

## BOOKS AND PERIODICALS

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*Naval History in the Law Courts.* By William Senior. Toronto: Longmans, Green & Co. 1927. Price \$2.50.

"Que voulez-vous de plus?", said a witty French woman speaking of Voltaire, "Il a inventé l'histoire." Mr. Senior in the volume under notice has not subjected himself to any such fleer at the expense of his fidelity to fact, and yet he has not been afraid to make his narrative of the cases he discusses attractive by providing a social and political setting of contemporaneity for the actors he brings upon the stage. He has not hesitated to use his imagination for the purpose of recreating or reproducing the past, which, at least in Sir John Fortescue's opinion, is a very becoming enterprise on the part of one who attempts to write readable history.

The first case he deals with is that involved in the legal proceedings by John Doughty against the famous Sir Francis Drake for the alleged illegal execution of his brother, Thomas Doughty, in South America on the charge of insubordination. These proceedings were arbitrarily stopped by Queen Elizabeth, and Mr. Senior reveals to us how and why Drake got by with his "exercise of authority without warrant" in the heyday of Tudor autocracy.

In the third case dealt with, that involving the fight that took place at the mouth of the Mersey in 1755 between H.M.S. *Winchelsea* and the merchant ship *Tarleton* when the former ship attempted to impress members of the *Tarleton's* crew, some interesting light is thrown upon the now obsolete system of impressment for the Navy.

The book is interesting reading throughout.

C.M.

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*The Elements of Crime.* (Psycho-Social Interpretation). By Boris Brasol, M.A. New York: Oxford University Press (American Branch). 1927. Price \$5.00.

In his Introduction to Mr. Brasol's book Professor Wigmore says that when the American Institute of Criminal Law and Criminology was founded in 1909 the main purpose of the Institute was to unite in the study of Criminal Science "all the different branches of experience" that had hitherto remained unassociated. These branches were represented by the legal profession, prison officials, police officials, sociologists, social agencies, statisticians and psychiatrists. Coördination of these various branches has been slow, because each specialist has tended to preserve his own professional point of view to the exclusion of a catholic and comprehensive attitude. Further-

more, Professor Wigmore says, the psychologists and psychiatrists "in certain incipient directions" have demanded that their views find a place in the law. What is needed in this situation is an exposition which will reconcile the principles and experience of psychology with the principles and experience of the criminal law. That office is performed, in the learned Professor's opinion, by Mr. Brasol's book.

In Chapter VIII., the author finds that the present doctrine of the American courts respecting criminal responsibility where insanity is pleaded as a defence is derived from the rules laid down by the House of Lords in England in the *McNaghten Case*. These rules he thinks should be maintained except so far as they are modified by the following recommendation of the Committee appointed by Lord Chancellor Birkenhead in 1923 to report upon desirable changes in the law, practice and procedure relating to criminal trials in which the plea of insanity is raised: "It should be recognized that a person charged criminally with an offence is irresponsible for his act when the act is committed under an impulse which the prisoner was by mental disease in substance deprived of any power to resist."

The book contains a very comprehensive digest of the rules of law and procedure in various European countries in connection with the subject in hand. The author was at one time Prosecuting Attorney of the St. Petersburg (Russia) Supreme Court.

C.M.

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*The Psychology of Murder.* By Andreas Bjerre. Translated from the Swedish by E. Classen. M.A., Ph.D., M.R.S.L. Toronto: Longmans, Green & Co. 1927.

This is a book that ought to be read along with Mr. Brasol's work above reviewed. It is a valuable contribution to the literature of a subject that is engrossing the attention of lawyers the world over—the relation of mental abnormality to legal responsibility for criminal acts. The author of the book devoted many years of his life to physio-criminological study in Swedish prisons, and before his untimely death in 1925 had published a work on the psychology of theft. The present work embodies conclusions arrived at by personal observation of three distinct mental types represented by prisoners undergoing punishment for murder in Stockholm. In the introduction the author explains the methods he followed in conducting his psychological studies as related to crime; and judging from the important results so attained by him it is probable that he has blazed paths that will be trodden with advantage by others in the progress of the science of criminology.

As appeared in the last number of the CANADIAN BAR REVIEW, Lord Hewart argued recently before a medical society in London for the sufficiency of the test of responsibility for criminal acts laid down in *McNaghten's Case*; but, as the REVIEW then said editorially, there is a strong adverse view entertained by many distinguished members both of the Bench and Bar in England.

C.M.

*Thomas & Bellot's Leading Cases in Constitutional Law.* 6th edition. By Hugh H. L. Bellot, M.A., D.C.L. London: Sweet & Maxwell, Limited. Toronto: The Carswell Company Limited.

