

THE CROSS-EXAMINATION OF JEREMIAH Smith BY SIR ALEXANDER COCKBURN IN THE WILLIAM PALMER CASE from Wellman's The Art of Cross Examination (copyright Wellman)

It was the cross-examination of a Birmingham attorney, named Jeremiah Smith, by Sir Alexander Cockburn, then Attorney-General and afterward Chief Justice of England, in the celebrated trial of William Palmer for taking the life of John Parsons Cook by poison, that finally turned the tide, in this closely contested case, against the prisoner, and resulted in his conviction and execution. An observer of such long experience as Mr. Justice Stephens said of this cross-examination that "it was something to be heard and seen, but incapable of being described."

William Palmer at the time of his trial was thirty-one years old. He was a physician by profession, but had for several years prior to his trial given up the active practice of medicine and had devoted all his time to the turf. His victim, John Parsons Cook, was also a young man of decent family, originally intended for the profession of the law, but after inheriting some £15,000, also betook himself to the turf. He kept race horses and betted considerably, and in the course of his operations became intimate with Palmer. At the time of his acquaintance with Cook, Palmer had become involved financially through forging the name of his mother, a woman of considerable property, as indorser of his notes. These indorsements amounted to the sum of £13,000. He had effected an insurance upon the life of his wife for £13,000, and the policies of insurance he had given as collateral on the forged notes. Upon the death of his wife he was enabled to pay off the first notes, but shortly issued fresh ones to the amount of £12,500, had them discounted at the rate of sixty per cent, and gave as new collateral, policies of insurance of an equal amount upon his brother's life, which policies had been assigned to himself. Upon his brother's death, there being a year's interim between the death of his wife and brother, the companies in which the insurance had been effected declined to pay, and Palmer found himself confronted with suits upon these forged notes and the exposure of his forgeries.

It was for the supposed intention of getting possession of Cook's money and race horses that he took the life of his intimate companion.

The trial was held in the Central Criminal Court, London, May 14, 1856, Lord Campbell presiding, and has ever since maintained its reputation as being one of the most learned trials in the history of the criminal courts of the world.

H. D. Traill, in the English Illustrated Magazine gives a most graphic account of the incidents during the cross-examination of Jeremiah Smith.

"'It was the riding that did it,' exclaimed one of the greatest criminals of the century in extorted admiration of the skill with which one of the greatest advocates of the century had brought Justice in a winner by a short head in one of the century's greatest trials. Sir Alexander Cockburn is said to have been more proud of this tribute from the eminent sportsman and poisoner whom he hunted to the gallows post, than of any other of the many triumphs of his brilliant career. And undoubtedly it has all the ring of one of those utterances which come straight from the heart and attest their source by taking shape in the form of

words most familiar to the speaker's lips. There is plenty of evidence to the critical attention with which Mr. William Palmer observed the jockeyship of the attorney in driving that terribly exciting race for life.

"There exists, or existed once, a slip of paper about six inches long by an inch broad--just such a slip, in fact, as a man might tear irregularly off the top of a sheet of foolscap, which bears this calm and matter-of-fact legend, more impressive than the most impassioned prose.

'I suppose you think that last witness did harm.'

It is one of those notes which Palmer subscribed from time to time and turned over to his counsel to read and, if necessary, reply to. There is no sign of trembling in the hand that wrote it. Yet it was written--this one--just at the close of Sir Alexander Cockburn's memorable cross-examination. It was the conviction of the expert section of the audience that when the Attorney-General resumed his seat, the halter was knotted around the neck of the prisoner too firmly to be loosed. There is little doubt that the doomed wretch read as much in the face of his counsel, and that the outward indifference of the hastily penned inquiry which he flung across to them must have caused a silent agony of doubt and dread.

"Palmer, of course, was not as well accustomed to observe the manners of the presiding judge as were the professional spectators of the scene, but if so, he would have drawn the worst possible augury from Lord Campbell's increasing politeness to him after this incident in the trial--a form of demeanour toward a prisoner which always indicated that in that distinguished judge's opinion, his doom was certain.

"Yet the cross-examination of Mr. Smith, important as its consequences are said to have been, might easily be quoted as a very doubtful illustration of the value of this formidable engine for the extraction, or supposed extraction, of the truth.

