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SECTION HAND IS SENTENCED TO 18 MONTHS

Musiano Carmello Was Found Guilty of Assault With Intent.

Musiano Carmello, section hand of Seaton, was sentenced to eighteen months imprisonment at New Westminster penitentiary this morning, by Mr. Justice Morrison following a verdict brought in last night by the jury at the Supreme Assizes of guilty of assault with intent to do grievous bodily harm. The case took up the time of the court all yesterday afternoon and continued well into the evening. The jury empanelled after a true bill had been brought in comprised James Hampton (foreman), Joseph Lindsay, Donald Brown, H. Ganstick, George B. Casey, H. Sunberg, W. Sloan, George Smith, Victor Basson-Bert, A. Nicholson, Robert Ereski and Ben Self.

In outlining the evidence for the crown W. E. Fisher said that on March 25 last, the two men, Musiano Carmello, the accused, and Musiano Gamme, the informant, had a slight altercation about their work on the section at Seaton. On the next morning the prisoner prepared to leave the camp and packed up his clothes, while the informant went about his daily work. The informant having made lunch he called the accused in.

Gamme, the informant, sat down to a bowl of soup and commenced to eat. The prisoner went outside returning with an axe with which he struck the informant on the back of the head. The accused then left Gamme lying on the floor and taking his grip with him, proceeded up the track toward Morietown throwing the axe into the snow at the side of the track.

The informant, on going into the witness box, said that he was an Italian by birth and had known the prisoner for some ten years in Italy and this country. On March 25 Musiano, who was foreman of the Seaton section told him to clear out a ditch, which he, the informant, considered was not necessary as he had more important work to do. He told the accused so and this started some words, in Italian. They were about lunch time, however, he, the accused and a man named Johnson, a brother workman, all sat down to lunch together that day and Gamme thought the matter had ended. On returning to the section house in the evening the prisoner did not speak to him.

In the morning he got up and did some Sunday chores around the house. He noticed Musiano packing his grip. Upon being asked where he was going, told him that he was through with the job. At lunch time he called the prisoner to his dinner and commenced to eat his own meal consisting of macaroni soup. While eating Musiano came in from behind him and struck him on the head with an axe and his memory "started to go loose."

An axe was produced in court Gamme recognizing as the axe used in the coal shed at the section house for breaking coal. Upon being confronted with a kitchen knife by the crown counsel, Gamme said that it was the kitchen knife. He denied ever having used the knife on accused. Gamme said that he did not have any words with the prisoner at all on the Sunday morning. He recognized the prisoner in the box as the man who struck him.

Peter Johnson, a fellow workman on the Seaton section living in the next room to Gamme and Carmello, was next put on the witness stand. Johnson said that he could hear everything that went on in the kitchen but on the Sunday morning in question he had never heard anything untoward happening, or any high words, and did not know of anything having happened until the prisoner came in to him and showed him some knife cuts on



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his arm which he said Gamme had inflicted with a knife. Prisoner afterwards went up the track. After Johnson had finished a cup of tea, thinking that perhaps something was wrong, he went into the kitchen and found Gamme bleeding from the arm and the head.

Doctor's Evidence
G. H. Hankinson, of Smithers, upon testifying, said that he was called to Seaton on March 26, and upon arrival found the informant lying on a cot in a bleeding condition suffering from shock and loss of blood. He examined him hurriedly and found that he had two major wounds. One was on the left side of the head passing through the scalp and through the outer table of the skull. At that time the wounds were not bleeding a great deal, although considerable blood was about the floor. Having put dressing on the head wound the doctor then examined his arm. An incised wound about 7 inches in length extended from the left side of the left arm in an oblique direction forward from the external to the internal surface. This wound was very deep. He also found burns on the man's groin caused from the effects of hot soup, and thought the man was in a sitting position when struck from this fact.

George McKenzie, section foreman at Morietown was next called as a witness. He said he was rather surprised to see the prisoner coming up the track on Sunday morning with his grip, and went to meet him. McKenzie asked what was the matter that he was walking the track on Sunday morning.

Accused had said that things were getting bad at Seaton, and that he and Gamme had been fighting and he had struck him on the head with an axe. McKenzie asked him if he had killed him to which the accused replied he did not know. McKenzie then told him that it was a serious business and that he had better get a doctor and the police to which the prisoner agreed. He said that prisoner seemed rather excited but not unduly so. McKenzie recognized the axe produced in court as one he and his son had found in the snow that day on the side of the track.

Doctor Hankinson and Constable Kelly of Smithers went down to the scene of the fight on a speeder.

Constable Kelly
Constable Kelly, upon being questioned, said that he arrested the accused upon arrival and had obtained the axe which he recognized in court. He said that he saw the knife produced in court lying on the table in the Seaton section house, and sent for it when he heard that the accused had been attacked with a knife.

Accused on being put on the stand, said he had known Gam-

me for some twelve years and they had always been good friends. Gamme had written to him from Vancouver and he had obtained work for him on the section at Seaton. After Gamme had been working for a while he did not seem satisfied and was always trying to show the prisoner how to do the work.

Threat is Made

On March 25 he had told the informant to do some work which he had objected to and a slight altercation had taken place in the Italian language. The prisoner was standing some ten feet away when Gamme came up and gripped him by the arm telling him that he would cut him up and put him in a bag and throw him in the river.

"On the Sunday morning I got up and made up my mind to quit, taking up my clothes and putting them in a suitcase," continued the accused "Gamme was working around the place and cooking dinner. He called me to the meal and I asked him why he was so cranky, as he had been looking at me like a snake."

The informant, remarked "You know what I told you yesterday and I mean it."

At this moment he struck the prisoner with a knife. Accused then went outside and got the axe and went back to the kitchen. Gamme was standing in the doorway with the knife in his right hand, and has he stepped towards him the accused struck at him with the axe hitting him on the left arm. Gamme then turned round to go inside the kitchen and prisoner struck him again on the back of the head.

Afterwards accused went in to Johnson and, telling him that Gamme had struck him with a knife, and proceeded up the track towards Morietown with his grip. He threw the axe into the snow at the side of the track. Prisoner said he was so blind with rage he did not know whether he had killed Gamme or not.

The judge asked prisoner why he did not go to Johnson and get help if Gamme had come after him with a knife to which the prisoner replied he was too excited. The judge closed the evidence.

L. S. McGill, counsel for the defence and W. E. Fisher, crown prosecutor, then addressed the jury pleading their respective cases.

Judge's Address

The judge, in addressing the jury said, that the prisoner could be found guilty on three counts; first with attempted murder, second with intent to do grievous bodily harm, and third with unlawful wounding. The crown was not obliged to establish a motive for crime, the most atrocious crimes having been committed without any motive whatever. The prisoner had said that informant had struck him with a knife, and that he had a chance to back out and get away but instead of taking that course he had returned with an axe and struck Gamme twice leaving him on the floor and not knowing whether he was dead or alive. The law was that, when a man was assaulted, as the prisoner said he was, it was his duty to retreat but if cornered he could turn on his assailant and even kill him if he considered his life in danger.

The jury retired at 9.25 to consider their verdict and after an absence of an hour returned, the foreman stating that a verdict of guilty of injury with intent had been reached. Sentence was passed this morning.

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