

Oxford Dictionary of National Biography

The Lives of the Law

by the Rt Hon Lord Bingham of Cornhill

We know from Oliver Wendell Holmes that “The life of the law has not been logic: it has been experience”. It has been a collective experience gained from all those whose lives have over the centuries been touched by the law, whether as judicial makers of it, or practitioners of it, or administrators of it, or reporters of it, or writers about it, or teachers of it, or litigants, or victims, or lawbreakers. Nothing could better demonstrate the breadth and continuity of this experience than the new *Oxford Dictionary of National Biography*. Of its 50,000 biographies of men, women and (on rare occasions) children from British history, well over half of them newly written, the remainder revised and edited, a substantial proportion relate, in one way or another, to the law. And the editors have given an inclusive meaning to “National”, so as to include such figures as Sir John Macdonald, first prime minister of Canada, Sir Lynden Pindling, first post-independence prime minister of the Bahamas, Chief Justice Dixon of Australia, General Smuts of South Africa, Learie Constantine of Trinidad, the first black peer, and Saiyid Ameer Ali and Mahatma Gandhi of India. It is a publishing achievement on the heroic scale, yielding a treasure house not only of information but also of up-to-date, and not unduly deferential, assessment.



Saiyid Ameer Ali (1849-1928)

The activities I have mentioned have not, of course, been separate and distinct. Those judges who have made law have done so while administering it; and before they administered it, they practised it; and some of them have reported it and written memorably about it. One of the earliest and best of judicial authors was Sir John Fortescue (c. 1397-1479). But even his reputation pales beside that of Sir Thomas Littleton (before 1417-1481) whose work, known simply as *Littleton*, was the first law book printed in England and, in the judgment of Professor J H Baker, “the most successful law book ever written in England”. There is perhaps no better illustration of overlapping functions than Sir Edward Coke, who as attorney general conducted a “brutally vituperative” prosecution of Sir Walter Raleigh; who as Chief Justice of the Common Pleas and the King’s Bench gave judgments still cited today; who left behind a large volume of reports and scholarly writings; and who, having offended the King, spent some time in the Tower. Few would contest Coke’s epitaph in the new *Dictionary*: “Wherever the common law has been applied, Coke’s

influence has been monumental”. But mention may also be made of Sir Thomas Strange, chief justice of Madras, whose *Elements of Hindu Law* (1826) was for many years the most authoritative work on that subject, and Sir William Rattigan, a practitioner, scholar and part-time judge in Lahore, who became the leading authority of his day on the customary law of northern India.

The contributors to the new *Dictionary* do not, happily, believe in Lord Reid’s fairy tale that judges simply declare the law and do not, on occasion, make it. Thus Lord Mansfield’s reputation as the father of English commercial law is judged to be “justified especially in cases dealing with insurance and negotiable instruments.” Lord Goff, in his article on Lord Denning, more generously judges that Mansfield “transformed [England’s] mediaeval common law and procedure into a modern system which has survived the centuries, and ... was also the father of commercial law”. The brothers Scott receive warm but qualified praise. Of the elder William (Lord Stowell) we learn that



William Murray, first earl of Mansfield (1705-1793)

“If not a lawgiver in the absolute sense, Scott did provide, through the publication of his decisions, an important practical basis for modern English admiralty law and the international law of war.”

His younger brother John (Lord Eldon) is said, with Nottingham and Hardwicke, to be regarded as one of the principal architects of equity jurisprudence. It was doubtless his conservative stance on the national issues of his day which led Gladstone to describe him as “the great champion of all that was most stupid in politics”. It is pleasing to learn that this impeccable judicial authority had other flaws: according to his brother William, he was so bad a shot that he killed nothing but time. In his affectionate article on Lord Denning, Lord Goff says that

“he taught the English judiciary that the common law cannot stand still. It must be capable of development, on a case-by-case basis, to ensure that the principles of the common law are apt to do practical justice in a living society.”

