

INDEX

N.B. The figures refer to the pages.

Atkinson, Mr C. M., on authority of Absence of defendant, courses open to Justices, 20 county and borough justices, 6 Additional evidence may be given, Attorney General, his position and functions, 135; list of cases in which how, 35 Adjournment of case by Justices, 20 his consent is necessary to a prose-Administration of justice in England, cution, App. E, 212 purity of, 206 Adults, summary jurisdiction as to, Bail, upon arrest, powers of police to 48-50; (a) with consent, 48; (b) admit to, 24; upon commitment, on plea of Guilty, 49 powers and duty of magistrates to admit to, 33; provision of Bill of, rights as to excessive bail, 33; Advisory Committees as to the appointment of J.P.'s, 217 Affiliation orders, 61, 62; see Bastardy agreement to indemnify surety illegal, 33; not granted in case of Aid, legal, grounds on which it may be granted and refused, 37 murder, 34; coroner has power to Alverstone, Lord, L.C.J., on Poor Prisoners' Defence Act, 37 grant in case of manslaughter, 34; prisoner may see friends for purpose Annual Report of Director of Public of finding, 34 Prosecutions, 141 Bail, how forfeited, 107 Appeal, right of, from J.P.'s, 64-69; Bail Act, 1898, provisions of, neglected, 33, 34 Bankruptcy of J.P., as a disqualificaprocedure preliminary thereto, 65; right of, from Quarter Sessions, 80; see Criminal Appeal, Court of, 125tion, 10 129; right of appeal thereto, in Barristers (counsel) attend Quarter what cases, 80, 126; notice of, thereto, 127; to Quarter Sessions Sessions, 77; and Assizes, 86 Bastardy appeals, 64, 77 Bench of Magistrates, what it is, is a re-hearing, 65 Appeals to Quarter Sessions in rating, licensing, poor law and bastardy matters, 77 Bench Warrant, what it is, 21 Bentham, Jeremy, on publicity of Appeal, Inferior Court of Criminal legal proceedings, 4; on "circum-Appeal suggested, 67 stances affecting sensibility," 21; Arraignment of prisoners, 105 his Panopticon, 179 Bias, as a disqualification of Justices, Arrest, powers of, by police officer, 22; by private person, 22; caution upon, 23; bail upon, 24 Bigamy, provisions of C.J.A. Act, Assault, charges of, 59-60 1914, as to, 200 Assize, clerk of, 85 Borough magistrates (see Justices of Assizes (Court of Assize), 82-86; the Peace), declaration to be made arrangements for holding, 83, 86; by, 9 Borough Police Forces, 162; Note, 223 commissions under which they are held, 84; assize Sunday and sermon, Borough Quarter Sessions (see Quar-82 n. ter Sessions), 79; how and when Assizes Relief Act, 1889, 31 held, 81



INDEX

229

Borstal Associations, 188
Borstal Institutions, 164-169; sentence of detention in, under penal discipline, 185; in what cases applicable, 184; further powers in regard to, conferred on Courts of S. J. and Q.S. by C. J.A. Act, 1914, 185, 186; Mr R. McKenna, Home Secretary, on, 187; Sir E. Ruggles-Brise on objects of, 187; statistics as to, 187, 188
Burglary, simple cases of, now triable at Quarter Sessions, 76

Caution, upon arrest, 23; statutory, before committal, 28
Central Criminal Court, 87, 88
Certificate of dismissal by J.P.'s, 59
Certiorari, what it is, 68, 123
Chairmen of County Councils and
Urban and Rural District Councils
are ex officio Justices of the Peace, 6
Chairmen of Ouarter Sessions. and

Case stated, what it is, 68, 80, 123

Chairmen of Quarter Sessions, and their duties, 78, 79; have to take notes and sum up, 78; grant certificates of appeal and send reports of trials, 79, 127; may certify that prisoner ought to have legal aid, 79

Chancellor, Lord, his position in regard to Criminal Law, 131, 132; in regard to *Habeas Corpus*, 156; head of our judicature, 131 Chaplains, prison, 168, 177

Charge, Judge's, to Grand Jury, 83 Charge read over to accused by Magistrate or clerk, 27 Child, what, 45, 192

