

**THE INDIAN EVIDENCE ACT, NO. I OF  
1872, AS AMENDED BY ACT XVIII OF  
1872, TOGETHER  
WITH AN INTRODUCTION AND  
EXPLANATORY NOTES, TABLE OF  
CONTENTS, APPENDIX, AND INDEX**

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The Indian Evidence Act, No. I of 1872, as Amended by Act XVIII of 1872, Together with an Introduction and Explanatory Notes, Table of Contents, Appendix, and Index by Henry Stewart Cunningham

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**HENRY STEWART CUNNINGHAM**

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India, Laws, Statutes, &c. Procedural law

# THE INDIAN EVIDENCE ACT, <sup>CT</sup>

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APPENDIX, AND INDEX.

BY

HENRY STEWART CUNNINGHAM, M. A.,

BARRISTER-AT-LAW, ADVOCATE GENERAL OF MADRAS.

SECOND EDITION.



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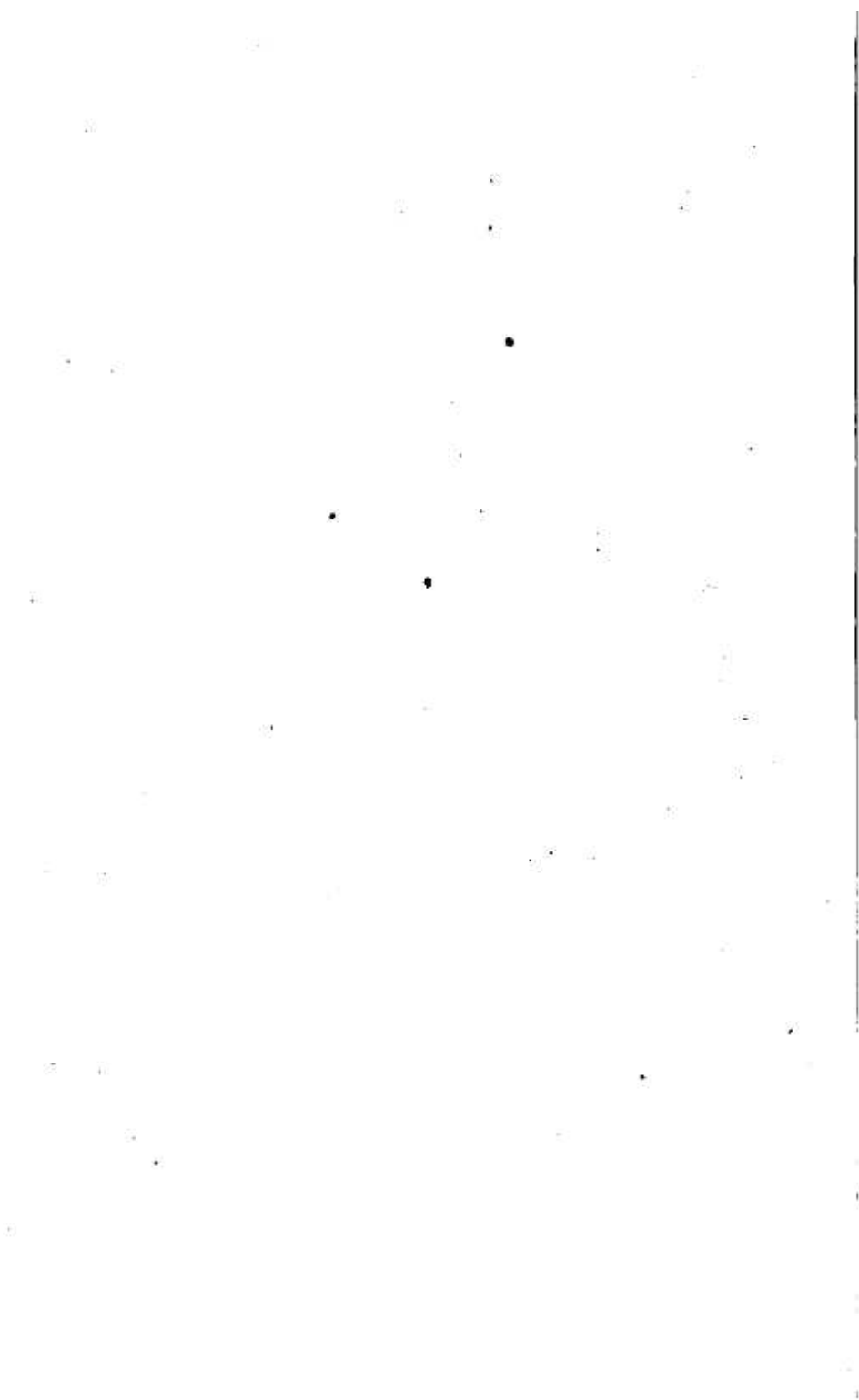
PREFACE TO THE SECOND EDITION.