The larger than life advocates of yesteryear of course

find their place in the new *Dictionary*. Pride of place is usually accorded to Thomas Erskine (1750-1828), the “consummate advocate”, credited with originating the cab-rank rule of barristers’ employment, whose “exploits and declarations about the independence of the English bar have survived to inspire later generations of lawyers”. He became a “national hero”. Few advocates, on concluding a speech, have had to leave court to subdue the acclamation of the crowd outside. Even a legendary defender like Sir Edward Marshall Hall (1858-1927) could scarcely compete. His strength lay “in his ability to persuade a jury to believe as strongly as he did that his clients had acted properly”. He had, like Erskine, “a passion for showing off,” but this was “coupled with an attractive simplicity and love of the marvellous, which even his harshest critics found difficult to resist”. He shared some characteristics with his younger contemporary Sir Henry Curtis-Bennett (1879-1936), whose courtroom skills gave rise to an expression now regrettably obsolete: to “do a Curtis” was to indulge, as we learn from Michael Beloff, in “any manoeuvre of ingenuous guile”. He died while making an after-dinner speech so that, as his brother said, his death was “magnificent in one sense ... he went out with a joke on his lips”. Another great jury advocate of more recent vintage was Gilbert Beyfus (1885-1960), one of whose forensic weapons was a wink, apparently the product of a kick which he suffered when he fell from his horse during the bar point-to-point in 1923. The *Dictionary* also celebrates achievements of another and less transient nature, such as that of Ivy Williams (1877-1966), the first woman called to the English bar (although narrowly beaten to the post by an Ulster-born recruit to the Irish bar). She enjoyed a very distinguished academic career, but did not practise. The first woman to do so, Helena Normanton (1882-1957), was called very shortly afterwards. She was the first woman to do many things, but complained (no doubt with reason) of discriminatory treatment. Margaret Kidd (1900-1989), a Scots advocate, was the first woman in the United Kingdom to become a silk, and enjoyed an enviable reputation at the bar and on the bench. One may also recall Sir Dingle Foot, aptly described by Lord Diplock as “an ambassador of common law throughout the Commonwealth”: he was admitted as an advocate in the Gold Coast, Ceylon, Northern Rhodesia, Nigeria, Sierra Leone, India, Bahrain, Malaysia and Southern Rhodesia, and established one of the first sets of multiracial chambers in the Temple.



Helena Florence Normanton
(1882-1957)

In the original *Dictionary*, solicitors were greatly under-represented, no doubt reflecting the reticence of a profession which does good by stealth and does not very often blush to find it fame. To some extent at least these omissions have been rectified. Thus a composite article on the Freshfield family charts the progress of the eight members who became partners in the firm. The first was James Joseph William (1775-1864), who in 1800 joined a firm, Winter and Kaye, whose clients already included the Bank of England. In 1927 the last family member, James William (1877-1952) retired: since his “interest in the law had never been strong”, this was perhaps as well. Also

included are Sir William Slaughter (1857-1917) and William May (1863-1932), both of whom left Ashurst Morris Crisp & Co. and formed their own (undocumented) partnership in 1889, with generous help from their former employer. They were highly successful solicitors, but contrasting characters, the one almost obsessively dedicated to business and legal practice, the other more extrovert and versatile. More colourful is Sir George Lewis (1833-1911), who appears to have acted in every lurid, high-profile case at the end of the nineteenth century. It is said that “he cared for rules only so far as not to be caught breaking them” and that “He was a dangerous man to best”. But he took up the cudgels on behalf of several well-known victims of injustice, including Adolf Beck and George Archer-Shee. Colourful also is Sir William Charles Crocker (1886-1973), who was dubbed “the Sherlock Holmes of insurance” and whose finest hour (apart, of course, from his presidency of the Law Society in 1953) was in 1933 when Leopold Harris and his fellow conspirators were convicted of raising fires to support fraudulent insurance claims. It was at the third Commonwealth Law Conference, at Sydney in 1965, that another solicitor, Sir Thomas Lund, secretary-general of the Law Society, controversially foreshadowed the emergence of multi-disciplinary legal practices.

