

SEEN AT THE JAMESON TRIAL.

---

The great State Trial was on. The witnesses for the Crown had willingly or unwillingly told with fatal certainty the story of Jameson's raid from organization to defeat. The relentlessly exact reports of the testimony had frayed the cloak of chivalry which public opinion had hung upon the shoulders of the accused, and the suspicion was gaining ground that the raid was a bold stroke for wealth planned and carried out in detail by selfishness and greed. The Boer witnesses nightly proclaimed the wrongs of the Transvaal in the smoking-rooms of the hotels. They openly asserted their belief that Jameson and his officers could not be convicted in an English court. Their distrust provoked them, and their self-confidence permitted them, to use the boldest language in discussing the situation in mixed gatherings. The Chief of the Transvaal Mounted Police had exclaimed to a company of Englishmen: "I hope Jameson will be acquitted! I hope he will be acquitted! Then the Transvaal will abrogate the Convention, and that will mean war with England! And we can defeat any army that England can send against us!"

Admission to the court room was only by invitation, or by card, issued in the name of the Lord Chief-Justice. A card was only good for one entrance. No more cards were issued in a day than there were seats in the court room. The pressure to obtain admittance was said to be great, the number of applications, unprecedented. If a professional member of the American contingent at that time in London was fortunate enough to have the doors of the court room opened to him, it was perhaps in this wise: A business-like note through the mail informed him that by permission of the Lord Chief-Justice of England, his Lordship's Secretary would give him a seat "on the bench" during the remainder of Dr. Jameson's trial at the bar.

To an American, to whom a seat on the bench by the courtesy of the judge is a thing almost unheard of and only to be mentioned with bated breath, the prospect might be deterrent. But the opportunity was not to be thrown away lightly, and the door of the Lord Chief-Justice's private room in the law courts was reached shortly before court opened. The private secretary was as business-like as possible. He simply said, "Oh, yes;" and,

stepping into a recess, pulled aside a portiere and pushed the visitor out into the full blaze of the footlights. He was on the bench. The court-room was already full. Counsel, defendants, peers, diplomats, ladies of high degree—all were expectant. A court attendant in a short black gown stepped up and gave the visitor a very small chair against the wall on the left of the Justices' desk and about twelve feet away from it. It was a seat on the dais—on the bench; but it was not with the Justices. No appalling dignity was thrust upon the occupant, who simply had the distinction of being the spectator who had the best seat. The dais reached the full length of the room. In the middle was the Justices' desk, on either side of which was a space of about fifteen feet in which were placed a dozen small folding chairs. These were "seats on the bench," reserved for guests of the presiding Justice—generally professional visitors. These private boxes, so to speak, were partially separated from the audience, on the one side, by a raised jury box, on the other, by a similar box for the stenographers, and the witness stand. The Master of the Crown had a small table in front of the Justices' desk. The entire remaining space was occupied by two rows of benches, narrow and straight-backed, like church pews, each with a narrow running desk-board in front of it. The two rows were separated by an aisle and the benches were placed on a slight incline, rising to the back of the room.

On the front bench on one side sat Dr. Jameson and his co-defendants; behind them were the senior counsel for the defense, backed by junior counsel, and behind these again were the juniors of the juniors—in all about eighteen lawyers. On the other side, the front bench was occupied by Treasury officials, behind whom were the counsel for the Crown—seniors, juniors and juniors of juniors—about eighteen in all.

Attorney-General Webster was the leader for the Crown. Sir Edward Clarke led for the defense. Every barrister in the room, including the onlookers, was black-gowned and wigged. There was no barrier or any mark of separation between the benches occupied by counsel and the benches in the rear occupied by the public. Facing the bench was a large gallery for the public. At one end was a small gallery reserved exclusively for distinguished ladies, guests of the Lord Chief-Justice. The entrance doors were kept locked and were carefully guarded by attendants in uniform, who stood on the outside. Light came exclusively from lofty sky-lights. The acoustic properties of the room were perfect.

At 10:30 a gowned attendant stepped on the bench and cried, "Silence!" Everyone rose to his feet and the portieres divided disclosing the three Justices, a vision in crimson. In profound silence the Justices advanced. Each was seated by an attendant, the Lord Chief-Justice in the middle, Mr. Baron Pollock on his right, and Mr. Justice Hawkins on his left. Everyone else then sat down. The scene was striking, impressive. In the background was a brilliant company of spectators; in the middle, the somber gathering of lawyers; in the foreground, the three mediæval crimson figures, calm and impassive, expressing, to an ideal degree, the embodiment of the Law—cold, relentless, implacable.

The costume of the Justices was a crimson robe falling straight to the heels, encircled at the waist by a voluminous silk sash. A cape of the same color just cleared the shoulders, and over this was a hood of grey silk. So far as could be seen, the only distinguishing mark in the costume of the Lord Chief-Justice was three small bows of narrow, scarlet ribbon, tacked to his hood. The wigs of the Justices were uniformly crimped. They were admirably adapted to lend severity to the features. The wigs of the barristers, on the other hand, softened the features. In these, the hair was drawn straight back from the forehead, curled in horizontal rolls at the back, and then brought together in a short queue, which was tied with a black ribbon.

Throughout the trial, the proceedings were mainly conducted by the leaders. Consultations among the seniors were frequent. Occasionally a junior leaned over and hazarded a suggestion in a whisper, but the youngest of counsel, who sat on the rear benches, apparently understood little of the details of the proceedings. They were all extremely youthful in appearance and were evidently associated in the case more for the name of the thing and as a matter of favor to them than for any support which they could give. There was no formal opening of court, only the announcement, deferentially made:

"My Lords: The Crown against Jameson and others."

