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A History of the Criminal Law of England

Sir James Fitzjames Stephen (1829–94) published this three-volume account of the English criminal law's historical development in 1883, four years after his appointment as a judge of the High Court. It is a revision and expansion of the second chapter in Stephen's 1863 *General View* (also reissued in this series). At first sight, it is ironic that the author of this classic of legal historical scholarship was himself a Benthamite who favoured and promoted the codification of the common law and worked on codes of criminal law and procedure for India and for England. Volume 2 contains a discussion of the limits on criminal jurisdiction in respect of time, person and place; of the history of criminal responsibility; of the different categories of criminal offence (treason, felony and misdemeanour); of inchoate offences (incitements, attempts and conspiracies); and of the history of the offences against the state (treason, seditious words, libels) and offences against religion.

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BY
SIR JAMES FITZJAMES STEPHEN, K.C.S.I., D.C.L.,
A JUDGE OF THE HIGH COURT OF JUSTICE, QUEEN'S BENCH DIVISION.

IN THREE VOLUMES.

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NOTE TO PAGES 386—392, VOL. II.

When this account of the laws relating to press offences in France was written, I was not aware of the law of July 29, 1881, which had been passed about a year before, and which was not referred to in the authorities which I consulted.

The new law repeals all the provisions creating offences cited on pages 390 and 391 from the laws of 1822, 1848, and 1849.

The law of 1819, quoted on p. 387, is modified by provisions which make an incitement to crime by the press punishable only when it is effective, except in cases of *meurtre*, arson, and a few others, and when it is direct. Moreover, such incitement cannot, under the new law, be made by pictures or emblems. Attacks upon “la morale publique et religieuse” are no longer subject to punishment, though attacks “aux bonnes mœurs” continue to be so.

The right to prove the truth of imputations made upon public functionaries is extended to imputations made upon “les corps constitués, les armées de terre ou de mer, les administrations publiques, les jurés, et les témoins.” It is also extended to “les directeurs ou administrateurs de toute entreprise industrielle, commerciale ou financière faisant publiquement appel à l'épargne.”—See *Collection des Lois* for 1881, pp. 291-324.

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