Ecclesiastical and canon lawyers, neglected in the original *Dictionary*, fully justify their inclusion in the new. Gerard Pucelle (d. 1184), canonist and Bishop of Coventry, was “celebrated in his own day, both as a lawyer and teacher, though the reasons for his fame are not entirely clear.” If, as suspected, he died of poisoning, this is “attributed to local politics, rather than to any personal failing”. Dr Walter Cachepol died in 1369 while delivering a lecture on the canon law at Oxford, a fact duly recorded by one attentive student in his notes of the lecture. Peter Dene (d. 1334 or later) prompted a York chronicler to quote Ovid by describing him as “a dreadful snake”. He is depicted in the heraldic window at York Minster, but fearing execution after involvement in an unsuccessful rebellion against Edward III he became, or purported to become, a monk. Mention may also be made of Thomas Oughton (b. 1660), whose manuscript treatise on procedure in the ecclesiastical courts was, after delivery to the printer, destroyed by fire. He spent fifteen years re-writing the work, again in Latin, but its authoritative standing appears to have survived the parliamentary abolition of the use of Latin in all courts. Francis Topham (c. 1713-1770), a relentless seeker of ecclesiastical legal patronage, is remembered for a famous and very public quarrel with Laurence Sterne, who immortalised him in *Tristram Shandy* as Didius, the great church lawyer, who had “a particular turn for taking to pieces and new framing all over again, all kinds of instruments to insert his legal whim-wham”.



Peter Dene
(d. in or after 1334)

The new *Dictionary* of course includes biographies of many judges, ranging from the stars of the legal firmament, through the important ranks of able and conscientious judicial journey-men, to others of less flattering reputation. Happily, since it is a *Dictionary* of British and not English, *Biography*, examples may be drawn from all parts of the British Isles. In Scotland, one finds

two judicial ornaments of the Scottish Enlightenment in Henry Home, Lord Kames (1696-1782), and James Burnett, Lord Monboddo (c. 1714-1799). Kames was a notable writer on philosophical and economic as well as legal topics. He was also a severe criminal judge, with a recognisably Scottish sense of humour. On his former chess partner, Matthew Hay, being convicted before him of murder, he greeted the verdict by observing "That's checkmate to you, Matthew". Had he concentrated his attention on the law, it was judged that he would have been one of the greatest judges of his time. That accolade cannot be conferred either on Monboddo whose judicial work receives little notice. But he wrote pioneering works on the development of language and the descent of Man. His views on the latter subject were ridiculed by Dr Johnson and Kames, among many others, but may be seen as an anticipation of Darwin. He was a primitivist who exercised naked in the open air, took cold baths and rode on horseback to London, regardless of the weather, on the ground that the ancients had not used coaches.

John FitzGibbon, first earl of Clare (1748-1802), who became attorney general of Ireland in 1783 and lord chancellor of Ireland six years later, is one of the most controversial figures in Irish history, the result of his extreme anti-Catholic and pro-Union political stance. His funeral in Dublin in 1802 is described as "a carnival of loathing". But even his detractors acknowledge his ability as a judge. He reformed the practice of the court. His judgments were "vividly written and mercifully devoid of jargon". And he leant in favour of Catholic defendants. Jonathan Christian (1808-1887) was a leader of the Irish equity bar who became a judge of the Irish Court of Common Pleas in 1858 and a lord justice of appeal in the Irish Chancery Court of Appeal in 1867. He was somewhat forthright in the expression of his opinions on the bench. Of the then lord chancellor of Ireland he observed "I have known the Court of Chancery longer than he has. My acquaintance with it does not date from the day I first sat upon its Bench". He favoured abolition of the office of lord chancellor, or at least the transfer of its judicial functions to the master of the rolls. He asked the Incorporated Council of Law Reporting for Ireland not to report his judgments because of the incompetence of their reporters. His extravagant attacks from the bench on other judges, counsel and politicians must however have had a certain quality of political impartiality, since they attracted rebukes by both Gladstone (1872) and Disraeli (1876).

