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of Prag.

CRIMINAL INVESTIGATION

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Public Prosecutor, Madras,

AND

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MCMVI.

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CRIMINAL INVESTIGATION

A PRACTICAL HANDBOOK

FOR

MAGISTRATES, POLICE OFFICERS, AND LAWYERS

Translated and adapted to Indian and Colonial practice from the

SYSTEM DER KRIMINALISTIK

OF

DR. HANS GROSS,

Professor of Criminology in the University of Prág.

BY

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MADRAS:

PRINTED BY G. RAMASAWMY CHETTY & Co
3, MALIAPERUMAL STREET.

PREFACE.

This volume is designed to be a working hand-book for all engaged or interested in Criminal Investigation. It has, by special permission, been translated and adapted from the well-known work of *Dr. Hans Gross*, professor of Criminology in the University of Prág and special lecturer on that subject in the University of Vienna. Translations have already appeared in various languages, including Spanish, Danish, Russian, Hungarian, Servian, and Japanese. Dr. Gross, by his wide and varied experience, as *Dr. Gross* taught, to use his own words in his introduction, for many years "body and soul" to the study of Criminology. *L. Gardeil*, Professor of Criminal Law in the French Translation to French, describes him as "an admirable observer; a far-seeing psychologist; a man who discerns the truth, whether in fact or theory; a clever craftsman; in turn, draughtsman; having acquired by long experience a knowledge of the practices of criminals, robbers, traitors, &c.; the researches and experiences of man in the field of criminal law; it is a living technical treatise; it is a living encyclopædia."

The aim of the adaptors has been to give particular utility to any person, however ignorant of the language or part of the world, to whom the book may be given. The information of peculiar interest contained in the book has been attempted to apply many of the principles and qualities contained in the original work of *Dr. Gross*. The parts of *Dr. Gross's* work have been omitted which do not bear upon the subject of Criminal Investigation.

The book, following the original work, is divided into four parts. Part I. is designed to give the general principles and qualities required of an investigator unfitted for the practice of the law; and, in the second part, the assistance science can afford to the investigator.

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The aim of the adaptors has been, while omitting nothing of general or particular utility to any person investigating crime, no matter in what capacity or part of the world, to combine and include therewith a mass of information of peculiar interest in India. At the same time they have attempted to apply many of the illustrative criminal cases and principles contained in the original work to the Indian point of view. Many sections of *Dr. Gross's* work have been greatly enlarged and elaborated, and no pains have been spared to bring the whole quite up to date.

The book, following the author's arrangement, has been divided into four parts. Part I. is designed, in the first place, to enunciate those general principles and qualities, the lack or neglect of which proclaim an investigator unfitted for the sphere in life in which it is his misfortune to be placed; and, in the second place, to inform him in a general way what assistance science can afford in the investigation of crime, and

in a more detailed manner to show in just what cases expert knowledge may be effectively brought to bear. Advice is also given regarding the examination of witnesses and accused and the inspection of localities. Parts II. and III. deal respectively with various heads of knowledge and certain handicrafts with which every Investigating Officer should be thoroughly well acquainted; while Part IV. gives information upon the methods of criminals in committing particular offences, much of which may be new even to experienced detectives.

This Indian and Colonial edition, while omitting some portions of the original which would be of no use to the practical worker, for example, the slang words of Bohemian gipsies, thus contains much new and interesting matter, the better to adapt the book for India and the Colonies, and also to bring the last German edition of 1904 thoroughly up to date. These new passages, derived from the writings of specialists, the latest criminal intelligence, and the somewhat extensive experience of the adaptors as criminal lawyers, are interwoven with the text.

