

THE LAW OF CRIMES.

THE
LAW OF CRIMES

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&c., &c.*

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PREFACE TO THE ELEVENTH EDITION.

THAT a new edition of this work should be called for in less than eighteen months from the publication of the last edition is a striking testimony to its popularity with the profession at large. As imitation is the sincerest form of flattery, it is refreshing to find that the general plan, arrangement, and the scheme of this Commentary have been either ingeniously or servilely copied by succeeding annotators on the Code! In one case the likeness has so far gone that various headings of the subject-matter in this Commentary appear *verbatim et literatim*. Had plagiarism been an offence under the Penal Code, it would have been interesting to read what such annotator had to say in expounding it.

This edition has been carefully revised in the light of eight hundred cases added to it. It contains fresh matter over a hundred pages.

The text of the Code contains all amendments up-to-date.

January, 1928.

R. R.
D. K. T.

EXTRACTS FROM THE PREFACE TO THE THIRD EDITION.

THE commentary under each section is divided into three Parts : first comes Comment ; secondly, Cases ; and thirdly, matter pertaining to Practice.

As to COMMENT.—The object of a section as foreshadowed in the Note of the authors of the Code, or in the two Reports of the Indian Law Commissioners or in the Proceedings of the Legislative Council, has been fully stated. Wherever the scope of a section has been the subject of judicial criticism it has been carefully explained. Wherever the meaning or principle of a section is elucidated in a judicial pronouncement excerpts from it have been given. Every judicial interpretation and construction of a word, phrase or clause, in a section, has been given, as much as possible, in the *ipsissima verba* of Judges. For facility of reference the words, expressions and clauses commented upon are capped with figures in the text and are repeated in the Comment as sub-headings with corresponding numbers.

As to CASES.—The cases bearing on each section have been arranged into cognate groups, each group illustrating some clause.

As to PRACTICE.—This part is sub-divided into two main headings : first comes Evidence ; and, secondly, Procedure.

Under Evidence all points necessary for the prosecution to prove, in order to bring a charge home to the accused, are categorically stated ; and questions relating to onus, mode of proof, and admissibility or non-admissibility of evidence are discussed.

Under Procedure fall the contents of the second schedule of the Code of Criminal Procedure ; questions concerning Jurisdiction, Sanction, and measure of Punishment ; references to Criminal Circulars issued for the guidance of subordinate Judiciary and Magistracy by all the High Courts, Chief Courts, and Judicial Commissioners' Courts ; and, lastly, forms of charges for various offences.

EXTRACT FROM THE PREFACE TO THE NINTH EDITION.

All Indian decisions, whether reported in the official or non-official series of law reports, have been incorporated in this work. Mr. Justice West observed in the Full Bench case of *Empress v. Moorga Chetty* (5 Bom. 338, 362) that "the framers of the Indian Penal Code regarding the English system as 'artificial,' 'complicated,' 'framed without the slightest reference to India,' and very 'defective' declined to make it more than any local system the ground-work of the Code. Cases decided in England, therefore, must be received in India with a careful allowance for the great difference of the law in the two countries." The authors have, therefore, considered it unsafe to burden the comment with English precedents where the Code differs from the criminal law of England. Such a course, instead of lightening the labours of those who seek for a clear interpretation of the provisions of the Code, merely creates unavoidable pitfalls. English cases have been, however, copiously referred to where the English criminal law is on all fours with the Indian Penal Code.

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EXPLANATIONS OF ABBREVIATIONS.

