

WILLIAM WREATHCOCK — IMPERFECT ATTORNEY

M M Park [Published 87 *Victorian Bar News* 73-4 (Summer 1993)]

ABSTRACT: Eighteenth century legal practitioner with questionable ethics.

KEYWORDS: Highwayman's case — *Everet v Williams* — partnership — contract — Society of Gentlemen Practitioners — perjury — paid witness — false alibi — man of straw — suborning witness —

Long thought to be apocryphal (35 *Law Quarterly Review* 105, 1893), there exists sufficient evidence to support the authenticity of the Highwayman's case: *Everet v Williams* (1725). The most common source for the case is any of the fifth or subsequent editions of *Lindley on Partnership* which was founded upon the report in (1787) 2 *European Magazine* 360. The case is not to be confused with the old case, referred to by Holt CJ in *Johnson v Browning* (1705) 6 Mod Rep 216 at 217, 87 ER 969, wherein the plaintiff, complaining of a statement labelling him a "highwayman", lost the suit when the defendant succeeded in convincing the jury that the allegation was true. Immediately afterward, the plaintiff was arrested, convicted and sentenced to death. The case referred to by Holt CJ was already "an old case" twenty years before *Everet v Williams*. *Everet* was referred to by Bacon VC in *Ashhurst v Mason* (1875) LR 20 Eq 225 at 230.

Because contemporary reports are not readily available a number of writers have erred in supposing that the hanging of the parties was a consequence of the conclusion of the civil case, eg, Curlewis (1906) *The Mirror of Justice* 110-1; Fitzgerald and Kewley (1978) *This Law of Ours* 226; Megarry (1955) *Miscellany-at-Law* 76-8; Oswald (1892) *Contempt of Court* 32-4; and *Lindley on Partnership* (15th ed, 1984) 149. The Note in (1893) 35 *LQR* 197-9 separates the eventual criminal punishment of the parties from their 1725 civil action.

Briefly, the facts, well-known, are as recited by Tumin (1893) *Great Legal Disasters* 16-9 and reprinted in Mortimer (ed, 1992) *The Oxford Book of Villains* 120-2.

A highwayman (John Everet) brought suit against his erstwhile partner (Joseph Williams). The lawsuit arose as a "negotiating tactic" dreamt up by Everet's attorney William Wreathcock. Previously Williams had entered judgment against Everet in the sum of £200 (this being the early eighteenth century before it was necessary or desirable to put value back into the pound). Thus Everet was facing debtors' prison

until Wreathcock's ingenuity saw a way out. Unfortunately Wreathcock was too clever by half.

Everet sued Williams claiming (in euphemistic language) that they were partners and that Williams had failed to account to him for a fair and equitable partition of the partnership profits — that is, the proceeds of their dealings with various gentlemen upon the roads (or highway robbery).

It was never envisaged that the case would actually go to trial. Wreathcock merely wished Williams to reconsider his course of action that would send his ex-partner Everet to Newgate Gaol.

Williams was made of sterner stuff than this — he defended and Sjt Girdler moved the court to refer the bill to the Deputy Remembrancer, it being “a scandal and an impertinence”. Two weeks later the bill was dismissed. Wreathcock and his partner were hauled before the court and each fined £50 — a salutary lesson that one can be liable for one's partner's misdeeds — and Mr Collins of Counsel, who drew up the original complaint, was ordered to pay the successful defendant's taxed costs — no need for O.63 r.23 back then! Mr Collins had wisely refrained from participating in oral argument before the Court. There the affair ended, there being no procedure available then for an outraged court to refer it to the DPP or somesuch. Thus, Williams's robust defence did not entail such a risk as he might encounter today.

That the law eventually overtook Williams, who was hanged at Maidstone in 1727 for his subsequent infringements, may have given some satisfaction to the losing litigant Everet, but such satisfaction would have been short-lived. Three years after Williams, Everet (in the contemporary vernacular) “met with a fatal accident at a place near Tyburn turnpike”, i.e., was hanged. He had been convicted of robbing two ladies on the highway near Hempstead on Christmas Eve 1729. One of his victims was to describe him as “very civil” during their encounter.

