

THE CROSS-EXAMINATION OF RICHARD PIGOTT BY SIR CHARLES RUSSELL BEFORE THE PARNELL COMMISSION from *The Art of Cross Examination* by Frances Wellman

The modern method of studying any subject, or acquiring any art, is the inductive method. This is illustrated in our law schools, where to a large extent actual cases are studied, to get at the principles of law instead of acquiring those principles solely through the a priori method of the study of text-books.

As already indicated, this method is also the only way to become a master of the art of cross-examination, and, in addition to actual personal experience, it is important to study the methods of great cross-examiners, or those whose extended experience makes them safe guides to follow.

Hence, the writer believes it would be decidedly helpful to the students of the art of cross-examination to have placed before them, in a convenient and somewhat condensed form, some good illustrations of the methods of well-known cross-examiners as exhibited in actual practice, in the cross-examination of important witnesses in famous trials.

For these reasons, and the further fact that such examples are interesting as a study of human nature, I have in the following pages introduced the cross-examination of some important witnesses in several well-known cases.

Probably one of the most dramatic and successful of the more celebrated cross-examinations in the history of the English courts is Russell's cross-examination of Pigott--the chief witness in the investigation growing out of the attack upon Charles S. Parnell and sixty-five Irish members of Parliament, by name, for belonging to a lawless and even murderous organization, whose aim was the overthrow of English rule.

The principal charge against Parnell, and the only one that interests us in the cross examination of the witness Pigott, was the writing of a letter by Parnell which the Times claimed to have obtained and published in facsimile, in which he excused the murderer of Lord Frederick Cavendish, Chief Secretary for Ireland, and of Mr. Burke, Under Secretary, in Phoenix Park, Dublin, on May 6, 1882. One particular sentence in the letter read, "I cannot refuse to admit that Burke got no more than his deserts."

The publication of this letter naturally made a great stir in Parliament and in the country at large. Parnell stated in the House of Commons that the letter was a forgery, and later asked for the appointment of a select committee to inquire whether the facsimile letter was a forgery. The Government refused this request, but appointed a special committee, composed of three judges, to investigate all the charges made by the Times.

The writer is indebted again to Russell's biographer, Mr. O'Brien, for the details of this celebrated case. Seldom has any legal controversy been so graphically described as this one. One seems to be living with Russell, and indeed with Mr. O'Brien himself, throughout those eventful months. We must content ourselves, however, with a reproduction of the cross-examination of Pigott as it comes from the stenographer's minutes of the trial, enlightened by the pen of Russell's facile biographer.

Mr. O'Brien speaks of it as "the event in the life of Russell—the defence of Parnell." In order to undertake this defence, Russell returned to the Times the retainer he had enjoyed from them for many previous years. It was known that the Times had bought the letter from Mr. Houston, the secretary of the Irish Loyal and Patriotic Union, and that Mr. Houston had bought it from Pigott. But how did Pigott come by it? That was the question of the hour, and people looked forward to the day when Pigott should go into the box to tell his story, and when Sir Charles Russell should rise to cross-examine him. Mr. O'Brien writes: "Pigott's evidence in chief, so far as the letter was concerned, came practically to this: he had been employed by the Irish Loyal and Patriotic Union to hunt up documents which might incriminate Parnell, and he had bought the facsimile letter, with other letters, in Paris from an agent of the Clan-na-Gael, who had no objection to injuring Parnell for a valuable consideration...."

"During the whole week or more Russell had looked pale, worn, anxious, nervous, distressed. He was impatient, irritable, at times disagreeable. Even at luncheon, half an hour before, he seemed to be thoroughly out of sorts, and gave you the idea rather of a young junior with his first brief than of the most formidable advocate at the Bar. Now all was changed. As he stood facing Pigott, he was a picture of calmness, self-possession, strength; there was no sign of impatience or irritability; not a trace of illness, anxiety, or care; a slight tinge of colour lighted up the face, the eyes sparkled, and a pleasant smile played about the mouth. The whole bearing and manner of the man, as he proudly turned his head toward the box, showed courage, resolution, confidence. Addressing the witness with much courtesy, while a profound silence fell upon the crowded court, he began:

'Mr. Pigott, would you be good enough, with my Lords' permission, to write some words on that sheet of paper for me? Perhaps you will sit down in order to do so?' A sheet of paper was then handed to the witness. I thought he looked for a moment surprised. This clearly was not the beginning that he had expected. He hesitated, seemed confused. Perhaps Russell observed it. At all events he added quickly:--

""Would you like to sit down?"

