Supplementary Material

Chapter 7: The Republican Era—Criminal Justice/Juries and Lawyers/Juries

---

Reynolds v. United States, 98 U.S. 145 (1878)

George Reynolds was indicted and convicted for violating federal laws against bigamy. His main attack on his conviction was that the federal law against bigamy violated his First Amendment right to practice his Mormon religious faith. Reynolds also claimed that his constitutional rights were violated when the trial judge seated some jurors who stated that they had formed an initial opinion on whether Reynolds was guilty based on newspaper accounts, but that their judgment would be influenced only by the evidence brought out in trial. The decision to seat these jurors, Reynolds claimed, violated his right to an impartial jury. The federal district court where Reynolds was tried rejected this claim. Reynolds appealed to the Supreme Court of the United States.

The Supreme Court of the United States unanimously concluded that Reynolds was constitutionally convicted. Chief Justice Waite's opinion insisted that "light" impressions of guilt did not disqualify a person from serving on a jury. The Chief Justice pointed out that in most notorious cases, average persons were likely to have read the papers and formed some impression. Did his opinion provide a reasonable balance between the need to obtain informed members of the community and unbiased members of the community? How would you achieve that balance? Is achieving that balance possible in cases involving notorious criminals or notorious crimes?

CHIEF JUSTICE WAITE delivered the opinion of the court.

. . .

By the Constitution of the United States (Amend. VI.), the accused was entitled to a trial by an impartial jury. A juror to be impartial must, to use the language of Lord Coke, "be indifferent as he stands unsworn." . . .

All of the challenges by the accused were for principal cause. It is good ground for such a challenge that a juror has formed an opinion as to the issue to be tried. The courts are not agreed as to the knowledge upon which the opinion must rest in order to render the juror incompetent, or whether the opinion must be accompanied by malice or ill-will; but all unite in holding that it must be founded on some evidence, and be more than a mere impression. . . . All concede, however, that, if hypothetical only, the partiality is not so manifest as to necessarily set the juror aside. Mr. Chief Justice Marshall, in *Burr's Trial* . . . states the rule to be that "light impressions, which may fairly be presumed to yield to the testimony that may be offered, which may leave the mind open to a fair consideration of the testimony, constitute no sufficient objection to a juror; but that those strong and deep impressions which close the mind against the testimony that may be offered in opposition to them, which will combat that testimony and resist its force, do constitute a sufficient objection to him." The theory of the law is that a juror who has formed an opinion cannot be impartial. Every opinion which he may entertain need not necessarily have that effect. In these days of newspaper enterprise and universal education, every case of public interest is almost, as a matter of necessity, brought to the attention of all the intelligent people in the vicinity, and scarcely any one can be found among those best fitted for jurors who has not read or heard of it, and who has not some impression or some opinion in respect to its merits. . . . The finding of the trial court upon that issue ought not to be set aside by a reviewing court, unless the error is manifest. . . . It must be made clearly to appear that upon the evidence the court ought to have found the juror had

Copyright OUP 2013

formed such an opinion that he could not in law be deemed impartial. The case must be one in which it is manifest the law left nothing to the "conscience or discretion" of the court.

The challenge in this case most relied upon in the argument here is that of Charles Read. He was sworn on his *voire dire;* and his evidence, taken as a whole, shows that he "believed" he had formed an opinion which he had never expressed, but which he did not think would influence his verdict on hearing the testimony. We cannot think this is such a manifestation of partiality as to leave nothing to the "conscience or discretion" of the triers. The reading of the evidence leaves the impression that the juror had some hypothetical opinion about the case, but it falls far short of raising a manifest presumption of partiality. . . .

OXFORD
UNIVERSITY PRESS

Copyright OUP 2013