For the specialist, desiring to pursue his studies further in any specific department, Appendixes I. and II. are particularly intended. Appendix I. contains the information which, in the German original and in many works of this description, is relegated to foot-notes. Experience teaches that in a volume designed as a popular handbook as well as a scientific guide, such foot-notes are embarrassing, breaking the general thread of the discourse and distracting the attention of the reader. Accordingly each authority, as and when mentioned in the text, is distinguished by a consecutive index figure, under which figure in Appendix I. the complete reference will be found. A few exceptions to this rule occur in the cases of important writers, whose names and the titles of whose works are given in full in the text. Appendix II. is an alphabetical list of the authorities included in Appendix I. or specially quoted in the text, with references to the various pages of the book on which each is mentioned. These two Appendixes combined will thus, it is hoped, be found by the student to constitute a complete working apparatus. The Index is a comprehensive Index to the whole work, with cross references, of which we shall only permit ourselves to say that we have endeavoured to make it as useful as every index should be.

The German and French editions of this work were each published in two volumes. For a book of reference, presenting no definite line of demarcation, the two-volume *format* is neither convenient nor popular. Any one accustomed to employ as working tools such books as *Taylor*

"*On Evidence*", or *Taylor's "Medical Jurisprudence"*, will cordially agree. At the same time, a great and bulky book is a terrible nuisance. We believe that, with the help of the modern paper-maker, who has provided a thin yet opaque paper, of strong texture and adapted for block-printing, we have been enabled to offer our readers a book, great but not bulky, which will prove no nuisance but a pleasure, physically, to handle and to read.

A word may be said to anticipate the possible criticism that the translation is too free. We have made no attempt to produce a strictly literal interpretation. In translating a classic, where the style and language may be as important as, perhaps more important than, the matter, verbal accuracy may be desiderated; but, where the matter is all in all, we believe its import can be best conveyed through a medium natural to the reader. This is perhaps more especially the case where the original is in German, and from the pen of a German scientist, though we must admit that few German pens are less open to the reproach of German dryness than the lively and often humorous weapon wielded by *Dr. Gross*. Hence, while neither deprecating scientific accuracy of treatment nor shirking the *limea labor et mora*, we have endeavoured to present our results in a language readily understood of the multitude.

As to the illustrations, those appearing in the German work are reproduced from the original blocks, but a very considerable number are special to this edition. *Plates II.—VI.* are from original impressions and drawings supplied by the *Government of Madras*; *Plates VII.—XI.* are from photographs furnished by *Mr. Joseph Farndale*, Chief Constable of Bradford, as acknowledged in the text; *Figures 40, 41, 42* are copied from *Egerton Castle's "Catalogue of Weapons in the Indian Museum, London"*; *Figures 45, 61—77, 129 and 150* are drawn, by permission of the *Inspector-General of Police, Madras*, from examples preserved in the Museum attached to his Office. The botanical drawings, *Figures 116—121* and *126—128*, have been prepared from specimens procured with the assistance of *Lt. Col. J. L. Van Geyzel, I. M. S.*, Chemical Examiner to the Government of Madras. The plants portrayed in *Figures 122—125*, not being readily obtainable in Madras, recourse was had to the illustrations in *Lyon's Medical Jurisprudence*, so frequently referred to in the text. The blocks, both half-tone and line, for all the illustrations here specifically mentioned and also for *Figure 82*, have been executed by the *Methodist Episcopal Press, Madras*. The blocks for *Figures 43, 44, 46—50, 52, 53, 55*, were lent by *Messrs. Oakes & Co., Ltd.*, the

well-known gunsmiths of Madras. To all collaborators here mentioned our cordial thanks are due.

Many works of experts have been referred to and from some of these excerpts have been made, we trust to no unreasonable extent. We believe that no quotation or extract has been taken from any author without acknowledgment *in loco*, and we have endeavoured so to frame our selections that they may prove signposts, guiding the reader from our pages to the fountainhead.

Despite the most assiduous care on the part of both editors and printers' readers, we fear many press errors have crept in; for these, and all other deficiencies, we can only plead the difficulties attending the production of a First Edition of a work of this nature, and hope that, with the aid of our friendly critics, they may be amended, should a Second Edition be called for. In this connection we have specially to thank *Lt. Col. J. L. Van Geyzel*, already mentioned, for kindly reading the proof sheets of *Chapter XVI*, sections viii and ix; and *Chapter XVIII*, section ii, sub-section 2, and making many valuable suggestions. Our thanks are also due to *Mr. K. S. Gopalratnam Iyer, B.A., B.L.*, who has carefully read the final proof-sheets of a great portion of the book.