""Oh, no, thanks,' replied Pigott, a little flurried.

"The President. 'Well, but I think it is better that you should sit down. Here is a table upon which you can write in the ordinary way—the course you always pursue.'

"Pigott sat down and seemed to recover his equilibrium.

"Russell. 'Will you write the word "livelihood"?"

"Pigott wrote.

"Russell. 'Just leave a space. Will you write the word "likelihood"?"

"Pigott wrote.

"Russell. 'Will you write your own name? Will you write the word "proselytism," and finally (I think I will not trouble you at present with any more) "Patrick Egan" and "P. Egan"?"

"He uttered these last words with emphasis, as if they imported something of great importance. Then, when Pigott had written, he added carelessly, 'There is one word I had forgotten. Lower down, please, leaving spaces, write the word "hesitancy.'" Then, as Pigott was about to write, he added, as if this were the vital point, 'with a small "h.'" Pigott wrote and looked relieved.

"Russell. 'Will you kindly give me the sheet?'

"Pigott took up a bit of blotting paper to lay on the sheet, when Russell, with a sharp ring in his voice, said rapidly, 'Don't blot it, please.' It seemed to me that the sharp ring in Russell's voice startled Pigott. While writing he had looked composed; now again he looked flurried, and nervously handed back the sheet. The attorney general looked keenly at it, and then said, with the air of a man who had himself scored, 'My Lords, I suggest that had better be photographed, if your Lordships see no objection.'

"Russell (turning sharply toward the attorney general, and with an angry glance and an Ulster accent, which sometimes broke out when he felt irritated). 'Do not interrupt my cross-examination with that request.'

"Little did the attorney general at that moment know that, in the ten minutes or quarter of an hour which it had taken to ask these questions, Russell had gained a decisive advantage. Pigott had in one of his letters to Pat Egan spelt 'hesitancy' thus, 'hesitency.' In one of the incriminatory letters 'hesitancy' was so spelt; and in the sheet now handed back to Russell, Pigott had written 'hesitency,' too. In fact it was Pigott's spelling of this word that had put the Irish members on his scent. Pat Egan, seeing the word spelt with an 'e' in one of the incriminatory letters, had written to Parnell, saying in effect, 'Pigott is the forger. In the letter ascribed to you "hesitancy" is spelt "hesitency." That is the way Pigott always spells the word.' These things were not dreamt of in the philosophy of the attorney general when he interrupted Russell's cross-examination with the request that the sheet 'had better be photographed.' So closed the first round of the combat.

"Russell went on in his former courteous manner, and Pigott, who had now completely recovered confidence, looked once more like a man determined to stand to his guns.

"Russell, having disposed of some preliminary points at length (and after he had been perhaps about half an hour on his feet), closed with the witness.

"Russell. 'The first publication of the articles "Parnellism and Crime" was on the 7th March, 1887?'

"Pigott (sturdily). 'I do not know.'

"Russell (amiably). 'Well, you may assume that is the date.'

"Pigott (carelessly). 'I suppose so.'

"Russell. 'And you were aware of the intended publication of the correspondence, the incriminatory letters?'

"Pigott (firmly). 'No, I was not at all aware of it.'

"Russell (sharply, and with the Ulster ring in his voice). 'What?'

"Pigott (boldly). 'No, certainly not.'

* * * * *

"Russell. 'Were you not aware that there were grave charges to be made against Mr. Parnell and the leading members of the Land League?'

"Pigott (positively). 'I was not aware of it until they actually commenced.'

"Russell (again with the Ulster ring). 'What?'

"Pigott (defiantly). 'I was not aware of it until the publication actually commenced.'