Children, summary jurisdiction as to,

45, 46 Children Act, 1908, 192-197; modes of dealing with children and young persons under, 193, 194

Circuits, judicial, 83; system, 84; officials of, 85; results of circuit system, 85; power of Crown to regulate, 83

Circulars, Home Office, 70, 146 Classification of offences, 19, 51, App. A, 207 Clerk of Assize, 85: Notes, 210: of

Clerk of Assize, 85; Notes, 219; of the Peace, 78

Clerks to Justices, see Justices' Clerks, 14 Commissions of Assize etc., 84; Commission Day, 82 Commission of the Peace, 7, 8; Prof. Maitland on, 7 Commissions rogatoires, 154 Commitment for trial, 29 Complaint or Information, 19 Consecutive sentences (see Sentences), 57

Consent of Attorney, or Solicitor, General, sometimes necessary to a prosecution, 135; list of such cases, App. E, 212

Constabulary (see Police); H.M.'s Inspectors of, 162; their duties, 163 Constitutional Law and Criminal Law, connection between, 145 Contempt of Court, 78

Convict, what, 165; police supervision, 166

Conviction, previous, provisions of C.J.A. Act, 1914, as to, 51; effect of, as to punishment, 55; must not be mentioned to jury, Notes, 220

Coroner and Coroner's Inquest, their functions, 97-101; different classes of coroners, 97; coroner's jury, 99; inquest as to cause of fire in City of London, 98; publicity in regard to. 101

Corrupt practice at election, a ground for removal of J.P., 10

County magistrates (see Justices of the Peace), 5

County Police Forces, 162; Notes, 223 Court-houses, by whom provided, 12 Court of Record, what it is, 78 Court of trial, 30

Courts of Law, organs by which State administers justice, 2

Criminal Appeal, Court of, 125-129; its establishment, 125; its constitution, 126; right of appeal thereto, in what cases, 126; its powers, 125-7; has no power to order a new trial, 127; notice of appeal thereto necessary, 127; results of its establishment, 128,129; expenses of, 129; Notes, 222

Criminal Investigation Department, Scotland Yard, 161; Notes, 223 Criminal Justice Administration Act, 1914, 199–200; provision of, as to bail upon arrest, 24; as to

15-3

> INDEX 230

continuous bail, 34; as to effect of previous conviction on exercise of summary jurisdiction, 51; as to allowance of time for payment of fines, 55; court fees and police fees not to be considered in fixing amount of fine, 56; new powers of dealing with offenders under, 56; "police custody," under, 57; discretion of justices as to imprisonment with or without hard labour, 57; provisions as to consecutive sentence, 57; one J.P. to be competent to deal with charges of drunkenness, 58; general right of appeal from J.P.'s, 64 Criminal Lunatic Asylums, 164 Home Secretary, 155, 164 Criminal statistics for 1912, 201-206;

Criminal lunatics, under care of

for 1913; Notes, 224

Crown and subject, Home Secretary medium of communication between,

Crown Cases Reserved, Court for the consideration of, 122; Notes 223

Damages, offender may be ordered

to pay, 181, 195 Darling, Mr Justice, on Quarter Sessions, 77

Declaration to be made by borough

Defence, importance of disclosure of, 35; right to make, under S.J. Act, 1848, 54

Depositions, what they are, how taken, 27

Deputy Lieutenants, 8; Notes, 216 Detention, Places of, 170; Preventive, 188-192

Dicey, Prof. A. V., on Archdeacon Paley as a jurist, Notes, 221

Dilke, Sir C., on magistrate in a rural village, 19

Director of Public Prosecutions, see Public Prosecutions

Dismissal of charge by J.P.'s, 30, 58; certificate of, 59 Disqualifications of J.P.'s, 10

Division, First, Second, Third; see Prisoners

Drunkenness, charges of, 60; can now be dealt with by one J.P., 58 Duty of citizens to assist police, 25 Error, writ of, now abolished, 147; Notes, 223

Estreating of recognizances, 107 Examination in chief, cross-examina-

tion, and re-examination; Witness

Examination, preliminary, of accused persons by J.P.'s, in indictable cases, 25-40; mode in which it is held, 26; room in which it is held is not an "open court," 26

Executions in prison, 176-178 Executive in relation to crime, 142-

Extradition Acts, 1870, 1873 and

1895, 148 Extradition, what it is, 148; restrictions thereon, 149; procedure in regard thereto, 149

Fact and Law, distinction between, 2 False pretences, nature of charge must be explained in summary jurisdiction, 47 Farrant, Mr W.

