



**CROWN COURT
LAW AND PRACTICE**

SECOND EDITION OF

MODERN CASES AND STATUTES ON CROWN COURT CRIME

BY

RICHARD BINGHAM

*One of Her Majesty's Counsel,
A Circuit Judge*

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PREFACE

This book is in form a second edition (albeit with a shorter and more manageable title) of its predecessor, *The Modern Cases and Statutes on Crown Court Crime*, although the contents, apart from being updated, have been substantially re-written and/or re-arranged. In addition, and in keeping with the steadily increasing statutory regulation of this branch of the law, the work now contains fuller details of the relevant statutory provisions than was formerly the case. In the result, it is largely a new work, though grafted on to the system and lay-out used in the former work.

The aim of the book, as previously, is to set out the authorities dealing with the current law and practice in the field of Crown Court (or indictable) crime, and to seek to do so in a way which will provide the practitioner with both a speedy and as full a reference as is practicable to the authorities relating to any particular line of inquiry. For the most part, these authorities naturally consist of the statutes and the reported cases, but they also include statutory instruments, practice directions and (now) the codes of practice introduced by the Police and Criminal Evidence Act 1984. In referring to these authorities (and in particular to the reported cases), care has been taken to do so objectively and to exclude any expressions in the nature of personal opinion, in order to concentrate on the main need of the practitioner, which is to be able to refer himself as quickly as possible to the statutory provisions and to the judgments of the appellate courts which are relevant to the point with which he is immediately concerned. Where comment in the form of a Note is included, it is primarily to draw attention to some point which may not be apparent from the wording of the authority itself.

With this object in mind, the authorities themselves have been arranged in groups of 10-30 according to the subject matter. At the head of each group there are one-line summaries of each entry, so that the reader may speedily identify the authorities which relate to his particular line of inquiry. Within each group the entries are arranged chronologically, in order that the latest authority on a subject may be picked out, with the exception that where there is a main statute which in effect governs the subject matter of a group, this is put first.

In addition to being arranged chronologically, the headnotes are printed in different type sizes in order to indicate the status of each authority cited. The key in this connection is as follows:

BOLD CAPITALS	= Statute
Bold type	= Statutory instrument, practice direction or code of practice
<i>Bold italics</i>	= House of Lords or Privy Council
ORDINARY CAPITALS	= Court of Appeal
Ordinary type	= Former Court of Criminal Appeal, Divisional Court or High Court judge
<i>Ordinary italics</i>	= Circuit judge or Recorder

Below the headnotes of each group follow in the same order the details of each authority cited.

This being the scheme of arrangement within the various groups, the next matter which will concern the reader is the best way of arriving as quickly as possible at the particular group or authority within a group relating to the point which he has in mind. For most purposes the conventional methods of referring to the Index or to the Table of Cases should, it is hoped, be sufficient. The index itself has been compiled so as to avoid as far as practicable cross-references within the Index itself, although it is admitted that this has not been achieved entirely. For this purpose, the great majority of the entries have been at least duplicated in various parts of the Index. As a secondary means of reference, the Tables of Statutes, Statutory Instruments, Practice Directions and Codes of Practice will be found to contain one-line summaries of the subject matter of each section or regulation. In some cases this may well provide the quickest method of reference. The reader who, for instance, has a point of turning on the meaning of 'appropriate' in the Theft Act can see, on referring to this Act in the Table of Statutes, that the section dealing with 'appropriate' is s. 3 and that this section is dealt with at p. 290; or, again, the reader who is concerned with the identification procedures laid down in

the Codes of Practice, can find, on turning to the Table of these codes, that the relevant code is code 'D', and that the part of that code dealing with identification procedure is set out in pp. 436 to 444. In view of the growing degree of statutory regulation of so many parts of criminal law and practice this method of reference via the one-line summaries will often, it is thought, prove in practice to be the quickest.

There is also another possible method of reference, which is really derived from the order of arrangement used throughout the book. This order is, in the first place, chronological; and secondly, where the first is not possible, alphabetical. From the Table of Contents it will be seen that the various chapters are arranged to start with Arrest and Search, Bail, Committal, Legal Representation and so on, in the order in which these respective subjects will ordinarily arise for consideration by the practitioner in the course of any particular case. Admittedly, the short chapters dealing with Court, Jury and Jurisdiction are somewhat arbitrary in their places in this sequence, but, these apart, it is thought that the chapters themselves will usually arise for consideration by the practitioner. He will, for instance, once the form of the indictment or charge has been considered and questions (if any) of venue and jurisdiction disposed of, usually then turn to the nature of the offence charged (Chapter 9), to questions of evidence (Chapter 10) which are likely to arise, and then to questions affecting witnesses (Chapter 11) who may be called or whose evidence is to be read. From this stage one proceeds to trial (Chapter 12) and, in some cases, to sentence (Chapter 13), and finally to matters arising thereafter (Chapter 14), such as costs, appeal certificates and rewards.