"Russell (pausing, and looking straight at the witness). 'Do you swear that?'

"Pigott (aggressively). 'I do.'

"Russell (making a gesture with both hands, and looking toward the bench). 'Very good, there is no mistake about that.'

"Then there was a pause; Russell placed his hands beneath the shelf in front of him, and drew from it some papers--Pigott, the attorney general, the judges, every one in court looking intently at him the while. There was not a breath, not a movement. I think it was the most dramatic scene in the whole cross-examination, abounding as it did in dramatic scenes. Then, handing Pigott a letter, Russell said calmly:--

"'Is that your letter? Do not trouble to read it; tell me if it is your letter.'

"Pigott took the letter, and held it close to his eyes as if reading it.

"Russell (sharply). 'Do not trouble to read it.'

"Pigott. 'Yes, I think it is.'

"Russell (with a frown). 'Have you any doubt of it?'

"Pigott. 'No.'

"Russell (addressing the judges). 'My Lords, it is from Anderton's Hotel, and it is addressed by the witness to Archbishop Walsh. The date, my Lords, is the 4th of March, three days before the first appearance of the first of the articles, "Parnellism and Crime."'

"He then read:--

""Private and confidential.'

""My Lord:--The importance of the matter about which I write will doubtless excuse this intrusion on your Grace's attention. Briefly, I wish to say that I have been made aware of the details of certain proceedings that are in preparation with the object of destroying the influence of the Parnellite party in Parliament.'

"Having read this much Russell turned to Pigott and said:--

""What were the certain proceedings that were in preparation?'

"Pigott. 'I do not recollect.'

"Russell (resolutely). 'Turn to my Lords and repeat the answer.'

"Pigott. 'I do not recollect.'

"Russell. 'You swear that--writing on the 4th of March, less than two years ago?'

"Pigott. 'Yes.'

"Russell. 'You do not know what that referred to?'

"Pigott. 'I do not really.'

"Russell. 'May I suggest to you?'

"Pigott. 'Yes, you may.'

"Russell. 'Did it refer to the incriminatory letters among other things?'

"Pigott. 'Oh, at that date? No, the letters had not been obtained, I think, at that date, had they, two years ago?'

"Russell (quietly and courteously). 'I do not want to confuse you at all, Mr. Pigott.'

"Pigott. 'Would you mind giving me the date of that letter?'

"Russell. 'The 4th of March.'

"Pigott. 'The 4th of March.'

"Russell. 'Is it your impression that the letters had not been obtained at that date?'

"Pigott. 'Oh, yes, some of the letters had been obtained before that date.'

"Russell. 'Then, reminding you that some of the letters had been obtained before that date, did that passage that I have read to you in that letter refer to these letters among other things?'

"Pigott. 'No, I rather fancy they had reference to the forthcoming articles in the Times.'

"Russell (glancing keenly at the witness). 'I thought you told us you did not know anything about the forthcoming articles.'

"Pigott (looking confused). 'Yes, I did. I find now I am mistaken--that I must have heard something about them.'

"Russell (severely). 'Then try not to make the same mistake again, Mr. Pigott. "Now," you go on (continuing to read from Pigott's letter to the archbishop), "I cannot enter more fully into details than to state that the proceedings referred to consist in the publication of certain statements purporting to prove the complicity of Mr. Parnell himself, and some of his supporters, with murders and outrages in Ireland, to be followed, in all probability, by the institution of criminal proceedings against these parties by the Government."'

"Having finished the reading, Russell laid down the letter and said (turning toward the witness), 'Who told you that?'

"Pigott. 'I have no idea.'

"Russell (striking the paper energetically with his fingers). 'But that refers, among other things, to the incriminatory letters.'

"Pigott. 'I do not recollect that it did.'

"Russell (with energy). 'Do you swear that it did not?'

"Pigott. 'I will not swear that it did not.'

"Russell. 'Do you think it did?'

"Pigott. 'No, I do not think it did.'

"Russell. 'Do you think that these letters, if genuine, would prove or would not prove Parnell's complicity in crime?'

"Pigott. 'I thought they would be very likely to prove it.'

