

TRIAL OF RICHARD GARDINER, 1839, JACKSON'S OXFORDSHIRE JOURNALS

Richard GARDINER pleaded not guilty to an indictment for having committed willful and corrupt perjury.

Mr Serjeant Ludlow and Mr Walesby were counsel for the prosecution and Mr Carrington for the prisoner.

The Learned Serjeant stated that the present indictment arose out of a charge which the prisoner had falsely made against Mr Charles EVANS, son of Thomas B. EVANS, Esq, of Dean, of his having committed an unnatural offence.

Abraham Lindon Rawlinson, examined by Mr Keating said, I am clerk to Mr Rawlinson, a magistrate. I remember prisoner coming to make a complaint on the 12th of July last, it was taken down in writing; it was in effect charging Charles Evans with having committed an unnatural offence with a donkey, the circumstances of which were therein details. The prisoner was sworn in the usual way. I was present when a further information was taken before 3 magistrates, which was sworn to by the prisoner as before, and wherein he swore that his former deposition was true, and which went on to detail other circumstances connected with the alleged charge.

Charles Frederick Evans, examined by Mr Serjeant Ludlow, said, I am the son of Mr Evans of Dean; on the 9th of July, on a Monday, I was out behind the house with my brother, my father had a poney that was not at home, he had also a female donkey, she was in foal, and I said I would go to look at her. On going near the donkey she kicked at me, she was a great kicker. I took up a stick and struck at her, there are some pens in the field, and she ran to them, as she was in the habit of doing when any one went to her. I followed her into the pen, took her by the nose and ears and turned her out. I was there not more than half a minute. I went to my brother immediately afterwards, having been away about 3 minutes. I was 15 in October last.

Cross examined, I never touched the donkey except as I have stated.

Thomas Evans, the prisoner's brother, said, I was with my brother on the 9th of July last. I had a gun in my hand, my brother left me to look at the donkey, he was away about 3 minutes. If I had turned round where I stood, I could have seen the penn, if there had been any one on the wall I should have seen them.

Cross-examined, I was about 40 yards from the oxpens, I have not measured the height of the walls there.

John Turner, examined by Serjeant Ludlow, said, I am gardener and postman to Mr Evans. I used to go to the post on the donkey, till she was too heavy in foal to be used, she was a very bad temper and very vicious, and a great kicker, always run to the pen when touched.

T. Rawlinson, Esq. examined by Mr Keating, said, I am a magistrate for this county; prisoner came to me before anything was taken down in writing, he said he had seen Mr Chas. Evans along with a donkey.

B Whippy, Esq. another magistrate, said he was at the prisoner's second examination. I afterwards went to the place in which prisoner stated he had stood, there were thorns dry and brittle on the wall, which broke on my leaning on them – and had prisoner been there as he said, the thorns must have been broken, but they were not.

Thomas Holloway – Is groom to Mr Evans, and was so in July last. I examined the wall in question, and found no thorns broken, there were two trees there, could see into the oxpen much plainer from standing on the bank than leaning on the wall.

Wm. Balster – I am a police officer, now living in Brailes but having lived at Great Tew, prisoner kept a beer shop, his licence was taken away, and I made a distress on Dec. 4, 1837, upon that occasion I heard him say of Mr Evans, (who was one of the convicting magistrates), he was sure it was the Squire's doings, and he'd be d....d if he would not be even with him, and that Mr Evans had been his enemy all along. Also he said "he shall repent of this job – I'd rather be hanged than live in this way – Evans will have more cause to be sorry than I for this job, d....n the horse and cart, it shall cost the Squire more than two horses and carts before long – they may think themselves very cunning, but I will be upsides with him, and d....m my eyes they are sore, but I'll see it out with him, and I'll be revenged yet, or it's b....y hard".

Cross examined – The above expressions were taken down by me at the time they were uttered, I communicated them to Mr Evans some time in 1838.

Mr Carrington then addressed his Lordship on several points of law, contending that the prisoner could not be convicted under any count in this indictment, INSOMUCH AS NONE OF THESE CHARGES HAD BEEN SUBSTANTIATED BY TWO WITNESSES, WHICH IS NECESSARY IN A CASE OF THIS KIND. His Lordship, however, considered the first and second count and had been clearly proved, so as to answer to the indictment, and the Jury, being of that opinion, found the prisoner guilty, and the Court sentenced him to be transported for the term of seven years. The Learned Judge remarked that in his opinion all offences of this nature ought to be dealt with very severely, but this more so on account of the horrible nature of the charge.