In conclusion, we trust no one will imagine that the author and editors claim for this work either completeness or finality. The extent of the subject forbids the former, the nature of it vetoes the latter. In remedying its deficiencies and imperfections, we hope to receive the assistance of all who take a living interest in the subject. Such support has enabled *Dr. Gross* to enlarge his work to its present dimensions, and to furnish it with a comrade in the shape of his "*Archiv fur Kriminal-Anthropologie und Kriminalistik*", now in its twenty-fourth volume. Any information or suggestion, no matter on how small a point, will be thankfully received by us and utilised for rendering any future issue more serviceable and thoroughly up-to-date.

JOHN ADAM.

J. COLLYER ADAM.

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- 77 *line 14 from bottom after Psychology* insert references (69—78).
78 " 1 " *top* " Ribot " reference (80).
100 " 11 " " *for indispensable* read indispensable.
133 " 16 " " identified " identified.
166 *after heading Mental Affections* insert reference (230).
184 *line 18 from top after Mendel* " references (329—332).
185 " 18 " *bottom* " exists " (333—340).
192 " 4 " " *for accessory* read accessory.
193 *after heading Excrement* insert references (392—396).
222 *line 7 from top for igneous* read ligneous.
223 " 9 " " " Chapter VI., Chapter XVI.
282 " 11 " *bottom after chemically treated add with hydrofluoric acid.*
295 " 18 " *top* " columns insert references (536, 537).
316 " 19 " " *for mention* read mentions.
320 " 1 " " " it " if.
399 " 15 " " forgotton " forgotten.
348 *in sub-heading for 3. Marks of Stigmata* read E. Marks of Stigmata.
394 *line 1 from bottom for (427) read (727).*
395 " 6 " " he " her.
405 *after heading Superstitions regarding oaths* insert references (748—781).
436 *line 8 from bottom for sulphuric* read sulphuric.
586 " 11 " " window frame " window pane.
611 " 10 " *top* " a on i " a ou i.
648 " 13 " " Englishman " English.
670 " 12 " " occurrences " occurrence.
746 " 9 " " thrust " thrust
774 " 11 " *bottom* " where-ever " wherever.
847 " 8 " " Sudra " non-Brahmin.
Appendix I No. 26 *for Goerres* Lindenbergs
451 .. Megnin " Meguin
583 .. Do. " Gross
635 .. Weissenbruch " Weisserbruch
814 .. Mendel, Ch. " Reiss, R.A.
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INTRODUCTION.

The aim of this book is to be as practical as possible. It is not a law book, though we confidently hope that it will be of the greatest interest to lawyers. It is not a work on medical jurisprudence, though we trust that medical men will find it useful and suggestive. It is a Manual of Instruction for all engaged in investigating crime, its aim being, not only to deal in detail with subjects coming directly within the province of a criminal investigator, but also to inform that official in what cases and in what manner specialists may or must be resorted to. At what stage of the inquiry the rôle of the expert begins, depends almost entirely upon the person conducting the inquiry. If the latter is unaware, for example, that a chemist can bring out with the help of his science an almost invisible impression of a finger upon a drinking glass, there is small chance of the drinking glass either being examined or ever reaching the chemist's hands. An investigator with a fair equipment of knowledge will be aware, almost instinctively, just when to invoke the assistance of experts in many cases wherein another would not dream of doing so.

We of course foresee and meet on the threshold the charge of encroaching upon the province, and thereby attempting to dispense with the help, of specialists. Nothing could be more harmful than such advice, nothing could so expose the investigator to mistakes as such fancied independence. But there is a vast gulf between permitting an Investigating Officer to undertake work beyond his sphere and instructing him how to recognise *when he ought to resort to experts, what experts should be chosen, and what questions must be submitted to them*; just as an attorney requires long training and much knowledge of law to be able to state his case effectively for the opinion of the advocate. *Cui libet in suā arte perito credendum est.*

As a rule, these three considerations alone will present themselves. But there are also cases, nor are they extremely rare, where the Investigating Officer must *himself* play the rôle of expert.

