

# BOOK REVIEWS/ CHRONIQUE BIBLIOGRAPHIQUE

THE CASE OF VALENTINE SHORTIS: A TRUE STORY OF CRIME AND POLITICS IN CANADA. By Martin L. Friedland. University of Toronto Press, 1986. Pp. 324. (\$24.95)

On the evening of Friday, March 1, 1895, in the town of Valleyfield, Quebec, four employees of the Montreal Cotton Company were preparing the bi-weekly payroll for distribution the following week. At about 10 p.m., Valentine Shortis, the eccentric only son of a wealthy Irish cattle dealer, knocked on the office door. None of the men was alarmed, for Shortis, who had earlier briefly worked for the company, was well known to them. Shortis sat down and began eating an apple. Soon, however, he grabbed a loaded revolver from a desk drawer and began to shoot. One man died instantly, two escaped into a vault and the fourth, badly wounded, crawled away. Later, a night watchman on his rounds was also gunned down. In all, two men were murdered; a third barely survived. It was the most wanton act of violence in Valleyfield in years. Shortis was quickly captured and did not even try to deny his crime. "I'm the man, shoot me," he said when they came to take him away. "Oh no," was the reply, "we will do better than that for you."<sup>1</sup> With three eyewitnesses, a confession and robbery as the apparent motive, execution was certain to follow a trial as surely as the night the day. Shortis could only escape a death sentence if he were proven insane.

*The Case of Valentine Shortis* is an interesting study of the law and lawyers, of politics and penitentiaries and of the treatment and cure of the criminally insane. It is also a human drama; one that spans fifty years and which boasts a strong cast of supporting characters from the annals of Canadian history. Professor Martin Friedland, whose earlier tale of murder in London's East End<sup>2</sup> earned him international acclaim and provided a fascinating glimpse into the Victorian mind and times, has now turned his forensic skills to a Canadian trial, which, in its day, captured the interest of politicians, the public and the press. This book, the first in a projected series of "Great Trials" to be published by the Osgoode Society,<sup>3</sup> is sure to attract attention in Canada if not abroad, for, as was the case in his earlier study, Friedland squarely places the trial, life and time of Valentine Shortis in their legal, social and political context.

The actual trial of Valentine Shortis only occupies a small part of this book. At trial, the Crown, led by a prominent Montreal counsel, contended that robbery was the motive, that the murders were premeditated and that Shortis, while admittedly a bit unusual, was far from insane. Lawyers for the defence introduced commission evidence from Ireland about the accused's medical history and hereditary mental illness. Leading

<sup>1</sup> P. 6.

<sup>2</sup> M.L. Friedland, *THE TRIALS OF ISRAEL LIPSKI* (London: MacMillan, 1984).

<sup>3</sup> The Osgoode Society published a special edition of the book which was made available exclusively to members of the Society. The trade edition is the one published by the University of Toronto Press.

psychiatrists, then called "alienists", were called, who testified that Shortis was incurably and undoubtedly out of his mind. Although the evidence was convincing and compelling, the defence team faced an uphill battle. Not only was public reaction strongly against the accused (an application for change of venue had failed) but to succeed on an insanity defence, Shortis had to meet the requirements of the *Criminal Code*.

The 1892 *Criminal Code* provided that no person should be convicted of murder, if the killing was done by him when labouring under natural imbecility, or disease of the mind to such an extent as to render him incapable of appreciating the nature and quality of the act, and of knowing that such act was wrong.<sup>4</sup> That test, far more restrictive than the present test,<sup>5</sup> required accused persons pleading insanity to demonstrate not only that they were labouring under a disease of the mind so as to not appreciate the nature of their acts, but also to prove that they did not know that their act was wrong. By requiring both prongs of the test to be met, the provision restricted the availability of the defence to all but a small number of accused. The restricted availability of the defence may not have been objectionable had that been the intention of Parliament. However, Professor Friedland convincingly argues that it was not Parliament's intention but that the word "and" instead of the word "or" entered the *Criminal Code* through a draughting error.<sup>6</sup> The error was not challenged for almost forty years, leaving one to wonder how many men and women were convicted of murder, perhaps even sentenced to death, because the wrong test was applied.

Even if the correct test had been used in this case, it is not at all clear that it would have saved Shortis's life. The jury met to consider its verdict following what was at the time the longest murder trial in Canadian history. It took almost no time at all. The jury recessed at seven on a Saturday night and by the next morning at nine the members of the jury had returned with their decision. Rejecting the insanity defence, they found the accused guilty as charged. The presiding judge, in accordance with the macabre custom of the day, then put on his black cap and sentenced Shortis to death. At that point the real fight for his life began, and it is in the account of the attempt to obtain executive clemency that the all too rarely disclosed interaction between law and politics is generously described.