All of these chapter have to be divided into sections, and, where they can be, this division is chronological; Chapter 12 (Trial) is an example. But with most this is impossible, and the order of arrangement then used is alphabetical. Chapter 9, for instance, after some general sections, is divided into 9(4) Offences against the Person, 9(5) Offences against Property, and 9(6) Offences against the Public; and within each of these sections the specific offences dealt with are also in alphabetical order, e.g. in 9(4), Assault (of all kinds), Firearms and Explosives, Homicide, Sexual Offences and, finally, Offences against Young Persons. Where these sections are further subdivided, there will be found, at the head of each subdivision, a short sub-index setting out the headings into which each section is so subdivided. Thus, on turning to p. 178, 182, 187 or 192, it wil be seen that the sub-index for all the Assault cases is reproduced at the head of each of the groups or subdivisions of these cases.

With this in mind, and by using the running headings at the top of each page as a primary rough means of location, the reader may find (probably after some degree of user) that he is often able to identify the group of authorities he requires without using the Index or any of the Tables whatever. Admittedly, it may sound fairly complicated, but with increasing familiarity the reader may find that it is a method which is capable of giving the quickest reference in many cases.

To turn to the contents themselves, there are three areas of Crown Court law and practice which are not dealt with, namely, (i) motoring offences, (ii) cases on the quantum of sentence, and (iii) what may be called exotic crimes. As to motoring offences, there are so few of these which can come before the Crown Court that the necessary entries to deal with the ancillary matters such as disqualification and totting up could not be justified in terms of practical space. Equally, cases on the quantum of sentence could almost fill a book in themselves, and are in any event more properly the subject of a specialist book. But, at the same time, Chapter 17 will be seen to contain two tables which indirectly bear on the subject. First, there is a table of maximum penalties for the various specific offences, and secondly there is a table of references to the leading guideline cases on quantum of sentence.

By the same token, there would be little point, in a work which is mainly intended for practitioners, in including the so-called exotic crimes. Of these there are a great number, and, to take examples at random, it is for instance an indictable offence to prepare a military expedition abroad without the licence of Her Majesty, or to injure a submarine cable, or (perhaps more seriously) to impersonate an officer of the local weights and measures authority. Offences of this nature are outside the scope of this book, for to include them would merely serve to increase the bulk without adding anything of any practical value. The aim has been to include all offences which have been the subject of reported decisions over the last 20 years and which are still valid. As a result it is believed that at least 95% of the offences charged in the Crown Court in any given recent period will be included.

So far as reported decisions are concerned, those which have been reported since 1966 and which are still valid have, it is hoped, been included, save only a very few which in retrospect did not really justify reporting at all. Between 1907 (when the Court of Criminal Appeal began) and 1966 all cases

reported in the main law reports have been examined, and those which still seem to have some weight have been included. No attempt has been made to include cases prior to 1907, for a variety of reasons. Many of them, even if superficially apposite, are found on examination to turn on a point of pleading or procedure rather than on substantive law; and all of them are subject to an uncertain status if cited today. One need only refer to the cases dealing with the best evidence rule, demurrer and embracery to make the point. The truth is that these older cases, with very rare exceptions, no longer form part of the expertise of the practitioner today.

With statutes, the position is naturally different, and all statutes have been sought to be included, whatever their age, subject only to relevance. The one conscious exception is the 1361 Act (binding over), which is drafted in obscure Norman French (albeit that a possible translation can be found on p. 579).

Since the previous edition was published, there have been some significant changes, both in law and practice. The House of Lords has made major revisions in the law of attempt, conspiracy and intention in murder. Statutory law has introduced widespread alterations in practice and procedure, and has brought in some substantial changes in substantive law, of which the Forgery and Counterfeiting Act 1981 and the Public Order Act 1986 are main examples. Cases dealing with committal for sentence (Chapter 16), which were prevalent down to the Criminal Justice Act 1982, have now almost vanished. On the other hand, there has been a large and sudden growth in the number of cases dealing with questions of procedure where a defendant, having pleaded guilty, disputes some material allegation within the plea (see pp. 570-575).

But the main feature in recent years has undoubtedly been the increasing growth of statutory control not only of substantive law but also of procedure and practice, and for this reason the more recent statutory measures, including the codes of practice, have been set out as fully as is practicable.

Case law is as reported down to September 1 1986, although a number reported subsequently have also been included. Statute law includes Acts receiving Royal Assent down to the end of November 1986.

Please note that *R v. Hunt* (see p. 344), which deals with the onus of proof where the question is whether an alleged drug falls within the statutory exceptions, has been reversed by the House of Lords (*The Times*, December 13 1986).

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December 12 1986

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