J., on criminal statistics, 201

Female prisoners, must be under supervision of female officers, 57, 171; separate prisons for, 164

Fines and Imprisonments, scale of,

Fines, time to be allowed for payment, 55; may be paid by instalments, 55; court and police fees not to be imposed in addition to, 56

Foreman of Grand Jury, 91; of Petty Jury, 115

Franqueville, Comte de, on Summary Jurisdiction, 73

Fry, Mrs Elizabeth, prison reformer, 179

General warrants, illegal, 21; verdict, right of jury to return, 116

Ghent Exhibition (1913), British exhibition of prison appliances at, 178

Girls, evidence of, Home Office Circular as to, 196

Gneist, Prof., on office of J.P., 76 Governors of prisons, duties of, 171; must prepare calendar of prisoners for trial, 173; be present at executions, 177

Grand Jurors, qualifications of 91



INDEX

231

Grand Jury, charge to by Judge, 83; its functions, 91-94; oath administered to foreman, 91; how it deals with indictments, 92; ought it to be abolished? 93
Guardian, or parent, may be ordered

Guardian, or parent, may be ordered to pay fine, etc., 194

Habeas Corpus, writ of, 155-158; its origin and history, 155, 156; practice in regard to, 156; procedure at hearing, 157; various kinds of writs of, 157; chief purpose of, 158; and praemunire, 158

Habeas Corpus Acts, 157; Parliament

alone can suspend, 157
"Habitual criminals," 188-192

"Hard labour," sentence of, what it means, 166

High Court of Justice, see King's Bench Division, 122-125

Holmes, Mr Thos., on work of police courts, 166; on Metropolitan Magistrates, Poor Man's Lawyers, Notes, 217

Home Office, circulars to Justices of Peace, 70, 146; permanent staff, 143
Home Secretary, his position and functions, 142-145; his chief duty, 143; his indirect and direct powers, 144; his control over the magistracy, 144; he appoints Metropolitan Police Magistrates and Stipendiaries, 145; great increase in his work of late years, 146; his position in regard to (1) the prerogative of mercy, 147; (2) extradition and Fugitive Offenders Act, 148; (3) framing of Rules, 154; (4) collection, etc., of statistics, 154; his other duties, 154, 155
House of Lords as a criminal

House of Lords as a criminal court; see Lords, House of, 130, 131

Howard, John, prison reformer, 179; Association, Report of, Notes, 226

Impeachment, what, 130 Imprisonment, with hard labour, 166; without, 167

Independence of the Judiciary, 146 Indictable Offences Acts, 1848 and 1867, 25

Indictable offences, what are, 25; list of, triable summarily, App. A, 208

Indictments, 94-99; what, 95; form of, 95; how dealt with by Grand Jury, 92; objects of, 96; motion to quash, 96; vexatious, 97 Industrial schools and reformatories, 164, 169 Inebriate Reformatories, State, 164 Information or complaint, 20 Insanity, special verdict in case of, 115 Isaacs, Sir R. (Lord Reading), L.C.J., on sentence of preventive detention, 190

Judge's charge to Grand Jury, 83 Judges, small number of English, 125; Judges of K.B.D., 122; form Court of Criminal Appeal, 125 Jurisdiction of one J.P., 58; App. D,

Jurisdiction of one J.P., 58; App. D, 211 Jurisdiction of two J.P.'s sitting in

an Occasional Court-house, 58 Jurisdiction, summary; see Summary Jurisdiction

Jurors, see Grand and Petty Jury, right of, to return a General Verdict, 116

Jury, right of trial by, in non-indictable cases, 51; App. C, 209
Jury, separation of, 115; Notes, 219
Jury, see Grand and Petty Juries
Jury system, value of, 2, 102
Jury, trial by, 101-116; Notes, 218
"Justice at Home," The, 18