"Its effect upon the witness himself left nothing to be desired from the point of view of the operator. No abbreviation, in fact, can give the effect of it. The witness's efforts to gain time, and his distress as the various answers were extorted from him by degrees, may be faintly traced in the report. His face was covered with sweat, and the papers put into his hands shook and rustled. These papers, it must be admitted, were some of them of a sufficiently agitating character. Mr. Smith had had to confess with great reluctance that he had witnessed the assignment of a policy for £13,000 by Walter to William Palmer, who was suspected, and indeed as good as known, to have been guilty of murdering him; he had had to confess that he wrote to an office to effect an insurance for £10,000 on the life of a groom of Palmer's in receipt of £1 a week as wages; he had been compelled to admit the self-impeachment of having tried, after Walter Palmer's death, to get his widow to give up her claim on the policy. The result was that Lord Campbell, in summing up, asked the jury whether they could believe a man who so disgraced himself, in the witness-box. The jury thought they couldn't, and they didn't. The witness, whose evidence was to the effect that Palmer was not at his victim's bedside, but some miles away, at a time when, on the theory of the prosecution, he was substituting poisonous drugs for the medicine supplied to the sick man by the doctor, was disbelieved. Yet it is nevertheless tolerably certain from other evidence of an unimpeachable kind that Jeremiah Smith was speaking the truth."

The text of the cross-examination that follows is taken from the unabridged edition of the Times' "Report of the Trial of William Palmer," containing the shorthand notes taken from day to day, and published in London in 1856.

Attorney-General. "Are you the gentleman who took Mr. Myatt to Stafford Gaol?"

Smith. "I am."

Attorney-General. "Have you known Palmer long?"

Smith. "I have known him long and very intimately, and have been employed a good deal as an attorney by Palmer and his family."

Attorney-General. "In December, 1854, did he apply to you to attest a proposal of his brother, Walter Palmer, for £13,000 in the Solicitors and General Insurance Office?"

Smith. "I cannot recollect; if you will let me see the document, I will tell you."

Attorney-General. "Will you swear that you were not applied to?"

Smith. "I will not swear either that I was not applied to for that purpose or that I was. If you will let me see the document, I shall recognize my writing at once."

Attorney-General. "In January, 1855, were you applied to by Palmer to attest a proposal of his brother for £13,000 in the Prince of Wales Office?"

Smith. "I don't recollect."

Attorney-General. "Don't recollect! Why, £13,000 was a large sum for a man like Walter Palmer, wasn't it, who hadn't a shilling in the world?"

Smith. "Oh, he had money, because I know that he lived retired and carried on no business."

Attorney-General. "Didn't you know that he was an uncertified bankrupt?"

Smith. "I know that he had been a bankrupt some years before, but I did not know that he was an uncertified bankrupt. I know that he had an allowance from his mother, but I do not know whether he had money from any other source. I believe that his brother, William [the prisoner], gave him money at different times."

Attorney-General. "Where, in the course of 1854 and 1855, were you living in Rugeley?"

Smith. "In 1854 I think I resided partly with William Palmer, and sometimes at his mother's."

Attorney-General. "Did you sometimes sleep at his mother's?"

Smith. "Yes."

Attorney-General. "When you did that, where did you sleep?"

Smith. "In a room."

Attorney-General. "Did you sleep in his mother's room--on your oath, were you not intimate with her--you know well enough what I mean?"

Smith. "I had no other intimacy, Mr. Attorney, than a proper intimacy."

Attorney-General. "How often did you sleep at her house, having an establishment of your own at Rugeley?"

Smith. "Frequently. Two or three times a week."

Attorney-General. "Are you a single or a married man?"

Smith. "A single man."

Attorney-General. "How long did that practice of sleeping two or three times a week at Mrs. Palmer's continue?"

Smith. "For several years."

Attorney-General. "Had you your own lodgings at Rugeley at the time?"

Smith. "Yes, all the time."

Attorney-General. "How far were your lodgings from Mrs. Palmer's house?"

Smith. "I should say nearly quarter of a mile."

Attorney-General. "Explain how it happened that you, having your own place of abode within a quarter of a mile, slept two or three times a week at Mrs. Palmer's."

Smith. "Sometimes her son Joseph or other members of her family were on a visit to her, and I went to see them."

Attorney-General. "And when you went to see those members of her family, was it too far for you to return a quarter of a mile in the evening?"

