

the defendant's wife had not visited him for a certain time after he was first imprisoned, told the jury:

"Do you tell me that there lives a true wife, conscious of her husband's innocence, that wouldn't have gone through snap-shotters, reporters and everything else, to have seen him."

Whereupon the following colloquy ensued:

Mr. Arnold: I must object to as unfair and outrageous an argument as that, that his wife didn't go there through any consciousness of guilt on his part. I have sat here and heard the unfairest argument I have ever heard, and I can't object to it, but I do object to his making any allusion to the failure of the wife to go and see him; it's unfair, it isn't the way to treat a man on trial for his life.

The Court: Is there any evidence to that effect?

Mr. Dorsey: Here is the statement I have read.

Mr. Arnold: I object to his drawing any conclusions from his wife going or not going, one way or the other—it's an outrage upon law and decency and fairness.

The Court: Whatever was in the evidence or the statement I must allow it.

Mr. Dorsey (resuming): Let the galled jade wince—

Mr. Arnold: I object to that, I'm not a "galled jade," and I've got a right to object. I'm not galled at all, and that statement is entirely uncalled for.

The Court: He has got the right to interrupt you.

Mr. Dorsey: You've had your speech.

Mr. Rosser: And we never had any such dirty speech as that either.

Mr. Dorsey: I object to his remark, your Honor, I have a right to argue this case.

Mr. Rosser: I said that remark he made about Mr. Arnold, and your Honor said it was correct; I'm not criticising his speech, I don't care about that.

Mr. Dorsey (resuming): Frank said that his wife never went back there because she was afraid that the snap-shotters would get her picture,—because she didn't want to go through the line of snap-shotters. I tell you, gentlemen of the jury, that there never lived a woman, conscious of the rectitude and innocence of her husband, who wouldn't have gone to him through snap-shotters, reporters and advice of any Rabbi under the sun. And you know it.

*Over the*

Movant says that the Court erred in not taking positive action, under the circumstances aforesaid, and in not restraining the Solicitor-General from making his unfounded and unjust inferences from the alleged failure of the defendant's wife to visit him, which was not authorized by the evidence in the case, and erred in allowing the Solicitor-General to argue upon this subject at all, and erred in not admonishing the jury that such argument could not be considered and should have no weight with the jury, and the Court erred in not rebuking the Solicitor-General for making the reply which he made to the interruption, to the effect "Let the galled jade wince," and erred in not rebuking the Solicitor-General for such unjust comments upon a merited interruption,—and because of such failures of the Court, and because of the aforesaid erroneous, unjust and unfounded arguments of the Solicitor-General, movant says that a new trial should be granted.