The only way that Shortis's life could be saved was if the federal Cabinet decided to commute the sentence. There was not much time. Sentence was pronounced on November 4, 1895, to be carried out on the third day of January, 1896. In general, the executive was inclined to commute; although there was no guarantee that it would do so, particularly in a case that had been in the public eye and had become both a subject of controversy and a source of public division. Further, the fate of Valentine Shortis was not a major concern of Mackenzie Bowell, Canada's

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<sup>4</sup> *The Criminal Code*, 1892, S.C. 1892, c. C-29, s. 11.

<sup>5</sup> See *Criminal Code*, R.S.C. 1970, c. C-34, s. 16.

<sup>6</sup> Pp. 39-40.

fifth Prime Minister. Indeed, Bowell's single preoccupation between 1894 and 1896 was saving his ministry from defeat and resolving the contentious Manitoba Schools Question. He was able to do neither. Following intrigues by the "nest of traitors" in Cabinet, he was forced to resign, whereupon his successor, Sir Charles Tupper, led the Conservative Party to ignominious defeat.

Valentine Shortis played a role in all of this for, as might be expected, competing political interests coalesced on different sides of the affair as politicians sought to advance their respective positions. Lord Aberdeen, who was the Governor General of the day and a closet Liberal strongly influenced by his irrepressible and highly energetic wife, also became involved and in the end Shortis's death sentence was commuted to life imprisonment. However, that took considerable doing, and Professor Friedland's account of the behind-the-scenes commutation process portrays both the administration of the late 19th century justice and the inner workings of the rapidly failing Bowell administration. The Shortis case was important, for it symbolized the deep-seated problems of the Bowell government and served as a convenient target for opposition politicians anxious to discredit the Conservative Party. Did the case have an effect on the famous 1896 election that saw Sir Wilfrid Laurier and the Liberal Party sweep to power? Although Professor Friedland argues that the case strongly influenced that election,<sup>7</sup> it is not at all clear that it really did. The case of Valentine Shortis was certainly the stuff of political "rabble-rousing" and may indeed have swayed some votes, but the 1896 election was fought, and won, on the Manitoba Schools Question. Shortis only played a minor role and like all but the most exceptional of scandals characteristic of most governments, the Shortis affair quickly disappeared into history. One would be hard-pressed to find the name Valentine Shortis mentioned today other than in this book and in contemporary newspaper reports. However, the case was an important issue of the day.

In the book, as the date of execution looms closer, the story begins to move at a fast clip. It is no secret that in the end Shortis avoided the hangman's rope; his sentence commuted to life. But this is when the tale of Valentine Shortis really begins. Perhaps befitting a man about whom an insanity claim had been made, he is an object, not the subject, of the first part of the book. To be sure, he is the focus of attention, but it is not until he goes to jail, presumably forever, that the author finally turns his attention to Shortis. What follows is the heart of the book. From St. Vincent de Paul Penitentiary to the Kingston jail and various mental institutions in Ontario the reader is treated to a fine general history of prison conditions in Canada in the first half of this century and in particular, to the treatment and cure of the criminally insane. This rich subject has only begun to be explored and Friedland's account demonstrates that there is much exciting work remaining to be done. Conditions were, in a

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<sup>7</sup> Pp. 189-99.

word, appalling. And Shortis's condition, not surprisingly, appeared to worsen over time. The determination that he was insane and the consequent decision to commute the death sentence to life in prison was apparently correct.

But then, all of a sudden, Shortis's condition improves. On page 225 it is clear from the description of Shortis's paranoid delusions that he was really quite mad. On page 229 he is described by an attending physician as "insane" and "very dangerous". However, two years and four pages later, for no apparent reason the same doctor reports to the authorities that while Shortis is insane he has become a "quite harmless man". Conditions at Kingston do not appear to have changed, and there is no evidence here or indeed anywhere else in the book that Shortis or any other criminal lunatic received much in the way of medical treatment. So what brought about the transformation? Unfortunately, the book does not attempt an explanation. Professor Friedland deliberately leaves it to the reader to decide whether Shortis really was insane.

What is clear is that when Shortis was finally transferred to a provincial asylum, away from the oppressive conditions of the turn-of-the-century federal penitentiaries, his condition continued to improve and he began to pave the way for his re-entry into society. He was assisted in this effort by the indefatigable Lady Aberdeen, who continued her interest in the case; by Mackenzie King, who had become Prime Minister; and by a host of well-meaning do-gooders who became attracted to Shortis and his cause and who worked to secure his release. That day eventually came and when it did, Shortis rejoined the community, surviving on an annuity left to him by his late father. He moved to Toronto where he lived anonymously. There were still some important unanswered questions about his crime when he died on April 30, 1941. It is in a final piece of evidence unearthed in the prodigious research for this book that a clue to what really happened the night of March 1, 1895 may be found.

*William Kaplan\**

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\* Faculty of Law, Common Law Section, University of Ottawa.