Smith. "Why, we used to play a game of cards, and have a glass of gin-and-water, and smoke a pipe perhaps; and then they said, 'It is late--you had better stop all night;' and I did. There was no particular reason why I did not go home that I know of."

Attorney-General. "Did that go on for three or four years?"

Smith. "Yes; and I sometimes used to stop there when there was nobody

there at all--when they were all away from home, the mother and all."

Attorney-General. "And you have slept there when the sons were not there and the mother was?"

Smith. "Yes."

Attorney-General. "How often did that happen?"

Smith. "Sometimes for two or three nights a week, for some months at a time, and then perhaps I would not go near the house for a month."

Attorney-General. "What did you stop for on those nights when the sons were not there; there was no one to smoke and drink with then, and you might have gone home, might you not?"

Smith. "Yes; but I did not."

Attorney-General. "Do you mean to say, on your oath, that there was nothing but a proper intimacy between you and Mrs. Palmer?"

Smith. "I do."

Attorney-General. "Now I will turn to another subject. Were you called upon to attest another proposal for £13,000 by Walter Palmer in the Universal Office?"

Smith. "I cannot say; if you will let me see the proposal, I shall know."

Attorney-General. "I ask you, sir, as an attorney and a man of business, whether you cannot tell me whether you were applied to by William Palmer to attest a proposal for an assurance for £13,000 on the life of Walter Palmer?"

Smith. "I say that I do not recollect it. If I could see any document on the subject, I daresay I should remember it."

Attorney-General. "Do you remember getting a £5 note for attesting an assignment by Walter Palmer to his brother of such a policy?"

Smith. "Perhaps I might. I don't recollect positively."

Attorney-General (handing a document to witness). "Is that your signature?"

Smith. "It is very like my signature."

Attorney-General. "Have you any doubt about it?"

Smith (after considerable hesitation). "I have some doubt."

Attorney-General. "Read the document, and tell me, on your oath, whether it is your signature."

Smith. "I have some doubt whether it is mine."

Attorney-General. "Read the document, sir. Was it prepared in your office?"

Smith. "It was not."

Attorney-General. "I will have an answer from you on your oath one way or another. Isn't that your handwriting?"

Smith. "I believe that it is not my handwriting. I think that it is a very clever imitation of it."

Attorney-General. "Will you swear that it is not?"

Smith. "I will. I think that it is a very good imitation of my handwriting."

Baron Alderson. "Did you ever make such an attestation?"

Smith. "I don't recollect, my Lord."

Attorney-General. "Look at the other signature there, 'Walter Palmer,'--is that his signature?"

Smith. "I believe that is Walter Palmer's."

Attorney-General. "Look at the attestation and the words 'signed, sealed, and delivered'; are they in Mr. Pratt's handwriting?"

Smith. "They are."

Attorney-General. "Did you receive that from Mr. Pratt?"

Smith. "Most likely I did; but I can't swear that I did. It might have been sent to William Palmer."

Attorney-General. "Did you receive it from William Palmer?"

Smith. "I don't know. Very likely I did."

Attorney-General. "Did William Palmer give you that document?"

Smith. "I have no doubt he did."

Attorney-General. "If that be the document he gave you, and those are the signatures of Walter Palmer and of Pratt, is not the other signature yours?"

Smith. "I'll tell you, Mr. Attorney--"

Attorney-General. "Don't 'Mr. Attorney' me, sir! Answer my question. Isn't that your handwriting?"

Smith. "I believe it not to be."

Attorney-General. "Will you swear that it isn't?"

Smith. "I believe that it is not."

Attorney-General. "Did you apply to the Midland Counties Insurance Office in October, 1855, to be appointed their agent at Rugeley?"

Smith. "I think I did."

Attorney-General. "Did you send them a proposal on the life of Bates for £10,000--you yourself?"

Smith. "I did."

Attorney-General. "Did William Palmer apply to you to send that proposal?"

Smith. "Bates and Palmer came together to my office with a prospectus, and asked me if I knew whether there was any agent for that company in Rugeley. I told them I had never heard of one, and they then asked me if I would write and get the appointment, because Bates wanted to raise some money."

Attorney-General. "Did you send to the Midland Office and get appointed as their agent in Rugeley, in order to effect that £10,000 insurance on Bates's life?"

Smith. "I did."

Attorney-General. "Was Bates at that time superintending William Palmer's stud and stables?"