1. In all cases where no real experts exist and where a little reflection alone is required ; *e.g.*, in cases of falsification of documents, as to inaccuracies, anachronisms, inconsistencies, in the text as a whole, unless the case has to do with documents of such age as to necessitate the aid of experts in history or genealogy. Other instances are the observation of footprints, the deciphering of writing, questions concerning superstition, etc.

2. In the numerous cases where, no expert being at hand, it is necessary for the Investigating Officer to act without delay, for example, make an arrest, conduct a search, or revisit the scene of a crime. The Investigating Officer is often placed in such a situation. Out in the country, it happens as often as not that no qualified medical man is to be found in the place ; or it may be that the nature of the case itself precludes the Investigating Officer from at once consulting a medical man, though medical knowledge would be of great assistance to him. There are again cases in which the Investigating Officer is obliged to journey far into his district. He cannot take a medical man with him from head-quarters in all such cases, in fact his first information may not show the slightest necessity for one. Suppose for example a District or Assistant Superintendent of Police is summoned to what is reported to be a very important case of arson, necessitating his personal investigation. He goes off 30, 40, or even 50 miles, away into the wilds of his district and discovers that the arson has apparently been committed to conceal a murder or an attempted murder. He has to decide whether an incinerated corpse is that of a murdered man or of one accidentally burnt in the fire. He has no medical expert with him—he has no means of getting one within a reasonable time—he is under the necessity of at once coming to some conclusion on the matter—he must rely entirely upon his own special knowledge ; his method of procedure at this moment will have the very greatest influence upon the result of the inquiry.

3. Finally and not the least important, especially as regards India, experts of the first rank are seldom to be found. The Chemical Examiners to Government, the Lecturers on Medical Jurisprudence at Head-quarters, the Government Experts in Finger-prints, know well just what they have to say and do and how to say and do it ; but the same cannot be affirmed of the ordinary country hospital assistant or apothecary, who is perhaps only at the outset of his career and indeed can seldom be called an expert at all. In some parts of India the danger is all the greater, when, as in the Presidency of Madras, hospital assistants are

called upon to make *post-mortems*, to draw up reports, and give evidence in important murder trials. The ordinary official of this grade does so without the slightest hesitation, makes statements and draws conclusions with the utmost rashness, declining to admit his inability to reply to a question a far more experienced man would shrink from answering, and entirely forgetting that the life of a fellow human being may be dependent on his words. This is no random assertion ; the records of our Criminal Courts amply bear it out, and high medical authority could be quoted for the opinion that no non-gazetted medical officer, *i.e.*, no one below the rank of Assistant-Surgeon, should be permitted to conduct a *post-mortem* examination in a suspicious case and make a report thereon. Frequently medical men, even men of long experience, have never learnt the art of drawing up a satisfactory report in a criminal matter. They may know their trade thoroughly and be able to give most useful information, but are incapable in a criminal matter of applying their knowledge and answering questions put to them with any precision. Without the slightest intention of frustrating the ends of justice, they fall victims to the wiles of the expert cross-examiner, losing both their heads and their tempers. Finally a workman, a shikari, or a cultivator cannot be expected to find just the correct expression or to put into words exactly what he desires to say, especially from the point of view of the Investigating Officer. It must never be forgotten that the best of experts is far from being a criminalist. The Investigating Officer must therefore know something more than what is set out in the Codes, if he wants to obtain answers to the point. And if he is entirely ignorant on all matters connected with outside knowledge, he cannot gain that assistance from specialists which they would otherwise be able to afford.

