1913

A Trial of Jury

Allen W. Gullion
A TRIAL OF JURY.

Judge Lyman Chalkley, of the Law College of Kentucky State University, conducted an interesting experiment in the presence of his class in Evidence on October 15th. The objects of the experiment were:

(a) To test the power of observation of the average witness.
(b) To test the correctness of the verdict based upon the testimony of the average witness.
(b) To ascertain by comparison of testimony and verdict what effect testimonial error has upon a verdict.

The general outlines of the experiment were:

1st. There was staged before the unsuspecting class, a dramatic incident in which the actors had been secretly and carefully rehearsed and in the lines and "business" of which they were letter perfect.

2nd. Ten witnesses from among the members of the class were immediately summoned and prevented from talking with any one.

3rd. A jury was impanelled from another class and before this jury the witnesses testified. All witnesses were asked the same questions and their testimony was stenographically reported.

4th. The jury retired, without the stenographic report, reconstructed the dramatic incident in narrative form and returned the narrative as their verdict.

5th. Upon a basis of points a valuation was made of testimonial correctness and verdict correctness.

NOTE.—The illusion was so perfect that most of the witnesses thought the occurrence was spontaneous. Judge Chalkley and all the actors except Dr. Tigert were in their seats in the class room when the drama began. Dr. Tigert was a member of the class but had been present only once. He was the director of athletics of the University and professor of philosophy. The details of the drama, the questions, the testimony of five of the witnesses and the verdict here follow. Their perusal will make plain all the details of the experiment.
THE DRAMA.

Chalkley—"Mr. Williams, please close the door." (W. goes
to door and is closing it when Tigert attempts to come in with noise,
forces the door against W., enters, gray clothes and hat on, saying:)

Tigert—"Let me in. I belong to this class." (Takes three
steps forward towards C.)

Johnson—(Sitting on rear row, left, red cravat, brown suit,
bangs book on chair arm, rises, exclaims in loud voice but clearly:)
"He's a ringer. Put him out. The object of this class is not to
study style."

Jackson—(Sitting on third row, right, blue clothes, blue cravat,
hits chair arm twice with book, rises, turning full to Johnson ex-
claims in loud voice, but distinctly:) "He's not a ringer. I'll not
submit to this outrage. We'll keep the bloody Irishman from riding
on the cars."

Johnson—(As Jackson finishes, starts forward around left
towards front. Dixon seizes him, saying:)

Dixon—"Johnson, you fool, stop this. You're good as fizzed
now."

Johnson and Dixon—(They struggle.)

Jackson—(As Johnson starts, Jackson starts right towards
front. Williams—(Williams seizes him, and they struggle.)

Gullion—(Sitting front center, rises, faces full to class, stamps
three times, says in loud commanding voice:) "Attention. This
has gone too far. It must stop!" (Gullion was Commandant of
cadets at the University.)

All—(Cease struggling and resume seats.)

Tigert—(Goes out of door slamming it.)

Gullion—(Remains standing.)

Chalkley—(Has remained sitting, rises, says): "I have never
witnessed such a disgraceful scene. I recognize Mr. Gullion's right
to interfere, but orderly procedure requires that I report the matter
immediately to the Dean for investigation. Mr. Gullion will take
my place, all will keep their seats except Mr. Johnson, Mr. Jackson,
Mr. Williams and Mr. Dixon, who will go with me to the Dean."

Gullion—(Takes C's place and cautions students not to talk
with each other.)

QUESTIONS.

I. What first attracted your attention?
II. Describe the occurrence at the door?
III. Who spoke first, and what did he say?
IV. Who did anything next, and what did he do and say?
V. Who did anything next, and what did he do and say?
VI. Who acted next, and what was done and said?
VII. What did Mr. Gullion do and say?
VIII. What happened then?
IX. What did Chalkley do or say?
X. What part had he taken before?
XI. Did you notice anything striking as to Dr. Tigert's dress or appearance?
XII. What became of Dr. Tigert?
XIII. Did you notice anything striking as to Mr. Jackson's dress or appearance?
XIV. Did you notice anything striking as to Mr. Johnson's dress or appearance?
XV. Do you recall any other person or act in connection with the transaction?

Jury—Pannell, Miller, Deskins, Norris, Blevins, Crutcher.
Stenographer—Miss Bella Withers.

Second Witness—Mr. Calhoun.

ANSWERS.
1. You told Mr. Williams to shut the door.
2. Mr. Williams had the door practically closed and some one hurriedly opened it and came inside. It was Dr. Tigert and he demanded to know why the door had been closed on him; he was a member of that class as well as any one else.
3. Dr. Tigert. He said "What do you mean by shutting me out? I am a member of this class as well as any body."
4. Some one jumped up. I don't know who, and said "Fellows, let's put him out."
5. Two or three men, I don't know who, got up and sided with Williams. They were opposed by other men, I don't know who.
6. I think it was Major Gullion.
7. Major Gullion got up and called for order.
8. Dr. Tigert left the room and the members of the class took their places and Major Gullion took charge of the class.
9. You recognized Major Gullion's right to take charge and asked the gentlemen who had taken part at all, to come with you, and you took them from the room.
10. You told Mr. Williams to close the door as there was some disturbance in the hall.
11. He appeared excited or irritated.
12. He left the room after the men jumped up and the trouble started.
13. No.
14. No.
15. No.

Fourth Witness—Mr. Dishman.