Justice of the Peace as the Poor Man's Lawyer, 19; Notes, 217
Justices of the Peace, how appointed, 4; county, 5; borough, 6; ex officio, 6; different classes of, 7; their disqualifications, 10; bias of, 10; as witnesses, 11; local limits of their jurisdiction, 12; precedence of, 12; lack of legal knowledge on appointment, 17; protection of, 17; their duties, (a) ministerial, (b) judicial, 18, 19; "the state's man of all work," 69; number of, 70; personal qualities desirable in, 71; Royal Commission on selection of, 71; appointment of Advisory Committees as to, Notes, 217

Justices' Clerks, 14; their qualifications, 14; duties, 16; observations on, 16

Juvenile Courts, 195; statistics as to,

232 INDEX

Kenny, Prof. C. S., his Outlines of Criminal Law, 2; on appeals from J.P.'s, 66

King's Bench Division of H.C.J., 122-125; its original jurisdiction in regard to crime, 122; its appellate jurisdiction, 123; how it exercises jurisdiction over inferior courts, 124 Knox-Wigram, Mr W., on Justices of the Peace, 17

Lambard's Eirenarcha, 8; sets out Commission of Peace, 8; on evils of keeping prisoners waiting trial, 32 Law and fact, distinction between, 2 Law, Rule of, 1

Laymen, effect of their participation in the administration of justice, 3, 104; most J.P.'s are, 14; as jurists, Notes, 221

Leading questions, what are, 104; must not be asked in examination in chief, 110

Leeson, Mr Cecil, his book on The Probation System, 184

Legal studies as a recreation, Notes, 221 Local Government Act, 1888, its effect in Quarter Sessions, 75

Lord Chancellor, head of our judicature, 131; see Chancellor, Lord Lord Chief Justice of England, 122; is president of Court of Criminal Appeal, 125

Lords, House of, as a criminal court, 130; as a court of first instance, 130; as a court of appeal, 131 Lords Lieutenant, 4, 8, Notes, 216

Lords Lieutenant, 4, 8, Notes, 216 Lublinsky, Prof., on C.J.A. Act, Notes, 226

Lunatics, criminal, under care of Home Secretary, 155, 164; statistics as to, 203, 226

Maitland, Prof., on Commission of the Peace, 7; on borough Justices, 9; on summary jurisdiction, 41; on J.P.'s, 69

Mandamus, what it is, 69, 124
Mayors and ex-Mayors, ex-officio

Mental Deficiency Act, 1913, 197-199; "judicial authority" under, 197; power of court on conviction, 198, 199; Mr R. Wallace, K.C., on Act, 199 Mercy, prerogative of, 147
Metropolitan Police Magistrates, 14
Metropolitan police force (see Police)
160
Michels, M., on English Criminal
Justice, 146
Middlesex Quarter Sessions, 82
Muirhead, Prof., on Probation, 184
Murder and manslaughter, functions
of jury in regard to, 116

New trial, Court of Criminal Appeal cannot order, 127; strong argument against such power, Notes, 222

Notes, shorthand, of every trial now taken, 127; of trial, must be furnished to Court of Criminal Appeal by Judge and Chairman of Quarter Sessions, 127

Oaths to be taken by J.P.'s, 8
Oath taken by foreman of Grand
Jury, 91

Occasional court-houses, 43 Offences, how classified, 19, 51; App.

Offences, how classified, 19, 51; App. A, 207 One Justice of Peace, jurisdiction of,

51; App. D, 211 Operation, surgical, on prisoner, may

Operation, surgical, on prisoner, may be performed outside prison, 169

Paley, Archdeacon, on certainty of punishment, 120; his four guiding principles of the administration of justice, 124; as a jurist, Notes, 221; Prof. Dicey on, ib.

"Patriotism in prison," 205 n.