The reason of the remarkable success of the original of this book in Europe is due to the circumstance, forcibly stated by *M. Gardeil*, already quoted, that "it responds to a real demand ; it fills a gap, which not only existed in the juristic literature of Germany, but exists to-day in France and most other countries." The realization of the same *lacuna* led the Congress of the International Union of Criminal Law, held at Linz, August 1895, to pass the following Resolution :—"In order that criminal investigators may be better trained and educated for the work before them, it is desirable that the texts of the criminal codes should not be the sole subjects of instruction ; it is to be hoped that—by special courses of instruction or otherwise—wider and deeper notions may be imparted to them on the general causes of crime, the striking peculiarities of the

criminal world, and the best methods to adopt in criminal inquiries and the infliction of penalties".

We most cordially endorse the view here formulated. An Investigating Officer requires in the execution of his duties very much more knowledge than can be given him by the Codes, supplemented by annotations and case law. No doubt the Investigating Officer can find much of the requisite information in a mass of books, yet some is to be found nowhere ; as to the books themselves, they are not always to his hand, and when he has them at his disposition, he speedily realizes that a man without some knowledge of a subject cannot intelligently use a scientific manual. It is impossible for him to find the notions he is in need of, united in one systematic whole ; and he has often neither time nor opportunity to question anyone in a position to give him information. He is thus generally compelled to fall back on his own resources, or on some guide easy to consult and capable of giving him the starting point necessary in the majority of cases that arise. In fact he wants a book of "First Aid". The present volume is intended to be such an auxiliary ; in any event we trust that the beginner will find in it a practical guide, at least for the outset, on his journey, and possibly even through the inevitable slough of despond.

We should not here overlook the valuable work now being done in practical training by the Police Schools, recently established in many parts of India. We trust both teachers and pupils in such Institutions will find something useful in our pages.

When the scheme of the book first took shape, the idea was to have the different parts treated by specialists : medical jurisprudence by a physician and surgeon, the science of arms by an armourer, the chapter on photography by a photographer, etc. We must allow that if treated in this way the various chapters would have been set out in a more scientific manner ; but it soon appeared that we should miss our true aim ; there are in fact enough works on such subjects, but unhappily they have not been written for the Investigating Officer or with the aim he pursues kept steadily in view, the result being that he cannot find what he has immediate need of. The specialist cannot place himself in the position and stead of the jurist, who, without being a specialist beyond his own profession, ought nevertheless to possess special information ; the expert can teach him many things, but not those just necessary. This plan was therefore abandoned and the work has been written throughout by the author and the adaptors, profitting, it is thankfully acknowledged

by the abundant labours of others, supplemented at every turn by personal research and experience.

For various reasons some subjects of interest to an Investigating Officer have not been treated of exhaustively: a full discussion would encroach too extensively upon subjects outside his province, would be beyond the compass of a handbook, or perhaps prove profitable to the criminal classes and so harmful to the public.

We may here enter a perhaps unnecessary *caveat* against any supposition that Investigating Officers are expected immediately to sit down and "cram" this book from beginning to end or at once to attain the ideal of an Investigating Officer promulgated in *Chapter I*. That is in truth an "ideal", a "counsel of perfection"—but if there were no mountain tops who could exclaim *Excelsior*?

The object of the book then is to show how crime is to be handled, investigated, and accounted for, to explain the motives at work and the objects to be attained. The legal aspect of arson, for example, and the punishment appropriate thereto, the principles of the criminal law, the laws of evidence, and the rules of procedure to be followed in the trial of a case are barely within our limits; but how the arson was accomplished, what means and assistance the incendiary had at his disposal, how its origin may be accounted for, the character of the criminal and—here comes in criminal psychology—the weight to be attached to the testimony of the witnesses, the consideration of errors in observation and deduction, to which judge, jury, and all who have to deal with crime, are exposed,—these things are part and parcel of our subject.

Abstract legal knowledge is practically worthless where the Judge, Magistrate, or Policeman cannot make it fit in with facts, when he does not understand the witnesses, or appreciates them erroneously, when he assesses wrongly the worth of sense perceptions, when he is led astray by every bit of roguery, when he does not know how to make use of traces left behind by the criminal, and especially when he does not know the numberless facts systematised in *Criminal Phenomenology*.

