencies of the common law. The Privy Council (sitting under the title of the Court of Star Chamber) tried to do the same with regard to the criminal law, and I have little doubt that if it had exercised its powers discreetly and fairly, it would have succeeded in doing so. It rendered, in fact, considerable services by punishing persons whose local influence enabled them to intimidate juries and to set the ordinary courts at defiance, and by punishing a variety of offences which for different reasons were not regarded as crimes by the common law. Perjury by a witness, for instance, was not a criminal offence till it was treated as such by the Star Chamber.

Whatever may have been its merits, however, there can be no doubt that under James the First and Charles the First the Court of Star Chamber became oppressive in the highest degree, attempting by cruel and arbitrary punishments to put down the expression of all opinions unwelcome to the then Government.

This brought about its abolition, which was effected by one of the first acts of the Long Parliament in the year 1640. After the restoration the Court of King's Bench took upon itself some of the functions of the Star Chamber, and in particular recognised and acted upon most of the additions which it had tacitly made to the original criminal law.

A remnant of the criminal jurisdiction of the Privy Council survived the destruction of the Court of Star Chamber, and still exists. In all cases arising in India or the colonies, an appeal lies from all Courts of Justice, civil or criminal, to the Queen, and such appeals are heard by the Judicial Committee of the Privy Council. Such appeals are hardly ever permitted in criminal cases; but sometimes a legal question of peculiar difficulty and novelty may arise which it is desirable to decide upon the highest authority, and in such cases the Judicial Committee of the Privy Council is the body before which it is heard. The committee is not, strictly speaking, a Court. It is a body of advisers by whose opinion Her Majesty is guided in the orders which she gives.

[To be continued.]

NOTES OF CASES.

COURT OF REVIEW.

MONTREAL, June 30, 1882.

TORRANCE, RAINVILLE, MATHIEU, JJ.

[From S. C., Montreal.

BRAIS V. CORPORATION OF LONGUEUIL.

Damages for criminal prosecution—Probable cause.

The inscription was from a judgment rendered by the Superior Court, Montreal, Mackay J., November 26, 1881.

The plaintiff complained of the defendants, that they had illegally arrested him and caused his detention while they had a warrant prepared against him, and then compelled him to give security to appear on a subsequent day. It appeared in evidence that on the 15th January, 1881, the plaintiff removed a barrier which had been placed by the corporation on a piece of land donated to the city, called the Quinn Avenue. There was a constable present to prevent people passing through, and he arrested