Parent or Guardian may be ordered to pay fine, etc., 194

Particular prisons appropriated to particular classes of prisoners, 169 Peace, Commission of, 6; Justices of (see Justices), 4-7

Peel, Sir R., on policeman, 1; his re-organization of police forces, 159 Penal servitude, what, 165; substituted for transportation, 165

Petty Jurors, qualifications of, 102; exemptions of, from service, 103; how sworn, 103; may be challenged by Crown or prisoner, 107; separation of, 115; Notes, 219

Petty Jury, 101-105; is jury of trial, 101; must be unanimous, 102



INDEX

233

Petty Sessional Court, what, 42 Visiting Justices of (see Visiting Committee), 175 Petty Sessional Division, 12 Petty Sessions or Police Courts, 4-74 Piecemeal legislation, examples of, 15, 43, 60, 65 Place of trial (see Venue), 38 Pleas of prisoners (see Prisoners, how may plead) Police, short history of, 158; City of treatment of, 39 London, 160; Metropolitan, 160-1; county and borough forces, 162; Prisoners, trial Criminal Investigation Department, 161; number of, 163; obligation of public to, 163; Acts, 163; supervision of convicts, 166
Police Courts or Petty Sessions, 4-74; City and Metropolitan, 164 "Police custody," 165 "Political offence," meaning of in regard to extradition, 149 Pollock, Sir F., on Police Courts, 4; on preliminary examination of prisoners, 26 "Poor Man's Lawyer," J.P. as, 19; Notes, 217 Poor Prisoners' Defence Act, 1903, 35; guiding principles of, 37 182, 183 Praemunire (see Habeas Corpus), 158 Preliminary Examination of persons accused of indictable offences, 25-40 Prevention of Crime Act, 1908, 184-192; Part I, Borstal Institutions, 185-188; Part II, Habitual Criminals, 188-192 Preventive detention, sentence of, 189; safe-guarding of prisoners' against Vice, 82 interest, Sir R. Isaacs on, 190 Previous convictions (see Convictions, previous), 51; Notes, 220 Prison Acts, 171; Rules, 172-4; Commissioners, 174 Prison chaplains, 168, 177 Prison, executions in (see Executions), relation to, 140 Prison, governor, duties of, 171; prepares calendar of prisoners for trial, 173 Prison population, 204; daily average, preliminary examination of accused Notes, 224 Prison reform, 178 persons, 26; in courts of summary Prison service, annual cost of, 165; jurisdiction, 43; at coroner's inquest, 101; Archdeacon Paley on, Notes, 224 Prison surgeon, 168, 177
Prisons, different kinds of, 164; 124 Punishments on summary conviction,

Prisoners, different classes of, 165-171; their treatment in prison, according to sentence, 166, 167; first division, 167, 173; second division, 167; third division, 168; juvenile, 168; surety, 168; civil, 173; unconvicted, awaiting trial, of, arraignment, 105; how they plead, 105, 106; Notes, 219; who plead Guilty, how sentenced, 106; how given in charge to jury, 108; refusal to plead, standing mute, 106; how brought up out of prison, 109, 155 Prisoner's own evidence, how given, 113 Privy Council, Judicial Committee of, as an Imperial Court of Criminal Appeal, 133-5; Notes, 222 Probation of Offenders Act, 1907, 180-184; Home Office circulars thereon, 183; conditions of recognizance thereunder, 181; Notes, 227 Probation Order, what, 180; statistics, Probation Officer, his duties, 181, 182; qualifications of, 184 Probation System, Mr Cecil Leeson on, 184; Prof. Muirhead on, ib. "Procedure, Criminal, as it was," verses on, App. F, 213 Proclamation after arraignment, 108; Production of documents in Courts of Summary Jurisdiction, 54, 199 Production of prisoners in courts of justice, when required, 109, 155 Public prosecutions, 137; Director of, his position and functions, 138his annual report, 141; duties of chief officers of police in Publicity, importance and value of, in criminal proceedings, 3; dicta of judges in Scott v. Scott with regard to, 3, 43; Bentham on, 4; at

transferred to Home Secretary, 171;

54, 55

INDEX 234

Quarter Sessions, Court of, 74-82; its jurisdiction, original, 75; appellate, 76; ministerial, its proceedings are essentially English, 79; borough Q.S., 79; its jurisdiction entirely statutory, 80; right of appeal from, 80; when held, 74; how held, 80; see Chairman of Quarter Sessions; for County of London, 81; for Middlesex, 82

Recognizances, how estreated, 107 Record, Court of, what it is, 78; its power to commit for contempt, 78 Recorders of Boroughs, 79, 80 Reduction of sentence on payment

of part of fine, 56, 173 Reformatories and Industrial Schools, 169, 1*7*0

Remand, power of, 25, 34, 44 Reply, right of, at trial, 111, 113; Attorney General always has, 136 Report on trial, must be furnished to Court of Criminal Appeal by Judge and Chairman of Quarter Sessions,