"Russell. 'Now, reminding you of that opinion, I ask you whether you did not intend to refer--not solely, I suggest, but among other things--to the letters as being the matter which would prove complicity or purport to prove complicity?'

"Pigott. 'Yes, I may have had that in my mind.'

"Russell. 'You could have had hardly any doubt that you had?'

"Pigott. 'I suppose so.'

"Russell. 'You suppose you may have had?'

"Pigott. 'Yes.'

"Russell. 'There is the letter and the statement (reading), "Your Grace may be assured that I speak with full knowledge, and am in a position to prove, beyond all doubt and question, the truth of what I say." Was that true?'

"Pigott. 'It could hardly be true.'

"Russell. 'Then did you write that which was false?'

"Pigott. 'I suppose it was in order to give strength to what I said. I do not think it was warranted by what I knew.'

"Russell. 'You added the untrue statement in order to add strength to what you said?'

"Pigott. 'Yes.'

"Russell. 'You believe these letters to be genuine?'

"Pigott. 'I do.'

"Russell. 'And did at this time?'

"Pigott. 'Yes.'

"Russell (reading). "And I will further assure your Grace that I am also able to point out how these designs may be successfully combated and finally defeated." How, if these documents were genuine documents, and you believed them to be such, how were you able to assure his Grace that you were able to point out how the design might be successfully combated and finally defeated?"

"Pigott. 'Well, as I say, I had not the letters actually in my mind at that time. So far as I can gather, I do not recollect the letter to Archbishop Walsh at all. My memory is really a blank on the circumstance.'

"Russell. 'You told me a moment ago, after great deliberation and consideration, you had both the incriminatory letters and the letter to Archbishop Walsh in your mind.'

"Pigott. 'I said it was probable I did; but I say the thing has completely faded out of my mind.'

"Russell (resolutely). 'I must press you. Assuming the letters to be genuine, what were the means by which you were able to assure his Grace that you could point out how the design might be successfully combated and finally defeated?'

"Pigott (helplessly). 'I cannot conceive really.'

"Russell. 'Oh, try. You must really try.'

"Pigott (in manifest confusion and distress). 'I cannot.'

"Russell (looking fixedly at the witness). 'Try.'

"Pigott. 'I cannot.'

"Russell. 'Try.'

"Pigott. 'It is no use.'

"Russell (emphatically). 'May I take it, then, your answer to my Lords is that you cannot give any explanation?'

"Pigott. 'I really cannot absolutely.'

"Russell (reading). "I assure your Grace that I have no other motive except to respectfully suggest that your Grace would communicate the substance to some one or other of the parties concerned, to whom I could furnish details, exhibit proofs, and suggest how the coming blow may be

effectually met." What do you say to that, Mr. Pigott?

"Pigott. 'I have nothing to say except that I do not recollect anything about it absolutely.'

"Russell. 'What was the coming blow?'

"Pigott. 'I suppose the coming publication.'

"Russell. 'How was it to be effectively met?'

"Pigott. 'I have not the slightest idea.'

"Russell. 'Assuming the letters to be genuine, does it not even now occur to your mind how it could be effectively met?'

"Pigott. 'No.'

"Pigott now looked like a man, after the sixth round in a prize fight, who had been knocked down in every round. But Russell showed him no mercy. I shall take another extract.

* * * * *

"Russell. 'Whatever the charges in "Parnellism and Crime," including the letters, were, did you believe them to be true or not?'

"Pigott. 'How can I say that when I say I do not know what the charges were? I say I do not recollect that letter to the archbishop at all, or any of the circumstances it refers to.'

"Russell. 'First of all you knew this: that you procured and paid for a number of letters?'

"Pigott. 'Yes.'

"Russell. 'Which, if genuine, you have already told me, would gravely implicate the parties from whom these were supposed to come.'

"Pigott. 'Yes, gravely implicate.'

"Russell. 'You would regard that, I suppose, as a serious charge?'

"Pigott. 'Yes.'

"Russell. 'Did you believe that charge to be true or false?'

"Pigott. 'I believed that charge to be true.'

"Russell. 'You believed that to be true?'

