

REVIEWS AND NOTICES

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This Man Hanged Himself! By EDWIN C. GUILLET. Toronto: The Ontario Publishing Company. 1943. Pp. xvi, 210.

There can be little doubt that publicity attending trials of persons accused of murder focuses the spotlight of public attention on the administration of justice generally. Where a person has stood trial for murder three times, it is not surprising that the public should not only be curious as to the ultimate guilt of the accused but, equally important, whether the accused had a fair trial. The author of the present book has undertaken to present to the reading public a survey and estimate of the evidence given in the three Newell trials with the avowed purpose, as he expresses it, of permitting each reader to form his own opinion. (p. ix).

Books along somewhat similar lines have earned an established place in England and it is encouraging to find that in Canada there is sufficient interest in the administration of justice to make such a book possible here. Whether the author has presented his material in such a way as to permit the reader to form his own opinion may be open to question. The English practice, in the main, is to present the actual evidence of the trial as it was given in court, together with the judge's charge and the addresses of counsel. In view of the three inordinately long trials involved before the conviction of Newell was obtained such a method was practically impossible in the present case. In light of that fact it was even more important that the author should not have exhibited his own convictions and explanations of the evidence as so to preclude critical analysis. There can be no doubt that the author was convinced of Newell's guilt but it is perhaps unfortunate that as early as page 13 in the discussion of the case the author states, rather dogmatically, "what really happened", and elsewhere in the early pages the accused is spoken of as the "murderer" and in the course of the narrative he is frequently spoken of as having murdered his wife. This somewhat detracts from the avowed purpose of the book and perhaps may be avoided by the author in further excursions in this field. There can be no question, however, that the author has devoted considerable effort not only in reading and analyzing the evidence but in making actual tests himself of distances, times, etc., which were testified to at the trial.

One of the most valuable parts of the book is the last chapter in which the author indulges in some reflections on the criminal procedure generally. Perhaps the most serious allegation, and one on which there will be less disagreement than his remarks that a judge could more effectively determine most cases than the jury, concerns what we believe to be the quite improper procedure of arresting a person as a material witness before a charge has been preferred against anyone. We doubt whether there is any justification even on the most liberal interpretation of the rules to justify this inroad on the liberty of the subject.

One point which might well have been considered by the writer but for the omission of which, as a layman, he should not be criticized, concerned a point argued on the appeal as to whether the jury should not have been warned of the danger of acting on Miss Lehto's evidence at the last trial in view of the fact that her evidence was in direct conflict with prior sworn statements made by her at the previous trial. We do not suggest one way or the other whether the subsequent testimony was true or not — although the author states again at page 162 that "Elna Lehto's new evidence was accepted as true" — but a recent decision of the Quebec Court of King's Bench, Appeal Side, *Moreau v. The King*, 80 Can. C.C. 290, indicates that the trial judge should caution the jury with respect to the dangers of accepting evidence when in direct conflict with previous evidence, on much the same principle on which such caution is given in the case of accomplices. This argument was made to the Ontario Court of Appeal in the new trial but it was not mentioned in the judgment

This reviewer is particularly glad to see books similar to the present published in Canada, since it should not only serve to bring the administration of justice closer to the average individual who is inclined to consider it as remote and esoteric, but it should also strengthen the very salutary doctrine that it is of equal, if not greater importance to the public that justice should not merely be done but that it should appear to be done.

C.A.W.