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IN the present Edition some passages, which, in the Introduction and Notes of the former Edition did not sufficiently explain the meaning of the Act, have been set forth in a fuller and, it is hoped, a clearer manner; the Rulings of the several High Courts upon the Act have been embodied; and in the note on presumptions, under Section 114, the principal presumptions, judicially recognized in this country, have been arranged in a manner to allow of speedy and convenient reference. The opportunity has been taken to remedy the deficiencies, to which exception was justly taken in the original Index.

H. S. C.

*1st August 1873.*



## PREFACE.

THE object of this work is to present in as concise a form as possible such a view of the recently-passed Evidence Act as may be intelligible and interesting to law-students and others, who have occasion to make themselves acquainted with that enactment.

However simple in arrangement and comprehensive in detail an Act may be, it cannot supersede the necessity of some previous acquaintance with the subject for which it provides, with the objects and reasons of its requirements, and with the principles on which it proceeds; and though the free use of Illustrations supersedes, to a large degree, the commentator's task, there must still be many points to which a student's attention may be usefully directed, mistakes against which he may be warned, and difficulties in which he may be glad of assistance.

Nothing either in the Introduction or the Notes can lay the least claim to originality. The Introduction is grounded on the Reports of the Select Committee and on the Speeches in the Legislative Council in which, at various stages of the Bill, Mr. Stephen explained its principles and arrangement. In the Notes, I have merely endeavoured to explain the connection of one section with another, to clear up any obscurities of expression, and to point out the respects in which the present measure differs from the English Common Law or from that previously in force in Indian Courts. I have occasionally introduced some of the more familiar English rulings, wherever it seemed that they would assist in the understanding or application of a section. In the Appendix I have collected a few measures connected with the subject of Judicial Evidence, which legal practitioners may find it convenient to have at hand.

To those who are already acquainted with the subject, I do not presume to offer assistance; they will find nothing in these pages which is not familiar to them; but I venture to hope that the large class of persons, who take up the study of the Law of Evidence for the first time, may find in this volume some assistance in mastering this important Branch of Legal Study.

H. S. C.

*Madras, September 1, 1872.*





## LIST OF ABBREVIATIONS.

|                      |                                               |
|----------------------|-----------------------------------------------|
| A. and E. ....       | Adolphus and Ellis' Reports.                  |
| B. and A. ....       | Barnewell and Adolphus' Reports.              |
| B. and C. ....       | Barnewell and Cresswell's Reports.            |
| Beav. ....           | Beavan's Reports.                             |
| Benth. Rat. Ev. .... | Bentham's Rationale of Evidence.              |
| Bomb. H. C. R. ....  | Bombay High Court Reports.                    |
| B. L. R. ....        | Bengal Law Reports.                           |
| Broom L. M. ....     | Broom's Legal Maxims.                         |
| C. P. C. ....        | Civil Procedure Code, 1859.                   |
| Cr. P. C. ....       | Criminal Procedure Code, 1872.                |
| C. M. and R. ....    | Crompton, Meeson and Roscoe's Reports.        |
| C. and F. ....       | Clarke and Fenelly's Reports, House of Lords. |
| C. and K. ....       | Carrington and Kirwan's Reports.              |
| C. and P. ....       | Carrington and Payne's Reports, N. P.         |
| E. and B. ....       | Ellis and Blackburne's Reports, Q. B.         |
| H. L. C. ....        | House of Lords' Cases.                        |
| L. J., Q. B. ....    | Law Journal, Queen's Bench.                   |
| L. J., Ex. ....      | Law Journal, Exchequer.                       |
| L. J., C. P. ....    | Law Journal, Common Pleas.                    |
| M. H. C. R. ....     | Madras High Court Reports.                    |
| M. I. A. ....        | Moore's Indian Appeals.                       |
| M. P. C. C. ....     | Moore's Privy Council Cases.                  |
| M. and G. ....       | Manning and Granger's Reports, C. P.          |
| M. and W. ....       | Meeson and Welby's Reports, Exe.              |
| M. and R. ....       | Manning and Ryland's Reports, Q. B.           |
| Scott, N. R. ....    | Scott's New Reports, C. P.                    |
| Suth. W. R. ....     | Sutherland's Weekly Reporter.                 |
| Tayl. ....           | Taylor on Evidence.                           |
| Y. and C. ....       | Younge and Collyer's Reports.                 |