A. C.	.. Appeal Cases, Law Reports, from 1891—
A. H. C. G. R. (Cr.)	.. Allahabad High Court General Rules (Criminal), 1911.
A. & E.	.. Adolphus and Ellis, 1834—1840 ; New Series, 1841—1852.
A. L. J.	.. Allahabad Law Journal Reports, from 1904—
A. W. N.	.. Allahabad Weekly Notes, 1881—1906.
Agra	.. Agra High Court Reports, 1866—1868.
Alison	.. Alison's Criminal Law of Scotland.
All.	.. Indian Law Reports, Allahabad Series, from 1876—
App.	.. Appendix.
App. Cas.	.. Appeal Cases, Law Reports, from 1875—1890.
Archbold	.. Archbold's Criminal Law (26rd Edn., 1922).
Austin	.. Austin's Jurisprudence.
Bacon	.. Bacon's Abridgment of the Law.
B. & A.	.. Barnwell and Alderson, 1817—1822, K. B.
Bac. Abr.	.. Bacon's Abridgment of the Law.
Beav.	.. Beaven's Reports, 1838—1866, Rolls.
Beng. L. R.	.. Bengal Law Reports, 1868—1875.
Bing.	.. Bingham's Cases, 1834—1840, C. P.
Bishop	.. Bishop's Criminal Law.
Blackstone	.. Blackstone's Commentaries on the Laws of England.
Bom.	.. Indian Law Reports, Bombay Series, from 1876—
B. H. C.	.. Bombay High Court Reports, 1862—1875.
Bom. Cr. C.	.. Bombay High Court, Criminal Cases, from 1911—
Bom. Cr. Circu.	.. Bombay Criminal Circulars, 1926.
Bom. L. R.	.. Bombay Law Reporter, from 1899—
Boul.	.. Boulnois' Reports, 1862—1875, Calcutta.
B. & C.	.. Barnwell and Creswell, 1822—1830, K. B.
B. & S.	.. Best and Smith, 1861—1869, Q. B.
Burma L. R.	.. Burma Law Reports, 1895—1908.
B. L. J.	.. Burma Law Journal, from 1922—
B. L. T.	.. Burma Law Times, from 1906—1921.
Burr.	.. Burrow's Reports, 1757—1771, K. B.
Cal.	.. Indian Law Reports, Calcutta Series, from 1876—
Cald.	.. Caldecott's Settlement Cases.
C. L. J.	.. Calcutta Law Journal, from 1905—
C. L. R.	.. Calcutta Law Reports, 1878—1883.
C. P. L. R.	.. Central Provinces Law Reports, from 1882—1905.
C. W. N.	.. Calcutta Weekly Notes, from 1896—
Camp.	.. Campbell's Reports, 1808—1816, N. P.
C. H. C. R. & O.	.. Calcutta High Court Rules and Circular Orders, 1910.
C. B.	.. Common Bench Reports, 1845—1856, C. P.
C. P. Cr. C.	.. Criminal Circulars, issued by the Judicial Commissioner of the Central Provinces and Berar, 1915.
C. P. D.	.. Common Pleas Division, Law Reports, 1875—1890.

C. & K.	.. Carrington and Kirwan, 1843—1850, N. P.
Car. & M.	.. Carrington and Marshman, 1840—1842, N. P.
C. & M.	.. Crompton and Meeson, 1832—1834, Exch.
C. & P.	.. Carrington and Payne, 1823—1841, N. P.
Ch.	.. Law Reports, Chancery Division, from 1891—
Ch. D.	.. Chancery Division, Law Reports, 1875—1890.
Cl. & F.	.. Clark and Finnelly, 1831—1846, N. P.
Coke	.. Coke's Reports, 1752—1816.
Collett	.. Collet's Comments on the Indian Penal Code.
Cox	.. Cox's Criminal Cases from 1843—
Cr. App. R.	.. Criminal Appeal Reports, from 1908—
Cr. & J.	.. Crompton and Jervis, 1830—1832.
Cr. L. J.	.. Criminal Law Journal of India, from 1904—
Cranch	.. Cranch's Reports, Supreme Court of the United States, 1800—1815.
Cr. R.	.. Criminal Rulings of the Bombay High Court, 1862—1910.
Crim. P. C.	.. Criminal Procedure Code, 1898.
Cro. Car.	.. Croke's Reports, in the reign of Charles I.
Cro. Eliz.	.. Croke's Reports in the reign of Elizabeth.
D. & B.	.. Dearsley and Bell, 1856—1858, Crown Cases.
D. & P.	.. Dearsley and Pearce's Crown Cases.
Day E. C.	.. Day's Election Cases.
Dears	.. Dearsley's Crown Cases, 1852—1856.
Den. Cr. C.	.. Denison's Crown Cases, 1844.
Doug.	.. Douglas's Reports, 1778—1784, K. B.
East	.. East's Reports, 1801—1812, K. B.
East P. C.	.. East's Pleas of the Crown.
E. & B.	.. Ellis and Blackburn, 1853—1858, Q. B.
Esp.	.. Espinasse's Reports, 1793—1797, N. P.
Exch.	.. Exchequer Division, Law Reports, 1875—1890.
F. B.	.. Full Bench.
F. & F.	.. Foster and Finlayson, 1858—1867, N. P.
Foster	.. Foster's Crown Law.
Gaz. of Ind.	.. Proceedings of the Supreme Legislative Council, <i>The Gazette of India</i> , Part VI.
Hagg.	.. Haggard's Reports.
Hale's P. C.	.. Hale's Pleas of the Crown.
Hare	.. Hare's Reports, 1841—1853.
Hawk. P. C.	.. Hawkin's Pleas of the Crown.
Hay	.. Hay's Reports, 1862—1863, Calcutta.
H. & C.	.. Hurlstone and Coltman, 1862—1865, Exch.
H. L.	.. House of Lords.
Hob.	.. Hobart's Reports.
Hyde	.. Hyde's Reports, 1863—1864, Calcutta.
I. A.	.. Indian Appeals, from 1873—
I. R.	.. The Irish Reports, from 1901—
Ibid	.. Same as above.
Ilbert	.. Ilbert's Government of India.
Ind. Jur. N. S.	.. Indian Jurist, New Series, 1866—1867, Calcutta.
" O. S.	.. Indian Jurist, Old Series, 1862, Calcutta.
J. P.	.. Justice of the Peace, from 1836—

