

SIR RICHARD MUIR.

AN APPRECIATION.

I had, more than once, the opportunity to see and hear Sir Richard Muir, and could not help being struck by his appearance and method of presenting arguments, indicating a rather relentless quality eminently fitted for one occupying the senior position at the Criminal Bar in the Central Criminal Court, coupled with scrupulous fairness to the accused. It is therefore interesting to learn from this work that his appearance, while exemplifying his character as a tireless pursuer of the criminal class, concealed a heart of gold and a generous mind and temperament. As an instance of his resolute impartiality may be quoted his words in the opening statement at the Police Court when prosecuting Lieutenant Douglas Malcolm for the murder of Anton Baumberg, almost the only instance in England where the unwritten law proved sufficient to secure an acquittal. The words of Sir Richard Muir were: "It has been said many times that no motive could be adequate for murder, but in this case it would be admitted by the prosecution and contended by the defence that if there ever did exist or could exist a motive which would be adequate for murder, that motive existed in the prisoner on this occasion". Almost all the notable criminal trials within the last fifty years fell to the lot of Sir Richard Muir to deal with. He prosecuted either as senior counsel, sometimes led by a "silk" appointed by the Government where the bar retained for the defence presented a formidable appearance. He was successful in bringing to justice Whittaker Wright, E. T. Hooley, Gerard Lee Bevan, and Horatio Bottomley, four of the great financial criminals in England. In murder cases he was invariably retained and generally conducted them alone. Ronald True, Crippen, Raynor (for murdering William Whiteley, the head of Whiteley's in Westbourne Grove), Voisin, and a score of others hardly less notorious. Within his practice also came the great prosecution in connection with the Hatton Gardens pearl robbery in 1913, and the case of R. S. Sievier. Lotteries, blackmailers, forgers and swindlers provided every-day work for him, while his prosecution of Ignatius Timothy Trebitsch Lincoln for forgery resulted in amazing revelations of subtle and audacious espionage. In connection with the latter there is given in this book the extraordinary and amazing story which Lincoln himself wrote;

in which he explains in detail his extraordinary course of double dealing in deceiving the English, while professing to be working for them, instead of for the Germans, whose pay he was accepting for the purpose of baffling and injuring England. Lincoln was finally checkmated by the superior astuteness of Rear Admiral Sir W. R. Hall, then Captain Hall, Director of Intelligence in England. The details which Lincoln's story contains are most sensational and interesting.

Sir Richard Muir had one peculiarity which I have seen repeated or paralleled in the case of the late B. B. Osler, K.C. It is thus described:—"By means of small cards, about the size of playing cards, and various coloured pencils, he marshalled his facts and analysed the salient points of his cases. He always took about with him a bundle of pencils held by a rubber band. One colour was for the examination-in-chief, one for the cross-examination, and another for the re-examination. The dangerous points of his cases were always marked by red pencils. All the judges knew Muir's "playing cards", as they called them. By the aid of his cards he noted the points of attack to be made in cross-examination, and further analysed them under A.B.C. headings and further sub-divided them by numbers. He never went into Court without being fully prepared with his system, and that it was extraordinarily effective his own career will tell."

Mr. Osler in the Hyams trial in Toronto (and doubtless in many other cases) used small squares of paper on which in his minute and neat handwriting he had noted each point in the case, to be dealt with in examination and cross-examination. These he turned over one by one as the case proceeded, and as he passed from the facts noted on each page. Sir Richard's method of preparation is illustrated by the reproduction in the book of his own case against Crippen, as he prepared it for the prosecution, where the salient points are grouped and set out in detail on page 89. A large part of his cross-examination, too, of Crippen is given, and it stands out as most deadly and yet is couched in the simplest language possible, dealing with Crippen's actions and his errors and omissions in the stories he put forward. Question after question was put to Crippen upon what would appear to be very ordinary topics, the answers to which led to Crippen's being compelled to acknowledge his callousness and deliberation in a very striking way.

