

A. P. Carr

**Criminal
procedure
in
magistrates'
courts**



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A. P. Carr, MA (Cantab)
Barrister, Deputy Clerk
to the Peterborough Justices

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Preface

The law of criminal procedure was, until comparatively recently, a neglected subject. The main works on the subject: *Archbold's Criminal Pleading and Practice*, and *Stone's Justices' Manual* are comprehensive and excellent in themselves but perhaps somewhat forbidding to the person coming fresh to the subject. Criminal procedure as it is taught for professional qualifications has a heavy emphasis on the superior courts: the Crown Court, the High Court and the Court of Appeal. However, for the newly-qualified solicitor or barrister the most pressing problem will be how to acquaint himself with procedure in the magistrates' court. The vast bulk of all criminal litigation is conducted in the magistrates' courts and the procedural problems which can be encountered there can be no less difficult than in the Crown Court.

The aim of this book is to present, in narrative form, a description of procedure in the magistrates' court when dealing with criminal cases. The narrative form has been adopted because it is less difficult for the person unfamiliar with the subject to follow the various steps in the procedure. Nevertheless, no apology is made for the number of footnotes in the text since, as every advocate knows or soon will know, it is no use putting forward a proposition without some authority to support it. The footnotes provide some authority for most propositions in the text and for this purpose recourse has been made to authorities reported only in the *Criminal Law Review* where no better authority exists. Where the view put forward is merely that of the author, this has been made clear so that the reader may accept or reject it as he wishes. The intention is that the reader should be able to obtain an intelligent understanding of the broad outlines of the subject with an insight into some of the practical problems to be encountered, and that he should be encouraged to progress to a further study of the subject in the pages of *Stone's Justices' Manual*.

I would like to acknowledge the considerable contribution which has been made to this book by John Spencer, Fellow of Selwyn College Cambridge. His encouragement and perceptive criticism have helped immeasurably in shaping some of the arguments in this book. I would also especially wish to thank Syd Taylor without whose wizardry with the typewriter and sharp eye the publisher's task would have been much more difficult.

I would wish to express my appreciation to Messrs Hutchinson & Co for permission to reproduce from their publication *Keeping The Peace* and also the Home Office for permission to reproduce the extract from *Sentence of the Court* in chapter 14.

The law is stated generally as it was on 1 October 1983, and therefore includes the provisions of the Criminal Justice Act 1982 and the Mental Health Act 1983, except those sections which have not been brought into effect at the time of writing. These are noted in the text where appropriate.

The difficulties of the writer were compounded by the chequered history of the Police and Criminal Evidence Bill. At the time that chapter 2 was written it was still not clear whether the Bill would become law, and of course the subsequent General Election caused it to lapse. It is expected that the Bill will be reintroduced in October, but in view of the stormy passage of the previous Bill it is not yet certain what form the new Bill will take.

Finally, the Lord Chancellor's Department is in the course of preparing draft regulations to enable further provisions of the Legal Aid Act 1982 to be implemented and a brief description of these proposals is contained in an Appendix to this book.

A. P. Carr

Peterborough
September 1983

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