Lord Hewart in the course of his address to the American Bar Association at Buffalo in September last, pointed out that one of the most important and, in his judgment, most salutary features of the British constitution was the fact that the "droit administratif" was not known to it; and that the Government and officials of the State were bound by the ordinary law of the land. This new edition of a well-known and tested work, Thomas' *Leading Cases*, emphasizes the point made by Lord Hewart, because, as might have been expected, owing to the expansion of governmental activities during the Great War there have been determined during the last fourteen years many important questions raised by exceptional legislation. These cases have been carefully noted and explained by Dr. Bellot, who, of course, has also included the compilation by Mr. Thomas which appeared in the earlier editions. There is also a full note of the judgment in the General Strike case, [1926] 1 Ch. 536, and the appendix contains the more important sections of the Trades' Union and the Trades' Dispute Act of 1927. Dr. Bellot's introduction adds greatly to the value of the work, which is so well known in its scope to all students of Constitutional Law, that a more detailed reference to it seems to be unnecessary.

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BROUGHAM AND RESPECTABLE MEDIOCRITY. Lord Liverpool held office as Prime Minister in Great Britain for the very important period that elapsed between 1812 and 1827, and although there was every reason for a man holding that high office in that trying time to be the recipient of criticism by the populace, Lord Liverpool managed to escape any serious manifestation of the kind. Lord Brougham observed that he escaped by reason of the unprovocative quality of his intellectual gifts. We quote, "No minister—nay, few men in any subordinate public station—ever passed his time with so little ill-will directed towards himself, had so much forbearance shown him upon all occasions, nay, few engaged uniformly so large a share of personal esteem. To what did he owe the rare felicity of his lot? This question may, perhaps, be answered by observing that the abilities of Lord Liverpool were far more solid than shining, and that men are apt to be jealous, perhaps envious, certainly distrustful, of great and brilliant genius in statesmen. Respectable mediocrity offends nobody . . . No popular outcry ever assailed Lord Liverpool. While others were the objects of alternate execration and scorn, he was generally respected. The fate that befell him was that which might have mortified others, but well suited his tastes—to be little thought of, less talked about."

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HOMICIDAL CRIME IN CANADA. The Honourable Mr. Justice Riddell, speaking in Philadelphia, gave the following statistics, which he said were official, for the twelve year period of 1914 to 1925, covering homicidal crime in Canada.

"Murders (per million)—By Canadian born, 11.8; by born in other British possessions, 29.1; by born in the United States, 69.2; by born in other foreign countries, 240.3.

"Manslaughter—By Canadian born, 31.5; born in other British possessions, 43.2; born in the United States, 93.6; born in other countries, 261.6.

"Murder, manslaughter and attempts to murder—By Canadian born, 52.4; born in other British possessions, 91.1; born in the United States, 224.6; born in other foreign countries, 691.9."

It was pointed out by his Lordship that the "somewhat large and increasing foreign population" of Canada raised the Dominion's crime sheet "beyond what it should be." He said, however, that "we measure up pretty well among the peoples of this continent and show a reasonably decent people among the English speaking nations." It is this that encourages us to go on with the task of Canadianizing and assimilating the foreign born amongst us.

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NEW KING'S COUNSEL FOR MANITOBA. The following members of the Bar of Manitoba have been created King's Counsel within the Province:—

William Parker Fillmore—Winnipeg.	
William Clelend Hamilton	"
Arthur Eaton Johnston	"
Ernest Forster Haffner	"
John Thomas Haig	"
Ward Hollands	"
Joseph Devereux Suffield	"
S. Hart Green	"
Charles Stuart Anderson Rogers—Dauphin.	
George Alexander Eakins—Minnedosa.	

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IDENTIFYING A ROBBER. There are numerous lessons to be learned from the shooting of the young man Yarmulnik in Montreal, dead from a policeman's bullet after he had been mistakenly identified as a bank robber. The chief, however, seems to be that policemen should be made to exercise care in the use of firearms even on suspected bank robbers, that identification by a distraught individual can rarely be relied upon, and that when an officer of the law tells you to put your hands up it is best to put them up—and keep them up.

That the police officer who did the shooting showed excessive lack of judgment is the most charitable interpretation one can put upon his hasty act. He seems to have been as much a victim of a state of mental "jumpiness" as the bank manager who "identified" Yarmulnik. At the command, the latter held aloft his hands, but, becoming alarmed, lowered them. And the officer, interpreting the action as an attempt to reach for a revolver, blazed away. To the end, the dead man thought he was the victim of bandits!

—*Ottawa Citizen.*