

# Miscellaneous Brief Reviews

**TRIAL BY PREJUDICE.** By Arthur Garfield Hays. Illustrated. 369 pp. New York: Covici, Friede. \$2.50.

**M**R. HAYS might, more dramatically, have titled his book "The Thirteenth Juror." For in his text he constantly refers to that unseen power, that community emotionalism antagonistic to the accused for any reason which he brings out in the accounts of the trials he has collected here as "the ominous presence of the thirteenth juror—prejudice." Following his long introduction he fills the body of his book with the stories of nearly a score of trials that either recently or within the last few years have been news sensations of such importance that they dominated first pages all over the country. He opens with the Scottsboro case and takes up next that of Mooney and Billings. These are much the longest in the book, each filling over a hundred pages. One section of four chapters brings together under the general heading "Wobblies, Communists — and a Wealthy Jew," the affair at Centralia, Wash., soon after the war, that at Gastonia, N. C., a few years ago, that of Angelo Herndon last Summer in Georgia and that of Leo Frank twenty years ago at Atlanta. Among the nine other cases included are the Sacco-Vanzetti trial, the troubles in Harlan and Bell Counties, Ky., the recent trial of Charles E. Mitchell and half a dozen other cases of less public interest.

In the chapters on the Scottsboro and the Mooney and Billings cases Mr. Hays tells the story of each one with considerable detail, weaving events, descriptions of characters and of happenings into a close narrative, interspersing occasional excerpts from court testimony and throwing in now and then interpretations and comments. His purpose is, while setting forth a judicial account of each case, to show to what extent the trials, the jurors and the results were influenced by the seething prejudices of the community. He comes to the conclusion that "the detailed facts of the Scottsboro and Mooney cases leave little doubt that, however impartial may be the intent of the judicial process, the result depends upon mass emotions, the will to believe." All of the other cases are summarized briefly, each one being condensed into from one to two or three pages. The author's purpose in bringing them forward now and mingling together those of recent date and of many years ago is to impress his readers with the omnipresence and terrifying power of this "thirteenth juror" and so, perhaps, induce some of them to be on guard against this menace in the future.

No reader of the book will want to miss Mr. Hays's introduction, which sets forth in moderate, reasonable terms the case against the "thirteenth juror." He shows how admirable in theory is our criminal legal system, of which he says that "it would be difficult to conceive a procedure more fair to the accused." And then he shows how prejudice of any one of many kinds, mass emotion, unbridled and unthinking speech and action, messes up the admirable theory and makes impossible a fair trial. The cases he narrates in the body of his book are his evidence to prove this argument. There is much need of just such a book as Mr. Hays has made and it deserves wide reading.

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