ANSWERS.
1. The gentleman at the door making a noise as Dr. Tigert entered.
2. Dr. Tigert was inside and the door was slammed and he said: "I am a member of this class and have a right to enter here."
3. I believe Dr. Tigert spoke first.
4. Two gentlemen on one side of the room were scuffling and I heard Mr. Jackson say something about traitors.
5. The gentlemen holding the door.
6. Major Gullion jumped up and moved that they stop.
7. He said, "Stop this."
8. You began to talk.
9 and 10. You said something like "What does this mean?"
11. No.
12. No.
13. No.
14. No.
15. No.

Sixth Witness—Mr. Berkshire.

ANSWERS.
1. Your asking Charlie Williams to close the door.
2. Mr. Williams proceeded to close the door. About that time Coach Tigert started to enter.
3. Coach Tigert. He said, "I am a member of this class and have a right to be in here."
4. Mr. Johnson, I believe. He said, "Put Coach Tigert out. He is an intruder."
5. Jackson seemed to come to Tigert's rescue and Mr. Jackson and Major Gullion kept them apart.
6. After Gullion said that it had gone far enough, you did.
7. He just took the floor between Tigert and Jackson, with Johnson and Jackson on the other side, saying, "This has gone far enough."

8. You said you had never seen anything of this kind happen before.

9 and 10. Only asked Williams to close the door.

11. No.

12. He left the room about the time Jackson and Johnson took the floor. After that Major Gullion got up.

13. No.

14. No.

15. No.

Ninth Witness—Mr. Hood.

ANSWERS.

1. Your telling Mr. Williams to close the door.

2. Dr. Tigert came up to the door and the gentleman on the inside pushed it to while Dr. Tigert pushed it back.

3. I could not tell you.

4. Mr. Johnson next attracted my attention. He said, "Get up and put him out."

5. Several gentlemen jumped up and Major Gullion got up.

6 and 7. He took his position between the two fellows and said it had to be stopped.

8 and 9. Then you spoke. You said you never saw anything more disgraceful and that you would request those gentlemen to come to the Dean and the others to remain in class.

10. I do not think you had taken any part.

11. No.

12. After he saw his presence was not desired he went out.

13. No.

14. No.

15. No.

Tenth Witness—Mr. Gruell.

ANSWERS.

1. Mr. Williams getting up to close the door. You asked him to.

2. As Williams closed the door, Dr. Tigert threw himself against the door with force and threw Mr. Williams back to some
extent and spoke up in what seemed an angry tone and said he had a right there.

3. Dr. Tigert. The substance was that he was entitled to class room.

4. Mr. Williams threw himself against the door and seemed angry. Then Mr. Johnson suggested that we throw him out.

5. Mr. Williams released the door and stepped back and Mr. Johnson arose in the back of the room and said, "Throw him out."

6. Stonewall Jackson rose and said we would not endure such a thing in class and he started around and met Johnson in the front of the room. Next Mr. Dixon rose from a chair on the end in the front of the room and got Johnson in front as he got around. As Jackson started, Williams started back and caught Jackson.

7. Major Gullion rose and demanded order in the room, as one of the governing members of the faculty.

8. You stepped down and said it was one of the greatest outrages you had ever witnessed in the class room and that you would take the matter up with the Dean and you asked Mr. Gullion to take the class.

9 and 10. You had demanded order and walked out.

11. No.

12. He stepped out of the room after C. X. Johnson started after him.

13. No.

14. I recognized the faces but not the dress or appearance.

15. No.

THE VERDICT.

Judge Chalkley told C. W. Williams to close the door. Dr. Tigert, who was standing just outside the room, started in as Williams began to close the door. Tigert seeing the door closing, lunged against it, pushing Williams back and entering the room. Williams offered slight resistance but released the knob of the door after Tigert had entered and then stepped back a step.

Tigert then spoke first, somewhat angrily. He said, "I am a member of this class as well as anybody else. I belong here."

C. X. Johnson rose in the southeast corner of the room and said, "Fellows, let's put him out. This is not a place to learn manners."

Jackson rose in the opposite corner of the room and said, "He's
not a ringer. Let's resent this outrage. Put the bloody Irishman out." (The last remark was directed at Johnson.)

Johnson and Jackson both started towards the front of the room. Williams grabbing hold of Jackson. Dixon, sitting near the front of the room grabbed Johnson, who resented the attack. They grappled.

Lieut. Gullion arose and stamped his foot, saying as he did so, "This thing has gone far enough," and commanded, "Order."

Judge Chalkley, who after having told Williams to close the door, had remained in his seat during the disturbance, rose after Gullion had spoken and said, "Gentlemen, what does this mean? This is the most disgraceful outrage I have ever seen in a class room. I recognize Mr. Gullion's authority and ask him to take charge of the class. But all work must cease in this class till an investigation has been held by the Dean. Mr. Johnson, Mr. Jackson, Mr. Williams, Mr. Dixon, will come with me. The rest of you remain here."

Dr. Tigert, who was angry, left when Gullion started to speak. Jackson wore a blue suit. Johnson a brown suit and Tigert a gray suit. All were angry.

TESTIMONIAL CORRECTNESS.—The average correctness of testimony was 34.2%. The best witness averaged 46%, the poorest 20%.

VERDICT CORRECTNESS.—The verdict was 66.5% correct.

COMMENTS.—The witnesses failed utterly in catching the words of the actors. General import is all they attempted to grasp. Most witnesses failed to notice the dress of the actors. No one noticed that Dr. Tigert kept his hat on. All left out many important points. The jury by discarding the grosser errors of the testimony reached a conclusion almost twice as correct as the average testimony.

CONCLUSION. Based on this ONE experiment it may be assumed that the average testimonial error does not seriously impair the correctness of a verdict.

ALLEN W. GULLION.