All the above merely serves to introduce William Wreathcock, Everet's attorney. Admitted to practice in 1717, he was commemorated in the following doggerel:

*The cries their attorneys call;
one of the gown, discreet and wise;
By proper means his witness tried;
From Wreathcock's gang — not right or laws,
He assures his trembling client's cause.*

Wreathcock's success as an attorney was largely dependent on his ability as a suborner of witnesses — he employed a motley crew of professional perjurers known as Wreathcock's gang — to provide the necessary evidence to win the day for a Wreathcock client. Our modern phrase “man of straw” is derived from these professional witnesses whose trade sign was a straw in their shoe: men of no substance or worth.

To supplement his daily bread, Wreathcock organised a number of highwaymen by night. His activities earned him the sobriquet “the General” in that he did not actively participate but reaped the rewards gained by his underlings. Ten years after the *Everet* case he was enjoying an income of several hundred pounds *per annum* and owned several estates.

It was the robbery of a clergyman, Dr Lancaster, of £35 near Chelsea in June 1735 that brought Wreathcock undone. A man named Macrae was tried for the crime but the victim's word against the several who swore to Macrae's alibi saw the prisoner acquitted. Later, one of the alibi witnesses, Julian Brown — seriously ill and wishing to make peace in accord with his religious beliefs — confessed to participating in the robbery of Dr Lancaster and, furthermore, that both the robbery and the alibi defence at Macrae's trial were organised by “General” Wreathcock.

Consequently Wreathcock and others were tried for the robbery of Dr Lancaster. The ultimate fate of the confessed perjurer Brown is not known and, of course, Macrae had been acquitted and could not even be tried for perjury himself given that he was incompetent to testify prior to the 1898 *Criminal Evidence Act*.

At the trial, Wreathcock conducted the defence on behalf of himself and his co-defendants. Brown testified regarding the robbery by Macrae and the part that he, Wreathcock and others took in it. Further, Brown's testimony extended to Macrae's acquittal — Wreathcock calling a meeting in Symond's Inn that night and organising the false alibi evidence.

Not surprisingly, the defence at Wreathcock's trial was also based upon an alibi — witness after witness swore that on the evening in question they had been in the defendant's company. On that day, so it was alleged, Wreathcock had been in Lord Hardwicke's Court all day and thereafter he, his clerk and a client had repaired to the Coffee House at Serjeants' Inn in Chancery Lane. There business discussions ensued

until 8 pm when they moved on to the King's Head at Symond's Inn (at least Brown got that right) where all dined on liver and bacon and did not leave until the early hours of the next day.

The common sense of twelve good men and true accorded little weight to the sworn alibi evidence which had done so well in the past for Wreathcock's clients and Macrae. Wreathcock and his fellow prisoners were all convicted and sentenced to the same fate as that of Everet and Williams. Later, these sentences were commuted and the convicts transported to the green fields of Virginia for life.

Eventually Wreathcock obtained a Royal Pardon, returned to Mother England and resumed practice as an attorney. During his twenty-year absence the Society of Gentlemen Practitioners (the precursor of today's Law Society) had come into being. In 1756 the Society set about having Wreathcock struck off. Shortly thereafter, Wreathcock was committed to prison for various misdemeanours and contempt of court — this was to provide further ammunition for the Society.

After several adjournments obtained by Wreathcock, the Society succeeded in early 1758 in having William Wreathcock struck off the roll of attorneys. It is of interest to speculate that had Wreathcock been of a later era and generation, or had the American colonies rebelled earlier, it is (admittedly we are stretching our speculation here) entirely possible that Wreathcock may well have been transported for life to a newer English penal colony and perhaps (?) have participated in the founding of the legal profession in Australia.

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FURTHER REFERENCES:

Jefferson (1867), *Portrait of a Profession*

Notes (1893), **35** *LQR* 105 and 197

Notes (1955), **220** *Law Times* 131 and 177

Sharpe (1988), *The Last Day, the Last Hour*

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“The Heirs of Howe and Hummel”, published in **131** *Victorian Bar News* 39-41 (Summer 2004) provides accounts of some of the professional descendants of William Wreathcock.



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