Muir never took silk but always looked forward to ascending the Bench at the Old Bailey. The Central Criminal Court, as one

knows; comprises three or four Courts, one of which is presided over by a Justice of the King's Bench Division, who comes down to try the more important cases. There are in addition the Common Serjeant, Sir Hy. Dickens, the Recorder of London Sir Ernest Wild, and usually another County Judge.

Muir had many associates, some of whom were his juniors at the Old Bailey, and it is well to note their names when dealing with the reports of the Court of Criminal Appeal. Those mentioned as juniors are, Mr. Justice Rowlatt, Mr. Justice Branson and Mr. Justice Rigby-Swift. Others who made great names for themselves at the Criminal Bar were Sir Horace Avory, now a Justice of the King's Bench Division, Sir Archibald Bodkin, now Director of Public Prosecutions, the late Sir Charles Gill and the present Mr. Justice Shearman. There was a saying in the legal profession "Avory for law, Muir for facts, and Gill for brass."

Muir's reputation for facts was due to his extraordinary pertinacity and industry. The present Lord Justice Bankes once described him as the most thorough man in his profession. His attitude is thus summed up: "He made it a virtue to use the fewest possible words in the clearest possible manner. "He questioned his witnesses in a style that always made it a simple matter for them to give him an intelligible answer. He never descended to theatrical effects and very often he would put important questions in a quiet, conversational way that enabled him to get the reply he wanted without the witness being aware of the value of his answer. Ever present in his mind was the fact that he represented the Crown and that it was not his function to fight for a conviction totally regardless of the accepted aims of justice."

He was a great friend of the present Sir Harry Curtis Bennett whom he urged to take silk, and of Sir Travers Humphreys, and he was elected a Benchet of the Middle Temple, an honour bestowed on comparatively few members of the junior Bar.

His view on the plea of insanity in murder trials was that the testimony of experts requires great care in acceptance, because there was a strong school of thought among doctors that every man who does something wrong has some mental kink which caused him to err.

One of his chief opponents was the late Sir Edward Marshall Hall, K.C., said to be the most brilliant advocate for the defence ever known in modern days.

It is interesting to learn how small his fees were as Senior Counsel to the Treasury. In the Hatton Gardens case his brief was marked

at 25 guineas with "refreshers" of 10 guineas a day. In another murder case he received 100 guineas. In the Hooley case 565 guineas was paid for a case which took months of preparation. In the Bevan case he received £250. These may be contrasted with those which he received in several cases when he defended criminals. In a libel case in which he was with Sir Edward Carson and the present Lord Birkenhead for the defence, he received seven or eight hundred guineas. In the case of Colonel Rutherford, a watching brief brought him in 500 guineas. In a big income tax defence his fee was 1000 guineas, and a couple of years before his death he received a request to go out to India to defend a wealthy Indian merchant on a charge of bribery and corruption, with a fee to peruse papers of 1000 guineas and brief fee of 5000 guineas, with all expenses paid. This, however, he refused.

The death of his son in the War affected him greatly. He never quite recovered from the shock and a few months afterwards was stricken down with the worst form of influenza and remained away from his work practically the whole of 1919. After returning to the Old Bailey he gradually recovered, but much of his old fire and resolution had gone. After five years he died with tragic suddenness.

He was responsible for bringing into prominence Sir Bernard Spilsbury and Sir Wm. Willcox now regarded as the greatest authorities in England in forensic medicine.

A story is told of him which illustrates his reputation for work and thoroughness as well as anything else could. After one of the murder trials of the Old Bailey, on a very hot day, he fainted. Several barristers and police officials rushed to his assistance and carried him upstairs to apply restoratives. "What is the matter with Muir", asked a Treasury counsel of a well known lawyer renowned for his spirited defences when he happened to find himself in conflict with Muir. "Has he really fainted"? "Yes", was the reply, "one of his prisoners has just been acquitted".

It is impossible to read this book without realizing how fully the great qualities required to ensure success at the Criminal Bar were realized in Sir Richard Muir and how adequately he filled the great and important position which he retained for so long. He took great pride in his work and his influence was incalculable in raising and maintaining the high standard of courtesy and ability which now distinguishes those who habitually practice at the Old Bailey.

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