

POOR DOCUMENT

EXCITING SCENES AT THE TRIAL OF GUILTEAU.

Dr. John H. Callender of Nashville, the Superintendent of the Tennessee Hospital for the Insane, testified that he had made a personal examination of the prisoner in the jail on the 25th of November, and he gave a narrative of what he observed, and of what the prisoner told him about his life and his reasons for shooting the President. From his observation of him in court and in jail it was his opinion that the prisoner was sane. The District Attorney then put to him the hypothetical questions, which the prisoner declared to be two thirds false, and the witness gave it as his opinion that the prisoner was sane on the 22d of July.

"What do you think about my Christ-mas greeting, which is published in all the papers this morning, Doctor?" inquired the prisoner. "Give us points upon that. That would be more sensible than this kind of stuff."

The cross examination was conducted by Mr. Scoville, who went into a dissection of the hypothetical questions of the prosecution. The witness admitted that in answering those questions he had not taken into consideration the statement that the mother of the person described therein had been ill with inflammation of the brain for six months before his birth, nor had he assumed the father to have had any but a sound mind. Witness did not think that an enthusiastic and honest belief that the Oneida Community was the beginning of God's kingdom on earth was an evidence of insanity.

After recess Mr. Scoville said that, in order to be accurate, the defence had had a plaster cast of the prisoner's head taken by Clark Mills, the sculptor, and he would like to call that gentleman to identify it. The prosecution, however, objected to that course. The cross-examination was then resumed by Mr. Scoville.

Q—Suppose the person described in the prosecution's hypothetical question believed that he was in partnership with Jesus Christ & Co., in the establishment of the *Phoenix*, that Jesus Christ was with him as a partner in the business, and that it would be made a success through that means, and that he was inspired to start the paper by a direct command from the Almighty, would that make any difference in your answer?

Mr. Porter (solemnly)—I object to that question as irreverent and blasphemous.

Mr. Scoville—If the prisoner's belief that he was inspired is irreverent and blasphemous, and the Court rejects it on that ground, there is an end of this case, because we are not allowed any defence. Mr. Porter—It is a question which purports to be justified by the proof in this case, and which your Honor is asked to entertain in the presence of this jury. The question was repeated for the benefit of the Judge.

Mr. Porter—There is no evidence, even by the oath of the criminal.

The prisoner (interrupting)—How do you know, you great big mouth, you—

Mr. Porter (continuing)—That he believed the Redeemer of mankind to be his partner in business, and when the learned counsel for the prisoner puts such a question in a Christian court and a Federal tribunal, I hold, whatever your Honor may hold, that it is time to rebuke both him and his client. It is a hypothesis that no man, who believes that God was our creator, should be permitted for one moment to present in a court of justice and before this audience. If it had been presented to your Honor in your private chamber you would do in regard to the counsel what you have not done in regard to the prisoner. The time has come when, in behalf of the American Government, I protest against these blasphemous utterances. The counsel can predicate his question on facts which have been proved, but not on those which assume that we make no difference between the Redeemer of mankind and ourselves. [Applause.]

The prisoner—How about Christ and Paul. Paul was in partnership with the Saviour. Haven't I just as much right as Paul?

Mr. Porter—I must insist, your Honor, in behalf of the Government and to vindicate it, that the criminal shall be removed to the dock.

The prisoner—You had better mind your own business, Porter.

Mr. Porter—This is my business today. There is not that man at the American bar who would not have been disgraced and silenced by coercion if he had uttered what this man, under the false pretence of being counsel in this case, has uttered from time to time to your Honor. I should say here that it was only the interruption of the prisoner which induced us to disturb the order in which Mr. Davidge desired to present this question. But on a question which touches the hearts and conscience of the people of this nation. I now invoke your Honor's action not only in regard to the decision of this question, but in reference to the disposition to be made of this prisoner.

The prisoner (excitedly)—The American people are with me more and more, and that is the reason you are mad about it. I appear as my own counsel, and his Honor has no discretion in this matter.

Mr. Scoville (to Mr. Porter)—This case

is not on trial before the American people. Mr. Porter—Then, why do you and your client, with your advice, address them?

Mr. Reed—This is not true, Mr. Porter, and you know it is not true.

Mr. Porter—Only answer that it is true.

The Judge called the counsel to order, and asked whether it was desired that the proceedings be suspended for action on Mr. Porter's motion.

Mr. Davidge—We have understood from the beginning that your Honor not only desired to accord to this prisoner the full measure of his constitutional right, but that you wished furthermore not even to appear to impinge on those rights. We have supposed that not only were those rights to be respected in their integrity, but that any error on the part of the Court should be an error in the direction of mercy in respect of the prisoner. If not acquiescing in, at least recognizing views of that sort, for we have not fully subscribed to the idea that those constitutional rights may not be lost by the conduct of the prisoner at the bar, we have allowed day after day to pass without making any application for judicial coercion. The prisoner has proclaimed himself to be sane to this Court and to the world. The last theory of this case is that it presents an instance of what is called transitory insanity. Your Honor, in addition to the consideration I have referred to, has doubtless been strongly controlled by the consideration that here was a man on trial for his life whose sanity was one of the issues involved in the trial. I simply assert that at this stage of the trial probably nobody can question the fact that he is sane in respect at least of his conduct and behavior in this court. Mr. Porter's motion on Saturday was to remand this prisoner to the dock where he belongs.