The Attorney-General was on his feet between the benches. After calling one witness to prove certain entries in Dr. Jameson's diary, he announced that the Crown had completed its case with the exception of the proof that Pitsani Pitlogo, the place where the raid was planned, and Mafeking, the point from which the expedition started, were, or one of them was, within the limits of the British Empire, and that the operation of the Foreign Enlistment Act extended over these places. Then was read the

Act of Parliament authorizing the acquisition of new territory and prescribing the steps to be pursued in order to extend British sovereignty over new territory; that portion of the Foreign Enlistment Act which prescribed the conditions precedent to the operation of the act in new territory; and then were introduced exemplified copies of proclamations, treaties with native African chiefs, commissions, orders in council, and acts of the Legislature of Cape Colony, defining the status of British Bechuanaland (in which is Mafeking), and the territory immediately to the north, in which Pitsani Pitlogo is situated. Printed copies of these documents had previously been furnished to the Justices and to the defense. No time was lost in inspection or reading. By direction of the court the jury were simply told the character and purport of each document as it was offered.

The Crown announced closed. Sir Edward Clarke moved the discharge of the defendants upon the ground that no infringement of the Foreign Enlistment Act had been shown, inasmuch as it did not appear from the evidence that Mafeking and Pitsani Pitlogo were British territory, or that the Foreign Enlistment Act extended to Pitsani Pitlogo. His point was that a certain proclamation by the Governor of Cape Colony had not been made in accordance with the Act of Parliament. To state the point was to make the non-comformity apparent. It was a technicality which would have carried the day in most of the criminal courts of this country if proof of sovereignty *de jure* were required. But in England the quality of justice is not so strained.

Sir Edward Clarke's argument was an intellectual treat. It was a marvel of ingenuity, lucidity and logical strength. The speaker's voice was low and beautifully modulated; his tone, conversational; his manner, quiet but earnest. There were no gestures, nor was there any of the intensesness, the reaching after effect, so characteristic of American oratory.

The Attorney-General's reply was a strong argument; but he closed with an appeal to common sense. This gave Sir Edward Clarke, in his concluding argument, a chance for a thrust. He said that whenever a man failed to understand the point at issue he always appealed to common sense. This was the Lord Chief-Justice's opportunity, which he improved thus, by way of interruption:

"Yes; I have always understood that common sense had nothing to do with a point of law." At which the barristers all smiled dutifully.

The motion was overruled by the court in a masterly opinion by the Lord Chief-Justice in which he refuted the arguments of Sir Edward Clarke. The Associate Justices concurred, but Mr. Baron Pollock alone gave his reasons. He utterly disregarded the arguments of Sir Edward Clarke, and his opinion could be summed up thus:

"We are only concerned with the question, Does British sovereignty extend over these places? not How was that sovereignty acquired?"

The defense had no evidence to offer, and court adjourned to give time for the preparation of the arguments to the jury. Throughout the day's proceedings, three things could not fail to attract the attention of an American lawyer—the impassive demeanor of the Justices; the extreme deference and respect exhibited by counsel to the Court; and the absence of bustle, the perfect order and quiet maintained in the court room.

The arguments to the jury can not be summarized here. *De jure* sovereignty over Mafeking and Pitsani Pitlogo was argued as matter of fact, as were *de facto* sovereignty and the operation of the Foreign Enlistment Act. Then, marking a new era in international law, came the charge of the Court by the Lord Chief-Justice, at the conclusion of which he propounded to the jury seven questions, six of which related to the acts of the defendants, while the seventh left to the jury the question of sovereignty *de facto* over Pitsani Pitlogo. Sir Edward Clarke endeavored to interpose an objection to the propounding of these questions, but he was silenced in the most peremptory manner by the Lord Chief-Justice, who said that he would permit no interruption at that stage. The jury were then told that they were only requested by the court to answer the questions; they could not be compelled to answer them. They could, if they chose, bring in a general verdict of guilty or not guilty; but, in refusing to answer the questions, they would be assuming a grave responsibility, inasmuch as questions of law were involved.

There was a tightening of lips and a holding of breath as the jury filed back to their seats with averted eyes. As each question was read to the foreman and his answer came adverse to the defendants, a shocked expression plainly grew on the faces of the audience. It was the realization that hopes were baffled, that the worst had come.

By direction of the Court the jury then rendered a general verdict of guilty, but they coupled with it a recommendation to mercy in the shape of a rider: "The jury consider that the

state of affairs in Johannesburg presented great provocation."

The Justices retired to give the defense time for deliberation. There was an earnest exchange of views between prisoners, counsel and friends. The spectators were too stunned for discussion, but the whole place was instinct with silent questionings: Is it final? Is there no possibility of a new trial? Can there be no appeal?

The Justices returned and amazement succeeded consternation when Sir Edward Clarke announced that the defendants had determined to accept the verdict and to submit to the judgment of the Court.

"Let the defendants stand up," said the Lord Chief-Justice; and five men with faces typical of a dominant race, came to their feet. The voice was as impassive as ever; but the arraignment was terrible. The waste of human life, the private sufferings, the public wrong committed in endangering the peace of nations, the aggravation of the offense by reason of the high social position, the superior education and intelligence of the accused, and the official character of some of them—all these were pointed out. And then came the sentences of imprisonment, ringing down the curtain on the last act of the tragedy. Foreign wrath was appeased; English Law was vindicated.

*John Wurts.*