Professor K J M Smith gives a balanced and fair-minded reassessment of a controversial English judge, Lord Goddard (1877-1971). He was almost the first non-political appointee to become lord chief justice, and the first to hold a degree in law. In casting himself as "an avenging enemy of criminals and a vigilant lord protector of society" he responded certainly to governmental and probably also to public expectations, and acknowledgement is made of his "formidable grasp of the common law", his deep veneration for its traditions and his enduring reputation as one of the outstanding criminal judges of the twentieth century. His judges all but worshipped him. But the author does not omit reference to decisions



Rayner Goddard, Baron Goddard (1877-1971)

(notably *R v Bentley* and *Director of Public Prosecutions v Smith*) which have retrospectively injured his reputation, nor his tenacious adherence to opinions on social and penal matters "well after informed opinion and attitudes had moved on," opinions which contrasted with his progressive opinions on other more technical subjects, such as the felony murder rule and the ordering of retrials. Sir Henry Slesser (1883-1979), born Schloesser, was less well known but comes alive in Professor Cretney's interesting article. Catapulted to office as solicitor general in the first Labour government of 1924, without a parliamentary seat, Slesser was appointed to the Court of Appeal to replace Sankey in 1929 when, on Ramsay MacDonald forming his second administration, Sankey became lord chancellor. It was a controversial appointment which could, it is suggested, have been justified by Slesser's demonstrated ability and by precedent. As an appellate judge he showed himself to be "conscientious and never less than competent". A sickly youth, rejected for war service in 1914, he retired from the Court of Appeal on health grounds after only eleven years, to live on in active retirement (including twenty years as a county councillor) for another thirty nine years.

The holding of high office does not guarantee the subjects of the *Dictionary* a reverential entry. It is recorded that as a young man Sir Alexander Cockburn, later Chief Justice of Common Pleas and the Queen's Bench, had on one occasion to escape from bailiffs by climbing out of the window of the robing room at Exeter Castle, and that he fathered two illegitimate children. He declined a peerage on appointment as Chief Justice of the Queen's Bench, but was invited to indicate if he changed his mind; when he did so, the peerage was refused by Queen Victoria "upon the ground of the notoriously bad moral character of the Chief Justice". Whereas, in the original *Dictionary* he was said to have been peculiarly fitted for the Alabama Claims Tribunal of 1871-1872, the new *Dictionary*, more accurately, records that he "formed a low opinion of the competence of the other arbitrators, and allowed his irritation to show through, even to the extent of insulting them".

The Empire and the Commonwealth sired a new breed of judge-administrator. An example is Sir Charles Grey (1785-1865), who was chief justice of Calcutta before becoming governor of Barbados and the Windward Islands and then Jamaica. Another example is Sir John Gorrie (1829-1892) who served as judge and administrator in Mauritius, Fiji, the Leeward Islands and Trinidad and Tobago. In the twentieth century Sir Ralph Hone (1896-1992), who served as resident magistrate in Zanzibar, crown counsel in Tanganyika, attorney-general (and on occasion acting chief justice) of Gibraltar, attorney-general of Uganda, legal adviser on the Italian territories conquered during the second war, chief civil affairs officer and secretary-general to the governor-general of Malaya, deputy commissioner-general in south-east Asia and governor and commander-in-chief of North Borneo. He would, it seems, have become governor-general of Malaya had he not been divorced, and on appointment as governor of North Borneo it was made clear that this would disqualify him as a guest at Buckingham Palace garden parties.

The administration of the law is not, of course, a preserve of lawyers. Thus place is found for Thomas Vere (d. 1682), foreman of the jury which was fined and detained for acquitting Penn and Mead, who later became

master of the Stationers' Company. Place is also found for at least five public executioners. Among them is Richard Brandon (d. 1649), the reputed executioner of Charles I; he was a very competent practitioner of his trade, as became one who prepared himself from an early age by decapitating cats and dogs. Competence is not a quality which could be ascribed to Jack Ketch (d. 1686), who abandoned his attempt to execute the Duke of Monmouth after five blows. His very incompetence may have contributed to his semi-legendary status, perpetuated by his appearance in the traditional Punch and Judy show.

