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THE RIGHT TO SHOOT AN ESCAPING CRIMINAL.

I. INTRODUCTION.

As this subject has been brought somewhat prominently before the notice of the public by recent cases, an examination of the law bearing on it may be timely. The rule, as stated by the press comments on these cases, has been said to be "that a policeman has absolutely no right to shoot at a man who is simply running away. Let it be clearly understood hereafter, then, that an officer who fires at a fleeing man leaves himself open to the danger of being called upon to face a charge of murder."

In a later case than the one above referred to the judge is reported to have pointed out that a constable has no right to shoot a prisoner who is merely running away. A constable is justified in killing, the judge said, "only when this is necessary to save his own life or that of someone else whom it is his duty to protect."

In the absence of any official report of these cases it may well be assumed that no such wide proposition of law was laid down therein as is above stated. No doubt the facts in the above cases warranted the actual disposition made of them. Even if such general words were in fact used, we have been told by very high authority "that every judgment must be read as applicable to the particular facts proved, or assumed to be proved, since the generality of the expressions which may be found there are not intended to be expositions of the whole law, but governed and qualified by the particular facts of the case in which such expressions are to be found:" *Quinn v. Leathem*, [1901] A.C. 495, at p. 506, per Earl of Halsbury, L.C.

The subject is a practical one and it is desirable to see what is the true rule of law in regard to it.