It must be admitted that at the present day the value of the deposition of even a truthful witness is much over-rated. The numberless errors in perceptions derived from the senses, the faults of memory, the far-reaching differences in human beings as regards age, sex, nature, culture, mood of the moment, health, passionate excitement, environment, all these things have so great an effect that we scarcely ever receive two *quite similar* accounts of one thing; and between what people

really experience and what they confidently assert, we find only error heaped upon error. Out of the mouths of two witnesses we *may* arrive at the real truth, we may form for ourselves an idea of the circumstances of an occurrence and satisfy ourselves concerning it, but the evidence will seldom be true and material; and whoever goes more closely into the matter will not silence his conscience, even after listening to ten witnesses. Evil design and artful deception, mistakes and errors, most of all the closing of the eyes and the belief that what is stated in evidence has really been seen, are characteristics of so very many witnesses, that absolutely unbiased testimony can hardly be imagined. If Criminal Psychology teaches us this much, so the other parts of the subject show us the value of facts, where they can be obtained, how they can be held fast and appraised—these things are just as important as to show what can be done with the facts when obtained. The trace of a crime discovered and turned to good account, a correct sketch be it ever so simple, a microscopic slide, a deciphered correspondence, a photograph of a person or object, a tatooing, a restored piece of burnt paper, a careful survey, a thousand more material things are all examples of incorruptible, disinterested, and enduring testimony from which mistaken, inaccurate, and biased perceptions, as well as evil intention, perjury, and unlawful co-operation, are excluded. As the science of Criminal Investigation proceeds, oral testimony falls behind and the importance of realistic proof advances; “circumstances cannot lie”, witnesses can and do. The upshot is that when the case comes for trial we may call as many witnesses as we like, but the realistic or, as lawyers call them, circumstantial proofs must be collected, compared, and arranged beforehand, so that the chief importance will attach not so much to the trial itself as to the Preliminary Inquiry.

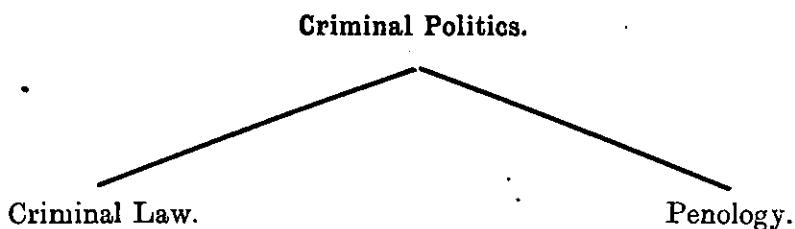
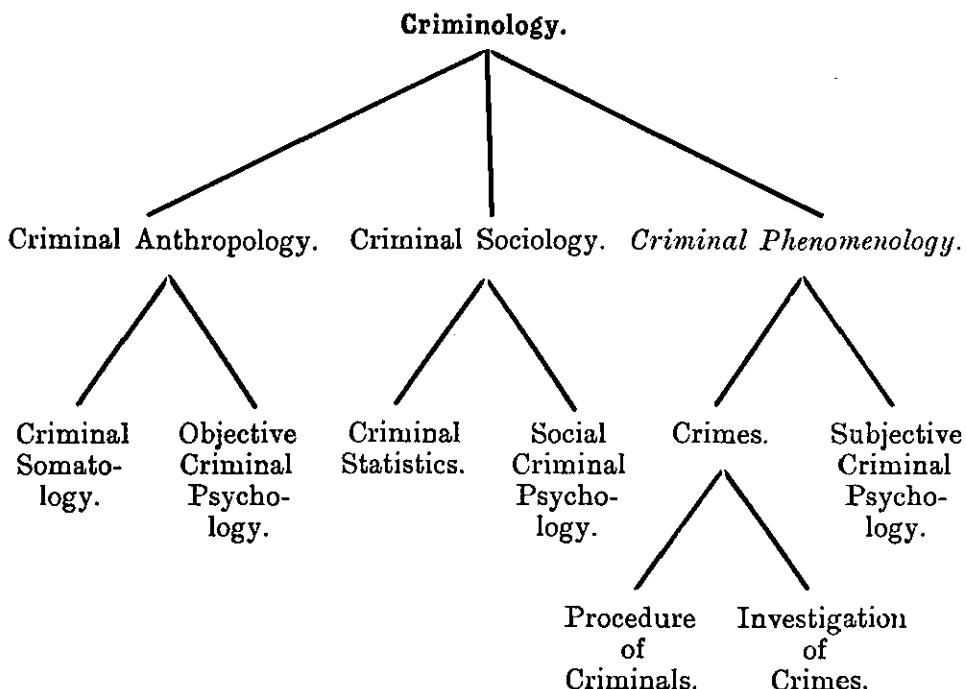
The truth of this is but too often apparent in India, and can well be exemplified by the procedure of High Court Judges hearing Criminal Appeals. Their first act on taking up the papers is to examine, with the greatest care and so far as the often very incomplete record will permit, the progress of the inquiry; and if serious flaws are found therein, as not infrequently is the case, they attach little or no weight to the depositions of the witnesses at the trial.