It is trite to observe that the authority and continuity of English case law have always depended, as they still do, on the accuracy and skill of those who report the cases. Perhaps the earliest of these was Sir Roger Townshend (c. 1430-1493), who as practitioner and judge made reports of cases over many years. He became a large sheep-farmer and in a judgment of 1487 held a shepherd liable for negligence in losing a flock of sheep (not, one would have thought, an easy feat to accomplish). He was followed by John Caryll (1460s - 1523), one of the first identifiable law reporters. Sir Richard Pollard (d. 1542) was also a law reporter, who became active in the suppression of the monasteries: he is said to have spent many hours in prayer before Thomas Becket's shrine in Canterbury before supervising its defacement. Sir John Spelman (c. 1480-1546), later a judge, began his series of reports with the Christmas festivities at Gray's Inn which he attended as a student. He later recorded *Lord Dacre's Case* (1535), "the case which enabled Henry VIII to force the Statute of Uses on an unwilling Commons". Thomas Peake (c. 1771-1837) was both a successful reporter, whose reports were commended by Lord Tenterden as "remarkably correct", and also the author of a textbook on the law of evidence. In comparison with this work, said Jeremy Bentham, never one to mince words, those of Lord Chief Baron Gilbert and Sir Francis Buller were "like the drivelings of an old woman in her dotage". William Maudesley Best (c. 1809-1869), with G J P Smith (1805-1886), edited a well-known series of law reports. Both of them opposed the formation of the Council of Law Reporting, fearing that it would destroy the reporters' independence and damage existing safeguards against error. True to their principles, they were among the few existing authorised reporters who refused an appointment from the new body. The prince of law reporters, however, must surely be Lord Blackburn, who during years of obscurity at the bar published (with Thomas Flower Ellis) eight volumes of law reports, before Lord Campbell's bold and controversial appointment of Blackburn to the Queen's Bench launched him on his justly celebrated judicial career.

A welcome feature of the new *Dictionary* is its expanded coverage of law teachers. Andrew Amos (1791-1860) was the poet Shelley's only friend at Eton; practised on the midland circuit; drafted parliamentary bills; wrote a number of legal works; advocated a criminal code; succeeded Macaulay as the fourth member of the governor-general's council in India; became one of the first county court judges; and ended his professional career as Downing professor of the laws of England at Cambridge. But he is remembered in particular as the first professor of English law at University College, London, when the college was established in 1829. His lectures were immensely popular with students and practitioners, concentrating on the living law and reflecting his visionary belief in the law "as a transcript of

those eternal principles of morality and justice which bind together families, and commonwealths, and the great community of nations".