The prisoner (violently)—I am here as my own counsel, and the court has no discretion.

Mr. Davidge—Your Honor and myself have tried many cases in this court where men were under indictment. The old practice was that a man indicted for crime should always be in the dock, no matter who or what he was. We saw yesterday the salutary effect of this motion on the part of Mr. Porter. We experienced then for the first time a day of quiet and order.

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and the American people. That is my opinion about the prosecution.

Mr. Scoville thought that this was not a motion that called for any display of feeling, or for sensational speeches from the prosecution. He desired that the prisoner should be controlled and made to sit still, and he hoped the Court would adopt some means, treating the man either as sane or insane to compel him to do so. Nobility was more annoyed at these interruptions than himself.

The prisoner—That is because you are a jackass in this case two-thirds of the time. If I had a first-class lawyer I would let him alone.

The District Attorney—The time has come when we feel it our duty to demand of this Court prompt, decisive, and open action. The time has come for action in the interest and for the vindication of justice itself. There has been some public criticism with regard to the disgraceful conduct of the man here on trial, because his conduct was an affront to the dignity of the court, offensive to good order, and against decency.

Mr. Corkhill then said the prisoner ought to be put in the dock and the special guard of policemen about him ought to be withdrawn, and he be left in charge of the Marshal.

The prisoner—You cannot convict me, and you want to shoot me.

The District Attorney—Hereafter the responsibility of his conduct must be with him, and him alone. He shall be tried hereafter as any other criminal. I want the Marshal to take the man to the dock. He is responsible if he escapes. Let the other officers return to their beats.

The prisoner—The American people will have something to say if you put me in that dock, and I get shot, and God Almighty will curse you, Corkhill, you wretch.

Mr. Scoville (indignantly and excitedly)—I made no objection to the motion; but when I hear the prosecuting attorney stand up and give notice beforehand that the prisoner is to be placed by authority in a place where he can be shot, and virtually invites assassins to step into the court room and shoot him, I disdain further concurrence in the motion.

Mr. Porter (laying his hand dramatically on Mr. Corkhill's shoulder and speaking slowly)—That imputation against this gentleman, just as vile as the obscene charges of the prisoner, calls for a vindication. From the beginning of this trial the District Attorney has observed a spirit of fairness, of honor, of clemency, of forbearance toward the prisoner.

The prisoner—You and the American people don't agree on that, Porter.

Mr. Porter—In regard to the position taken by Mr. Corkhill I entirely concur with him, whatever the consequences to "the prisoner. When I made this motion I felt that the time had come when it was due to the majesty of the law, to the vindication of the American Government, and, above all, to the vindication of the judiciary, that the step should be taken which I now indicate. You suspended your decision in the hope that you might be able to extend to this criminal and homicide still further clemency. But if it be extended it will be at some peril, peril to the name of American jurisprudence, peril in respect of the indefinite continuation of the trial. The time has now come when the law must make its appearance in this court room, and when a man who pretends to be a maniac shall no longer sit at the counsel table and exercise privileges which would accord to no member of the American bar.

The prisoner—A very nice speech, but not a word of truth in it.

The Judge then said it was hardly necessary to say that the conduct of the prisoner had been in persistent violation of order and decorum. In the beginning the only methods which could be resorted to to suppress this disorder were such as must infringe the constitutional rights of the prisoner. Until Saturday last no other method had been proposed. Then this proposition was submitted. It had hitherto been an impression shared by the Court and counsel that the prisoner's conduct and language in court would afford the best indication of his mental and moral character, and contribute largely to the enlightenment of this Court and jury on the question of his responsibility. Having accepted counsel, the prisoner had waived his right to appear as such in person. On the consideration of all the circumstances, he thought that the motion would have to be granted, and that the prisoner should be placed in the dock, but he did not mean that the prisoner should be exposed to any danger. He should have protection.

The prisoner (speaking quietly)—To settle the matter, I will sit quietly here. If I sit in the dock I may be worse.

The Judge directed the Marshal to clear the dock of spectators and to put the prisoner there.

The prisoner (in a subdued tone)—I have no objection to going to the dock if your Honor says so.

The Judge—I say so simply in hopes of keeping you quiet. If it can be done I hope your Honor will do it.

The prisoner—It can be done, because I will do anything his Honor says. I want these men on the prosecution not to abuse me any more. They have dug up my record, and it is enough to expiate any man, even a saint. It has no possible relevancy to this issue whatever, and it is an outrage on me, the Court, and the jury.

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