

MURDER BY WARRANT

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649171712

Murder by warrant by E. T. Collis

Except for use in any review, the reproduction or utilisation of this work in whole or in part in any form by any electronic, mechanical or other means, now known or hereafter invented, including xerography, photocopying and recording, or in any information storage or retrieval system, is forbidden without the permission of the publisher, Trieste Publishing Pty Ltd, PO Box 1576 Collingwood, Victoria 3066 Australia.

All rights reserved.

Edited by Trieste Publishing Pty Ltd.
Cover @ 2017

This book is sold subject to the condition that it shall not, by way of trade or otherwise, be lent, re-sold, hired out, or otherwise circulated without the publisher's prior consent in any form or binding or cover other than that in which it is published and without a similar condition including this condition being imposed on the subsequent purchaser.

www.triestepublishing.com

E. T. COLLIS

**MURDER
BY WARRANT**

PR

4499

CG 64 on

INTRODUCTORY

Argumentum ad Judicium.

IMPERIAL Parliament—the Mind of the Realm—treats the question of constituting a Court of Criminal Appeal with glaring indifference. The peril of hanging the wrong man—a possible crime of ghastly complexion—is grimly apparent and coolly ignored. A Bill to create a Court of this character was, in March, 1897, brought before Parliament by Mr. PICKERSGILL; but, overwhelmed by the modesty of humanity, he excluded Capital Cases from its purview! This diligent concern for the conscience of the Commons met its merited reward. A Bill so beautifully humdrum, so pliant and tentative, rendered the course of the Government clear. They patronised it affably and allowed a second reading. But this indulgence was conceded on the understanding that the troublesome measure should be decently shelved, and the yielding member for Bethnal Green bowed to the inevitable.

The March discussion resembled some meteorological incidents peculiar to that gusty month. There was the usual clashing of legal opinions. But a conflict among barristers is a harmless novelty. A crowd of clever lawyers cavilling

1068947

over a problem is a familiar spectacle. Position and capacity, however, involve necessity to be serious, and the constitution of a Court of Criminal Appeal was advocated by politicians whose eminence and responsibility justify suspicion of sincerity.

I intend to examine the following questions :—
 (1) *Is responsible opinion on the side of the constitution of a Court of Criminal Appeal?* (2) *Is there a peril of hanging the wrong man?* (3) *Is the Home Office a satisfactory Tribunal for Criminal Appeals?*

Weighty opinion is obviously in favour of the *immediate creation of a Court of Criminal Appeal.*

Sir ALBERT ROLLIT, M.P., LL.D., D.C.L., D.L., J.P., addressing the House of Commons, said :—

“The absence of a Court of Criminal Appeal had been a great blot upon our jurisprudence. . . . There had been a gradually increasing consensus of opinion that a reform in this direction was needed. . . . *The Judges*, recommended this reform. *Lord Esher*, the *Master of the Rolls*, had spoken very strongly in its favour.”

Sir ROBERT REID, Q.C., M.P. (ex-Attorney-General), declared :—

“The condition of things existing in this country was almost unique among civilised nations. Ample opportunities were given for appeal in civil actions . . . But what was the case in regard to questions of

character, of liberty, or *even of life*? . . .
They had to consider . . . whether or
not there was to be any opportunity given
for the purpose of re-trying . . . the
question of guilt or innocence before a Court
of Criminal Appeal."

The HOME SECRETARY (the Right Honourable
Sir MATTHEW WHITE RIDLEY, Bart,
M.P.) said:—

"I think it is perfectly plain from the dis-
cussion that there is a general consensus of
opinion in favour of some alteration of the
law. . . . *Public opinion* is in the direc-
tion of something being done to increase the
power of appeal in criminal cases."

The Right Honourable Sir HENRY FOWLER,
G.C.S.I., M.P., D.L., J.P., added:—

"In a civil case, whether . . . trivial or
serious, there was the opportunity of revision
. . . . The *judgment in a criminal case*
blasts a man's character for the rest of his life,
and affects even his wife and family. He
could conceive no stronger case than that
. . . . for an appeal in criminal cases."

Sir RICHARD WEBSTER, G.C.M.G., Q.C., M.P.,
Attorney General, said:—

"The matter . . . deserved consideration
by Parliament, and he hoped the speeches
which had been made might lead the House
of Commons to be more willing to entertain

proposals and amendments in the criminal law of the country."