We venture to hope that this book will be of use to many besides Investigating Officers properly so called. Throughout the work the expression “Investigating Officer” is used as a compendious term to include all persons engaged in the investigation, official or non-official, of

criminal cases. In India an inquiry is conducted sometimes by Magistrates (under *Chapter XIV of the Criminal Procedure Code*), sometimes by the Police (under the same Chapter and the various Police Acts), sometimes by interested parties, assisted, more or less, by their legal advisers. To all these classes, as well as to judges of all ranks and medical officers of all grades, this work is intended to appeal.

We may remind our readers that the subject with which this book deals in part, *Criminal Phenomenology*, is but one branch of the wider science of *Criminology*. The study of this subject has not been taken up by English-speaking nations with any sincerity of purpose or vigour of attack. One or two explorers, indeed, have grappled with the subject, but the text books used are for the most part those of other nations—Italy, France, Germany. Even in the United States, lawyers have chiefly directed their attention to what is known as *Criminal Politics*. This subject—it can hardly be called a branch of Criminology, standing as it does on a footing of its own—comprises two sub-branches; firstly the science of the criminal law, which indeed all nations have been forced to consider, and secondly penology, the science that treats of the punishment and prevention of crime and of the management of prisons and reformatories. America has attempted, and with considerable success, to define the principles upon which the infliction of punishment should be based, and the exposition by her lawyers of the principles of the criminal law has been accepted and admired both in England and in India. The Italian School has dived deep down into the psychological branch of criminology and has propounded many original ideas, but according to the general opinion of European criminologists it has to some extent lost sight of the practical in its desire to carry its pet theories to a never attainable conclusion. French criminologists on the other hand have studied the subject from a more utilitarian point of view, paying particular attention to what is termed *Phenomenology*.

It is, however, to the German speaking races we must turn to find *Criminology* thoroughly attacked in all its branches. This science has been by them recognised as a subject for really serious study, and very few German Universities do not possess a chair of *Criminology*, with courses of lectures and classes thereon. The appended table gives the scheme drawn up by a recognised authority, and shows the place occupied by *Phenomenology* in the syllabus.



*Note.—As these pages are passing through the press we are in receipt of a work just published, *Psychology applied to Legal Evidence*, by G. F. Arnold, I. C. S. We regret we can do no more here than welcome it as an original and interesting contribution to the science of *Criminal Psychology*.*

“What is truth? said jesting Pilate; and would not stay for an answer. Yet truth, which only doth judge itself, teacheth that the inquiry of truth, which is the lovemaking or wooing of it, the knowledge of truth, which is the presence of it, and the belief of truth, which is the enjoying of it, is the sovereign good of human nature.”

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APPENDIX I.

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