The new *Dictionary* includes an interesting re-assessment of Sir Henry Maine (1822-1888), best remembered as the author of *Ancient Law*. Not many academics, it seems safe to say, have had the opportunity, as he did, to decline the chief justiceship of Bengal, the permanent under-secretaryships of both the Home Office and the Foreign Office, and the principal clerkship of the House of Commons. Edward Jenks (1861-1939) held academic posts in Cambridge, Melbourne, Liverpool, Oxford and London. His Liverpool lectures, we learn from Professor Honoré, "succeeded in attracting at least some students to subjects of intellectual interest but little immediate practical value such as international and constitutional law and jurisprudence". But while in Oxford he and A V Dicey shared responsibility for Oxford's rejection of the Squire endowment for a law library, against which they campaigned vigorously, and which went instead to Cambridge. A new entrant to the *Dictionary* is Harry Street (1919-1984), a northerner who remained loyal to his roots, holding chairs at Nottingham and Manchester, and wrote pioneering works on administrative law and civil liberties. His most enduring monument, however, is his textbook *The Law of Torts*. It was no doubt his expertise in this field which inspired him, when a corporation bus crashed into his father's garden, to invoke the mediaeval remedy for cattle trespass, "distress damage feasant", an incident not mentioned in the *Dictionary*. The memory of Professor Stanley de Smith is preserved not only by his great work *Judicial Review of Administrative Action*, first published in 1973, but also by a memorial dedicated to him in the Pamplemousses Botanical Gardens in Mauritius, a tribute to his work on the constitution of that country. Scattered throughout the *Dictionary* are scholars, obliged to leave their homelands during the 1930s and finding a refuge here, to the immense advantage of this country. Max Grünhut (1893-1964) and Leon Radzinowicz (1906-1999) may between them claim to have established criminology as an academic discipline in this country. Grünhut, dismissed from a chair in Bonn under Nazi anti-Jewish laws in 1933, was rescued, somewhat hesitantly, by All Souls College, Oxford, and in due course became the first lecturer (later reader) in criminology at Oxford. Radzinowicz, who had studied in several European countries as well as his Polish homeland, happened to be in Cambridge when war broke out in 1939, and chose to stay there, in due course becoming a fellow of Trinity. When the call came to establish the first institute of criminology in England in 1959, Radzinowicz grasped his opportunity and became the first Wolfson professor of criminology. Through his work in Cambridge, and his five-volume history of the criminal law (which is really a history of penal law and administration) he gave the subject a standing and an importance which it now seems very unlikely to lose. Few, however, would challenge Professor Honoré's tribute to Herbert Hart (1907-1992) as "the outstanding British legal philosopher of the twentieth century". In this very personal and affectionate tribute, in which Hart is described as "untidy and absent-minded beyond the professional norm", full justice is



Sir Henry James Sumner Maine (1822-1888)

done to Hart's enduring achievement, but a vivid portrait emerges:

"In 1952-3 Hart laid the foundations for nearly all his later work. He lectured on rights and duties. The lectures were crowded and were heard with rapt attention, though with some apprehension, as the audience saw the lecturer shuffle from distance to reading glasses, wipe them, mislay them and rediscover their whereabouts, all the while expounding a complex argument ..."



Herbert Lionel Adolphus Hart (1907-1992)

The gratitude which any lawyer must feel towards litigants is reflected in the *Dictionary's* inclusion of several. Kitty Mellish (1710-1747) was the daughter of a rich Anglo-Jewish tycoon named da Costa and, aged sixteen, conceived a passion for her first cousin Philip. But he was regarded by the family as unacceptable on moral grounds, and she was married off to a co-religionist nearly forty years her senior, who, after fathering two children (a boy and a girl), died, leaving a fortune for Kitty. She then renewed her relationship with Philip but he, described as "probably a libertine and certainly a fortune-hunter", was sent packing. He then sued Kitty for breach of promise in the Court of Arches, the first Jew to do so, demanding performance of the marriage contract or damages of £100,000 (no mean sum in the eighteenth century). It was held that her promise had been conditional on her father's consent, and Philip lost, as he did when he sued again in the Court of King's Bench. Kitty, "by no means blameless and certainly headstrong", then broke with her family and Judaism, married an Etonian barrister named Mellish, was baptised at St George's, Bloomsbury, and eventually secured the baptism of her two children. Both children made a little history, the son becoming the second person of Jewish blood to enter Parliament, the daughter becoming the first person of Jewish birth to marry into the peerage. The short but colourful post-litigation life of Kitty Mellish is not, alas, matched in the life of another famous litigant, James Somerset: "When he stepped out of Westminster Hall in July 1772 [after Lord Mansfield's judgment in his favour] he also stepped out of the historical record. Nothing is known, as yet, of his life (or death), and he remains very much a shadow at the centre of events controlled by others". The same cannot be said of the best-known litigant of all time, known to history as the Tichborne claimant. While acknowledging that the claimant may have been Sir Roger Tichborne, the *Dictionary*, more prosaically but doubtless more accurately, lists him as Arthur Orton. Orton would seem an unlikely popular hero: his civil action was non-suited after a very lengthy trial when Lord Bellew testified that during his schooldays at Stonyhurst he had tattooed Sir Roger with marks not to be found on the body of the claimant; his very lengthy criminal trial culminated in two consecutive sentences of seven years' imprisonment (and the disbaring of his counsel for his hostile comments on the trial judge, Chief Justice Cockburn). But Orton was "perceived by many as a martyr and his cause became one of the longest popular agitations between the end of Chartism and the coming of socialism". "It became a focus for many radical causes, including demands for triennial parliaments, opposition to the income tax, and (half-heartedly) votes for women". Even after his death, his

cause lived on, when one of his daughters tried to shoot Joseph Tichborne on his wedding day.