THE DAILY NEWS pithily remarked:—

"Whereas a dispute about sixpence may involve two appeals, or even three, *a capital conviction is final.*"

The late MR. MONTAGUE WILLIAMS, Q.C. (Metropolitan Magistrate), in "*Leaves of a Life*" wrote:—

"There would have been"—alluding to the *three trials over the Hatton Garden murder*—"no necessity for more than one trial had a Court of Criminal Appeal been in existence . . . I mean a Court having power to review a verdict or sentence in the light of any facts that might transpire after the trial. *For years, the reform for which I am pleading has been demanded of successive Governments. . . . Are the liberty of the subject, and a question of life and death, mere secondary considerations?*"

But, despite opinions expressed by popular men, the Mind of the Realm, indolently impractical, will, unless aroused from reckless apathy, neglect to inspire this vital innovation.

Is there a peril of hanging the wrong man?

Mr. PICKERSGILL, M.P., believes *the case of Mrs. Maybrick* "would have been amply met" by "a Court of Criminal Appeal." Many of us remember the painful perplexity of the Home

Secretary, and the startling conclusions at which he arrived. It is notorious that the highest legal dignitary in the land is still convinced of Mrs. Maybrick's innocence. Clever people may smile; but who, because Sir CHARLES RUSSELL defended her, would suppose that Lord RUSSELL of KILLOWEN (Lord Chief Justice of England) is blinded by the bias of advocacy? A man of marvellous acumen, of consummate experience, he declares *she was wrongly convicted*.

Revive for a moment *the Wainwright case*. Is anyone satisfied the right man was hanged? Possibly both the Wainwrights deserved capital punishment. That, however, is beside the question. Legal evidence, precisely applied, should alone procure conviction. But here it is an open secret that the brother acquitted of murder was guilty of the crime!

Now take *the Penge case*.

Of this the DAILY NEWS states:—

“The Penge murder was referred by the present Lord CROSS, then at the Home Office, to several Judges, not including Mr. Justice Hawkins, who tried it. The result was a *free pardon* for one of four persons *sentenced to death*, and a *commutation* of the penalty on another.”

I turn to the old Fenian days and *the affair of the Manchester rescue*.

THE NEW REVIEW of February, 1890, contains (p. 175) this statement:—

“The prison van that contained two convicted Fenians had been stopped. . . . At the desperate risk of their own lives, a handful of Fenians had determined on the rescue of their friends, and . . . called on Brett, the constable within, to deliver up the keys. . . . Brett refused . . . and the bullet, intended only to break the lock, gave him a mortal wound. . . . Five men were arrested, tried for the murder of Brett, and *all found guilty*. Against one of these evidence was so slight that the Press reporters present at his trial signed a petition for his release, and on further investigation it was found that *he was the wrong man, his arrest a blunder, and the finding of the jury an error.*”

The late Mr. MONTAGUE WILLIAMS, Q.C., in “Leaves of a Life,” wrote:—

“*Peace was found guilty*. . . . Mr. Justice Lopes passed sentence of death. . . . The notorious culprit was executed at Armley Gaol. . . . On the preceding Wednesday, he confessed to the clergyman who attended him that he had murdered a Manchester policeman in 1879 (for which offence *an innocent man had been sent to penal servitude for life*).”

“A man named *Pelizzioni was tried for murder*”—the Hatton Garden murder whereof he was innocent—“and found guilty. While he lay in the condemned cell, facts

came to light which gave rise to the belief that another man, of the name of Gregorio, was the real author of the crime. Gregorio was thereupon tried, and also *found guilty*, not actually of murder, but *of manslaughter.*"

Mr. ROBERT ASCROFT, M.P., during the discussion in the House of Commons, stated:—

"It is a crying scandal that . . . the liberty of the subject should be held at such a cheap rate. . . . Above all things they must have it thoroughly and clearly understood that in cases where *sentence of death* was passed, the prisoner should have the *right of appeal* at once. . . . *Personally, he was aware of injustice* having been inflicted upon prisoners, injustice which would assuredly have been removed had there existed a Court of Criminal Appeal."

Sir ALBERT ROLLIT said:—

"It was a notorious fact that there had been grave miscarriages of justice in criminal proceedings, *even in capital cases*. Happily, they seldom occurred, but still they did occur, and *the life of a perfectly innocent man might be taken*. . . . Some relics of barbarism still existed in English law."

Sir ROBERT REID also said:—

"He believed cases of real injustice occurred under the present system. . . . A man was tried for his life and sentenced to death. He was tried . . . by a common jury.