

not? A. I would like to see the prisoner hung (Sensation.)

Prisoner: Oh you wicked old scoundrel to say so!

Re-examined—Question: Why would you like to see the prisoner hung? Answer: Because I think the man who would shoot another, asleep in his bed, deserves to be hung. (Prisoner at this evinced considerable emotion, and shed tears.)

Private John Daly:—Belongs to same company as prisoner; slept in the third bed from Sergeant Quinn on the night of the murder; was called up by deceased who said he was shot; when I saw that such was the case, I went for the doctor; saw prisoner's rifle was not in the rack.

Private James Shepherd proved finding the round of ammunition produced, in prisoner's left side pocket, after he had been brought to the guard-house, on the night of the murder; prisoner said in the guard-room he was very sorry he did not shoot Quinn dead for getting him seven days in Chambly, when he was not in fault; prisoner also said he told Quinn to his face that he would shoot him at Chambly, or very soon after leaving.

Cross-examined: Privates Conway and Bracken were present when this conversation took place; can't say if they heard it; prisoner was talking in an audible voice; been a year and ten months in the militia before I entered the army; can't tell whether the guard-room is 12 by 15 feet, less or more; prisoner was walking up and down the guard room when this conversation took place; can't tell how long or wide the guard-room is.

Cordner Jones:—The proceedings at the inquest on the body of Quinn were handed into Court; Dr. Robillard and Dr. Ferguson examined the body; committed the prisoner to take his trial.

Sergeant Jeremiah Lehaie, Hospital Sergeant: Saw Quinn after he was shot in his bed in the barrack-room; assisted the doctor in bandaging him; brought lint and bandages, and remained till deceased was removed; witness identified the bedding, shirt, flannel, and other things worn by the deceased.

Dr. Robillard corroborated the evidence of Dr. Ferguson, as to the state of deceased's body, and the result of the *post mortem* examination.

This was the case for the Crown.

It being now close upon four o'clock Mr. Morison hoped the Court would allow him till to-morrow morning, before commencing the defence.

Judge Mondelet: No, we have still an hour to go on, in Jalbert's case we had to address the Jury at ten o'clock at night.

Mr. Morison addressed the Jury for the defence. He had hesitated to undertake the case of this unfortunate man when requested to do so by the Judge, because of the sickness under which he had so long laboured. But when appealed to on behalf of a soldier, and as a soldier to undertake the case of a man, poor peniless and alone, he at once acceded to the demand, and determined that no effort of his should be spared to do the prisoner's case justice. He well knew what he had to contend against—against the public, the press, and persons wearing her Majesty's uniform, who

were all arrayed against this unhappy man, and determined to have his condemnation. All that he asked of the Jury was honest fair play. He begged them to discard from their minds all they had heard outside this building—to forget the magnitude of the offence of a private soldier raising his hand against his officer—to remember the sacred obligation of the oath they had taken. They must look upon this case as if they had never heard of it before; they must look at it as if they had never seen or heard of the 16th Regiment before; they must deal with the prisoner as they would be dealt by, and as they would have to answer to God for dealing with him hereafter. Trial by Jury had well been called one of the great bulwarks of British Freedom. Whatever might have been the evils which led to the institution of it, the most grievous had been done away with; now, thank God, the Judges were not menials, dependent either upon popular favor or the pleasure of the executive, they were no longer the willing tools of power, or, what was worse the corrupt instruments of the popular will. Our Judges are learned, honest, upright men, who, instead of being desirous to crush the innocent had always a leaning and bias the other way; hence it was that we saw them daily suggesting to counsel means which his less skilful knowledge of the law might fail to discover whereby a prisoner might be acquitted. But Judges were men, and possessed all the infirmities and weaknesses of humanity, nor were they infallible, so that even to-day Jurors were called in to judge of the facts of a case, not according to the rules of law, but with the feelings of living men. Jurymen ought therefore to be impressed with the great responsibility of their oath; they sit as the country—they represent the country. The Juror is bound to judge according to the evidence; but he will bear in mind that the words "not guilty" are not of absolute import, but have only a legal meaning: a Jury in delivering that verdict do not mean to say that they are not morally convinced of the prisoner's guilt, but that according to the strict rules of law and the particular evidence on the case as disclosed on the trial, the prisoner cannot be considered guilty in a legal sense, in manner and form, as laid down in the indictment. The death punishment was the last remnant of a barbarous code, which, if the Jury were averse to inflict, they were not bound to find the prisoner guilty. The Jury were interpreters of the law so far as connected with the facts of the case. They were to say, from the evidence they had heard, if they were prepared to send the prisoner to an early grave for one solitary evil act. Would a public execution improve the morals of a country? He had never been present at one, but he had read and had heard from parties present, that the public executions which had taken place in Montreal, so far from striking the multitude with awe and the sinner with fear, were a farce and a burlesque. The learned counsel cited a case where Lord Mansfield charged the Jury to find a verdict for a minor offence, where a verdict of guilty

would have hoped the le in this case fore proceed he made son er at the ba sergeant en and drew a at home, an who listen enlisting in prisoner ha undoubtedly soldier who drummed o guardian of in the way come inebr not to be tr had shown one who by so besotted no longer a the bench upon the m he was add eyes. He that the m was not ge who would for his one of drink. example v canteen-ke them in ev in order th it, those in to body and of them. diguation blood of th to human had taught the officer ingly avo the officer the condu ago, who this man act of wic racter fro enness an not his o peculiar opened th ation, an give the evidence ment in slaughter ed with crime of aforsyth must be mind m