"Pigott. 'I do.'

"Russell. 'Now I will read this passage [from Pigott's letter to the archbishop], "I need hardly add that, did I consider the parties really guilty of the things charged against them, I should not dream of suggesting that your Grace should take part in an effort to shield them; I only wish to impress on your Grace that the evidence is apparently convincing, and would probably be sufficient to secure conviction if submitted to an English jury." What do you say to that, Mr. Pigott?'

"Pigott (bewildered). 'I say nothing, except that I am sure I could not have had the letters in my mind when I said that, because I do not think the letters conveyed a sufficiently serious charge to cause me to write in that way.'

"Russell. 'But you know that was the only part of the charge, so far as you have yet told us, that you had anything to do in getting up?'

"Pigott. 'Yes, that is what I say; I must have had something else in my mind which I cannot at present recollect--that I must have had other charges.'

"Russell. 'What charges?'

"Pigott. 'I do not know. That is what I cannot tell you.'

"Russell. 'Well, let me remind you that that particular part of the charges--the incriminatory letters--were letters that you yourself knew all about.'

"Pigott. 'Yes, of course.'

"Russell (reading from another letter of Pigott's to the archbishop).
"I was somewhat disappointed in not having a line from your Grace, as I ventured to expect I might have been so far honored. I can assure your Grace that I have no other motive in writing save to avert, if possible, a great danger to people with whom your Grace is known to be in strong sympathy. At the same time, should your Grace not desire to interfere in the matter, or should you consider that they would refuse me a hearing, I am well content, having acquitted myself of what I conceived to be my duty in the circumstances. I will not further trouble your Grace save to again beg that you will not allow my name to transpire, seeing that to do so would interfere injuriously with my prospects, without any compensating advantage to any one. I make the request all the more confidently because I have had no part in what is being done to the

prejudice of the Parnellite party, though I was enabled to become acquainted with all the details."

"Pigott (with a look of confusion and alarm). 'Yes.'

"Russell. 'What do you say to that?'

"Pigott. 'That it appears to me clearly that I had not the letters in my mind.'

"Russell. 'Then if it appears to you clearly that you had not the letters in your mind, what had you in your mind?'

"Pigott. 'It must have been something far more serious.'

"Russell. 'What was it?'

"Pigott (helplessly, great beads of perspiration standing out on his forehead and trickling down his face). 'I cannot tell you. I have no idea.'

"Russell. 'It must have been something far more serious than the letters?'

"Pigott (vacantly). 'Far more serious.'

"Russell (briskly). 'Can you give my Lords any clew of the most indirect kind to what it was?'

"Pigott (in despair). 'I cannot.'

"Russell. 'Or from whom you heard it?'

"Pigott. 'No.'

"Russell. 'Or when you heard it?'

"Pigott. 'Or when I heard it.'

"Russell. 'Or where you heard it?'

"Pigott. 'Or where I heard it.'

"Russell. 'Have you ever mentioned this fearful matter--whatever it is--to anybody?'

"Pigott. 'No.'

"Russell. 'Still locked up, hermetically sealed in your own bosom?'

"Pigott. 'No, because it has gone away out of my bosom, whatever it was.'

"On receiving this answer Russell smiled, looked at the bench, and sat down. A ripple of derisive laughter broke over the court, and a buzz of many voices followed. The people standing around me looked at each other and said, 'Splendid.' The judges rose, the great crowd melted away, and an Irishman who mingled in the throng expressed, I think, the general sentiment in a single word, 'Smashed.'"

Pigott's cross-examination was finished the following day, and the second day he disappeared entirely, and later sent back from Paris a confession of his guilt, admitting his perjury, and giving the details of how he had forged the alleged Parnell letter by tracing words and phrases from genuine Parnell letters, placed against the window-pane, and admitting that he had sold the forged letter for £605.

After the confession was read, the Commission "found" that it was a forgery, and the Times withdrew the facsimile letter.

A warrant was issued for Pigott's arrest on the charge of perjury, but when he was tracked by the police to a hotel in Madrid, he asked to be given time enough to collect his belongings, and, retiring to his room, blew out his brains.