- Jeremy Bentham .. Bentham's Works, Vols. 1—11.
 Keb. .. Keble's Reports, 1661—1679, K. B.
 Kel. .. Sir John Kelyng's Reports, 1673—1706, K. B.
 L. B. C. M. .. Lower Burma Court Manual, 1912.
 L. B. R. .. Lower Burma Rulings, from 1901—1922.
 L. J. C. P. .. Law Journal, Common Pleas, from 1822—
 L. J. Ch. .. Law Journal, Chancery.
 „ Ex. .. Exchequer.
 „ M. C. .. Magistrate's Cases.
 „ Mat. .. Matrimonial Cases.
 „ P. M. & A. .. Probate, Matrimonial and Admiralty.
 „ Q. B. .. Queen's Bench.
 L. L. J. .. Lahore Law Journal, from 1920—
 L. R. C. P. .. Law Reports, Common Pleas, 1866—1875.
 L. R. C. C. R. .. Crown Cases Reserved.
 „ Ch. .. Chancery.
 „ Ex. .. Exchequer
 „ H. L. .. House of Lords.
 „ I. A. .. Indian Appeals
 „ P. .. Probate.
 „ Q. B. .. Queen's Bench.
 L. & C. .. Leigh and Cave's Crown Cases, 1861—1865.
 L. T. .. Law Times, 1845—1858.
 L. T. N. S. .. Law Times, New Series, from 1859—
 L. W. .. Law Weekly, Madras, from 1914.
 Lah. .. Indian Law Reports, Lahore Series, from 1920—
 Lah. C. .. Lahore Cases, 1924—1925.
 Ld. Raym. .. Lord Raymond's Reports, 1694—1734, K. B. and C. P.
 Leach .. Leach's Crown Cases, 1730—1788.
 Lee Warner .. Lee Warner's Native States of India.
 Lewin .. Lewin's Crown Cases, 1882—1833.
 Livingstone .. Livingstone's System of Penal Code for Louisiana.
 Lof. .. Loft's Reports, 1772—1774, K. B.
 Luck. .. Indian Law Reports, Lucknow Series, from 1926—
 Luck. C. .. Lucknow Cases, from 1927—
 Mad. .. Indian Law Reports, Madras Series, from 1876—
 Mad. Jur. .. Madras Jurist.
 M. H. C. .. Madras High Court Reports, 1862—1875.
 M. H. C. R. P. .. Madras High Court Rules of Practice, 1912.
 M. L. J. .. Madras Law Journal Reports, from 1891—
 M. L. T. .. Madras Law Times, from 1906—
 M. W. N. .. Madras Weekly Notes, from 1910—
 Marsh .. { Marshall 1813—1816, C. P.
 .. { Marshall 1862—1863, Calcutta.
 Maxwell .. Maxwell on the Interpretation of Statutes.
 Mayne .. Mayne's Criminal Law of India.
 M. Dig. .. Morley's Digest, Calcutta.
 M. & M. .. Morgan and Macpherson's Indian Penal Code.
 Mood Cr. C. .. Moody's Crown Cases Reserved, 1824—1844.
 M. I. A. .. Moore's Indian Appeals, 1836—1873, P. C.
 M. & Mal. .. Moody and Malkin's Reports, 1827—1830.

S. L. R.	.. Sind Law Reporter, from 1907—
Salk.	.. Salkeld's Reports, 1669—1712.
Stephen	.. Stephen's History of the Criminal Law of England.
Stephen Dig. Cr. L.	.. Stephen's Digest of Criminal Law.
Step. Com.	.. Stephen's Commentaries on the Laws of England.
Stokes	.. Stokes' Anglo-Indian Codes.
Str.	.. Strange's Reports, 1795, K. B.
St. Tr.	.. State Trials.
Sup.	.. Above.
Sw. & Tr.	.. Swabey and Tristam, 1858—1865.
Sty.	.. Style's Reports, 1645—1646, K. B.
Taunt.	.. Taunton's Reports, 1807—1819, C. P.
T. L. R.	.. The Times Law Reports, from 1885—
T. R.	.. Durmford and East's Term Reports, 1785—1800, K. B.
Tupper	.. Tupper's Our Indian Protectorate.
Ubi sup.	.. See above.
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