Right of appeal, always in case of imprisonment without option of fine, 65

Right to trial by jury, prisoner must be informed of this, 51, 52; list of offences where there is such a right, App. C, 209

Riot Act, 1714, reading of proclama-

tion under, 40 Romilly, Sir S., on punishments, 121; reformer of Criminal Law,

179 Ruggles-Brise, Sir E., on objects of

Borstal Institutions, 187

Rules, framing of (see Home Office), 154; under S.J. Acts, 132

Scale of fines and imprisonment, 55 Search warrants, 21

Secretary of State, meaning of, 142; Notes, 222

Scotland Yard, New, headquarters of Metropolitan Police and C.I.D., 160, 161

Sentences, 117-121; in what cases sentence of death can be passed, 117; information as to prisoner before passing, practice as to, 117, 118; practice where several charges

pending, 119; difficulty of passing appropriate, 119; Paley on severity of, 120; Sir S. Romilly on, 121; Notes, 220

Separation and maintenance orders, 63

Separation of jury, 115; Notes, 219 Sexes are now separated in prison,

164, 173 Sheriff, High, his functions and duties, 89, 90, 177; Under, 89, 177 Sidmouth, Lord, originator of modern

police, 159 Solicitor General, his position and functions, 157

Special jurors, qualifications of, 102; jury, at trial of misdemeanour in K.B.D., 123; Notes, 221 Standing Joint Committee, 75

Statistics of crime, 200-206; 1914, Notes, 224

Statistics, work of Home Office in regard to, 154

Statutory caution, 28 Stephen, Mr Justice, on Criminal Law, 2; on challenging of jurors,

Steward, Court of Lord High, 130 Stipendiary Magistrates, how appointed, 13; objects in appointing, 13; is there any desire for them? 72

Summary jurisdiction of J.P.'s, 40-74; what it is, 41, 42; its limitations, 8; (1) must be exercised "in open court," 42; (2) by two Justices, 42; (3) within a certain time, 44; when ousted in regard to land, 44; its wide extent, 44; punishments which may be imposed under, 55; list of indictable offences triable under, App. B, 208

Summary Jurisdiction Acts, 1848, 1879, and 1899, 41; procedure thereunder as to (1) children, 45; (2) young persons, 46; (3) adults, 8; (a) with consent, 48; (b) who plead Guilty, 49; mode of hearing cases tried under, 53

Summary jurisdiction, Comte Franqueville on, 74

Summing up, 114; beneficial effect on Judge of having to sum up, 104, Notes, 218

Supervision, police, of convicts, 166



INDEX

235

Trial at bar in K.B.D., 123; Notes, 221
"Trial by newspaper" not desirable, 4; trial by jury, see Jury
Trial, criminal, order of proceedings at, 105-117; tables showing the steps in a, 111-112; English, how conducted, 121

Venue, or place of trial, 38 Verdict of jury, how delivered, 115; special verdict in case of insanity, ib.; right of jury to return general verdict, 116 Vice, Proclamation against, 82 n. Visiting Committee of J.P.'s for prisons, 175

Wallace, Mr R., K.C., on Mental Deficiency Act, 199 Warrants, what, how issued and executed, 20; Bench, 21; General, illegal, 21; Search, 21 Whipping or flogging, 117 Witnesses, how examined in chief, 109; cross-examined, and re-examined, 110; how sworn, 113

Young persons, summary jurisdiction as to, 46-48 Young person, what, 46, 192

ERRATUM

The last line of the scale of fines and imprisonments on page 55 should read:

Exceeds £20 3 cal. months.

But it is submitted that the practical effect of s. 15 (1) of the C. J. A. Act, 1914, is to give the Justices power to inflict a fine of £50 with the alternative of six months imprisonment.

Moreover, by s. 53 of the S. J. Act, 1879, in the case of offences against the laws relating to the Inland Revenue and Customs, where the penalty exceeds £50, the imprisonment on non-payment, or default of distress, may exceed three, but must not exceed six, months.