The lawbreakers who feature in the new *Dictionary* may perhaps be divided into three classes. First come the criminals popularly regarded as heroes. A good example is Robin Hood (fl. late 12th early 13th centuries), whose historical existence was discounted by Sidney Lee in the original *Dictionary* but is accepted by Sir James Holt in the new. It appears that Robin was an active outlaw in 1193-1194, was outlawed again in 1225 and died in 1247. As early as 1261-1262, he had probably become legendary as a criminal, but it is plain that many myths became attached to his name and he became a composite figure (as later became true of Sweeney Todd (supp. fl. 1784), the demon barber of Fleet Street, for whose existence the historical evidence is very thin). By about 1450 Little John and Guy of Gisborne had entered the Robin Hood canon, but it is disappointing to learn that Friar Tuck was based on a Sussex parson who terrorised Surrey and Sussex between 1417 and 1429, that Maid Marian made her debut in a French pastoral play and that early sources contain no reference to Robin's best-known characteristic, his propensity to rob the rich to give to the poor. In this class also one must place Jack Sheppard (1702-1724), hanged at Tyburn for robbery at the age of twenty-two. His brief but hectic criminal career is remembered above all for his skill and audacity in repeatedly escaping from custody. His most celebrated escape of all, when he was awaiting execution, was from a formidable fourth-storey apartment known as the Castle in Newgate Prison, where he was fettered and handcuffed, with his fetters secured to an iron staple in the floor by a great horse padlock. Houdini-like, he freed himself from his handcuffs, broke his fetters and climbed up a chimney on to the roof, whence he escaped to safety. A fortnight later, after another burglary, he was arrested, very drunk, in Drury Lane. This time there was no escape. But it would seem that the public excitement generated by his exploits made its contribution to *The Beggar's Opera*, even if Macheath was not directly modelled on him. The last film based on his story was in 1969, when Tommy Steele played Jack. A more recent example of the criminal as hero is Johnny Ramensky (1905-1972) who, having acquired some familiarity with explosives when working down the mines in Scotland, put his expertise to more lucrative use by blowing safes. In 1934 he escaped from Peterhead prison, the first prisoner ever to do so (he was later to escape from Peterhead on four more occasions, three of them in a single year), and on recapture was shackled for weeks to the wall of his cell, the last prisoner in Scotland to suffer that treatment. When war broke out in 1939 Ramensky was, as usual, in prison, but on his release in 1942 he was recruited as a commando, his safe-blowing skills being at a premium. He became an NCO and in due course blew a number of safes, including those of Rommel's and Goering's headquarters. When the allies captured Rome, he blew fourteen embassy safes in a day. He was awarded the Military Medal. On the return of peace, his continued criminal activity earned him not a medal but prison sentences of increasing length. In all, he served over forty years in prison, driven by what his counsel called a lifelong compulsion to break into whatever he was out of



John Sheppard (1702-1724)

and out of whatever he was inside. He became a legend, attracting much popular sympathy, and was the subject of popular verse including “The Ballad of Johnny Ramensky”.