Smith. "He was."

Attorney-General. "At a salary of £1 a week?"

Smith. "I can't tell his salary."

Attorney-General. "After that did you go to the widow of Walter Palmer to get her to give up her claim on the policy of her husband?"

Smith. "I did."

Attorney-General. "Where was she at that time?"

Smith. "At Liverpool."

Attorney-General. "Did you receive a document from Pratt to take to her?"

Smith. "William Palmer gave me one which had been directed to him."

Attorney-General. "Did the widow refuse?"

Smith. "She said she should like her solicitor to see it; and I said, 'By all means.'"

Attorney-General. "Of course! Didn't she refuse to do it--didn't you bring it back?"

Smith. "I brought it back as I had no instructions to leave it."

Attorney-General. "Didn't she say that she understood from her husband that the insurance was for £10,000?"

Mr. Serjeant Shee objected to this question. What passed between the widow and witness could be no evidence against the prisoner.

The **Attorney-General** said that the question was intended to affect the credit of the witness, and with that view it was most important.

The court ruled that the question could not be put.

Attorney-General. "Do you know that Walter Palmer obtained nothing for making that assignment?"

Smith. "I believe that he ultimately did get something for it."

Attorney-General. "Don't you know that what he got was a bill for £200?"

Smith. "Yes; and he had a house furnished for him."

Attorney-General. "Don't you know that he got a bill for £200?"

Smith. "Yes."

Attorney-General. "And don't you know that that bill was never paid?"

Smith. "No, I do not."

Attorney-General. "Now, I'll refresh your memory a little with regard to those proposals [handing witness a document]. Look at that, and tell me whether it is in your handwriting."

Smith. "It is."

Attorney-General. "Refreshing your memory with that, I ask you were you not applied to by William Palmer in December, 1854, to attest a proposal on the life of his brother, Walter, for £13,000 in the Solicitors and General Insurance Office?"

Smith. "I might have been."

Attorney-General. "Were you or were you not, sir? Look at that document, and say have you any doubt upon the subject?"

Smith. "I do not like to speak from memory with reference to such matters."

Attorney-General. "No; but not speaking from memory in an abstract sense, but having your memory refreshed by a perusal of that document, have you any doubt that you were applied to?"

Smith. "I have no doubt that I might have been applied to."

Attorney-General. "Have you any doubt that in January, 1855, you were called on by William Palmer to attest another proposal for £13,000 on his brother's life in another office? Look at that document and tell me."

Smith. "I see the paper, but I don't know; I might have signed it in blank."

Attorney-General. "Do you usually sign attestations of this nature in blank?"

Smith. "I have some doubt whether I did not sign several of them in blank."

Attorney-General. "On your oath, looking at that document, don't you know that William Palmer applied to you to attest that proposal upon his brother's life for £13,000?"

Smith. "He did apply to me to attest proposals in some offices."

Attorney-General. "Were they for large amounts?"

Smith. "One was for £13,000."

Attorney-General. "Were you applied to to attest another for the like sum in the Universal Office?"

Smith. "I might be."

Attorney-General. "They were made much about the same time, were they not? You did not wait for the answers to come back to the first application before you made the second?"

Smith. "I do not know that any answers were returned at all."

Attorney-General. "Will you swear that you were not present when Walter Palmer executed the deed assigning the policy upon his life to his brother, William Palmer? Now, be careful, Mr. Smith, for depend upon it you shall hear of this again if you are not."

Smith. "I will not swear that I was, I think I was not. I am not quite positive."

(Very few of the answers to these questions of the Attorney-General were given without considerable hesitation, and the witness appeared to labour under a sense of embarrassment which left a decidedly unfavourable impression upon the minds of the audience.)

Attorney-General. "Do you know that the £200 bill was given for the purpose of enabling William Palmer to make up a sum of £500?"

Smith. "I believe it was not; for Cook received absolutely from me £200. If I am not mistaken, he took it with him to Shrewsbury races—not the last races."

Attorney-General. "In whose favour was the bill drawn?"

Smith. "I think in favour of William Palmer. I don't know what became of it. I have never seen it since. I cannot state with certainty who saw me on the Monday; but I called at the Talbot Arms, and went into Cook's room. One of the servants gave me a candle. As well as I can remember, the servant who did so was either Bond, Mills, or Lavinia Barnes, I can't say which."