The second class of lawbreaker includes those who, whether criminals or not, are remembered as victims of the criminal justice system rather than violators of it. One such is Margaret Dickson (d. in or after 1753) whose macabre history is aptly summarised in her popular Edinburgh nickname of “Half Hanged Maggy Dickson”. Another is Richard Lewis (1807/8-1831), known in Wales (from the name of his father’s cottage) as Dic Penderyn. Dic was tried on a charge of wounding a corporal during an insurrection in Merthyr Tydfil in 1831. His co-defendant was Lewis Lewis. Both were convicted and sentenced to death, but Lewis Lewis was reprieved and Dic was not, and died saying (in Welsh) “O God, what an injustice”. Dic may, or may not, have been guilty as charged, but there quickly grew a widespread belief in his innocence, and he came to be seen as a Welsh national martyr. The much later case of Derek Bentley (1933-1953) lacks this nationalist dimension. There can be no doubt of his intention to steal from the warehouse where the shooting of PC Miles took place, and it is not now possible to establish whether he was or was not guilty of murder under the law as it then stood. But even before Bentley’s execution it was widely felt to be unjust that the jury’s recommendation of mercy was not acted on, when Christopher Craig who fired the fatal shot was too young to be executed, and doubts about the fairness of the trial have recently been vindicated by the Court of Appeal. It seems plain that public disquiet about Derek Bentley’s execution contributed powerfully to the abolitionist cause.

In the third class, one must put the real villains. Such a one was Mervin Touchet, second earl of Castlehaven (1593-1631), tried, convicted and executed for helping one manservant to rape his countess and for committing sodomy with another. It appears that his sodomy conviction may have been based on a misdirection, but the earl’s record does not earn him much sympathy. Nor does that of Sir Jock Broughton (1883-1942) who, although acquitted (quite possibly wrongly) of murdering Josslyn Hay, twenty-second earl of Erroll (1901-1942) – himself a stereotype of the impoverished, unprincipled, expatriate aristocrat – in Kenya, took his own life when the British police started to investigate serious insurance frauds he had earlier instigated. Among more recent villains are found the brothers Kray – Charles (1926-2000), Reginald (1933-2000) and Ronald (1933-1995). They were born to the criminal purple, with such forebears as Cannonball Lee and Mad Jimmy Kray, and their criminal exploits are well summarised in the *Dictionary*. But even they appear to have attracted a measure of public sympathy: Ron’s

funeral brought the East End to a standstill; it was thought to be the biggest funeral since Winston Churchill’s. And the final verdict is generous: “Despite their mindless violence they came to be seen as icons of a more innocent age, when crooks had good manners, gangsters loved their mothers, and murderers could be pillars of their local communities”.

Then, of course, there are the pure victims. The prime example must be Adolf Beck (1841-1909), included in the new *Dictionary* but not in the old, whose dual convictions of making fraudulent misrepresentations he had never made render him the archetypal victim of a miscarriage of justice. But his experience did at last, after very many years of abortive parliamentary effort, lead to the establishment of a criminal appeal court in England in 1907. When Oscar Slater (1872-1948) was convicted of murder in Edinburgh in May 1909 there was no court of criminal appeal in Scotland, and Slater served eighteen years of his commuted life sentence before it was officially accepted that he had not been proved to have committed the crime. It would seem that disquiet about this case strengthened the hand of those pressing for a criminal appeal court in Scotland, achieved by legislation in November 1927. It may or may not be a coincidence that both Beck and Slater were of foreign origin, the one Norwegian, the other German. No one could be more pure a victim than the youngest entrant in the *Dictionary*, who died aged two years and eleven months. This is James Bulger (1990-1993). No one needs reminding of his tragic story. But he deserves his place in the *Dictionary* for he influenced, indirectly, the course of English legal procedure: the trial of any future ten-year-old defendant accused of murder, should there lamentably be such, will not follow the course which even a very humane judge was constrained to follow at the trial of Robert Thompson and Jon Venables.

The *Dictionary*’s grand survey of the biographical life of the nation over two millennia can never of course be either final or complete. But, as Dr Johnson observed of his own *Dictionary*, “In this work, when it shall be found that much is omitted, let it not be forgotten that much likewise is performed”. Even the most cursory browse among the legal biographies in the new *Dictionary* – and none could be more cursory than my own – must, I think, leave the reader with a sense of wonder at the richness, the diversity and the intrinsic interest of those whose interlocking lives have together forged the legal traditions which we have been privileged to inherit and enjoy.

Tom Bingham

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