A layman’s triumph

by Malcolm Park
- published 70 Victorian Bar News 10-17 (Spring 1989)

---

The intriguing story of Alfred Wintle, who sued a solicitor and won — but had to get to the House of Lords to do it.

---

[1] Lieutenant-Colonel Alfred Daniel “Freddie” Wintle, MC, late of The First The Royal Dragoons was in his own words a “donkey wallopner.” In the view of others he was the quintessential Englishman. He served in both Wars (losing the sight of an eye and four fingers at Ypres in the first), wrote letters to The Times, was imprisoned by both sides in WW II, unsuccessfully stood for Parliament, supposedly debagged a solicitor for which he was imprisoned a third time, successfully conducted his own appeal in the House of Lords and upon his death scored an obituary in The Times and was the subject of an editorial the following day. His posthumously published autobiography was favourably reviewed in the Times Literary Supplement. When he was not busy being patriotic he saw the whole of life through his monocle as one long mess-night lark. Perhaps, had the late Sir Alan Herbert learnt of Wintle’s existence earlier, he would not have found it necessary to invent Albert Haddock.

[2] RV Jones in his Most Secret War (1978) devoted a whole (albeit short) and affectionate chapter to Wintle and described him thus:

> He was indeed almost a caricature of the popular idea of a cavalryman — somewhat cadaverous, with a large reddish nose and a monocle. This last, however, was no affectation, for one of his eyes was almost useless. His moustache was neatly trimmed, and his uniform immaculate.

[3] Wintle introduced himself to Jones during the “phoney war” before WW II began in earnest for the British. His no-nonsense manner and his appreciation of spectroscopy impressed Jones the physicist and backroom boffin. At the first conference which both men attended, Wintle sent an Air Ministry messenger out to the local to fetch back sherry all round. On Wintle’s desk there was a photograph of himself surrounded by various Air Staff officers and across which he had written “The brains
of the Air Force”. In classic English understatement Jones introduces Wintle to the reader as a person who was to have an eventful war.

[4] Wintle’s connection with the Air Ministry was explained by Jones as a salve to Army honour in that, although the RAF was vitally interested in Germany’s air defences, the British air defence of anti-aircraft guns was under Army command. With the benefit of hindsight it is just possible that in fact the Army seconded Wintle to the Air Ministry to remove him from their hair. After all, Wintle was cavalry, not artillery.

[5] Born in 1897 in the Crimea where his father held a diplomatic post, Wintle was educated in Rumania, Germany and France as well as the Royal Military Academy, Woolwich. He fought in the First World War with the 18th Hussars and was severely wounded in Flanders. He later joined The Royal Dragoons.

[6] How he spent the time between the Wars and also the greater part of WW II is not easily discerned and doubts must be expressed regarding any version of facts for which the sole source is Wintle himself.

[7] Between the Wars he claimed to have been an instructor at the French Staff College and it was his professed insight into the French military mind that first saw him gain notoriety.

[8] On May 25, 1940, Wintle was present to witness the return of the Dunkirk evacuees. Here is his description:

Times may change in other respects, but the Guards never do. I was at Victoria Station when the army remnants started arriving back from Dunkirk. There were a good many trainloads of them. I was deeply shocked with the appearance of the first lot. About the third trainload turned out to be a couple of companies of Foot guards. What a contrast! They were glorious to see. They fell in on the platform, dressed and marched out at attention, not even looking at the girls in the crowd of onlookers. Every Guardsman had his full equipment and his rifle. Everything was polished and properly adjusted. Thank God, I thought, that ass Hore-Belisha can never undermine the Guards.
The sight of them was like a tonic — with a very large gin in it — which I promptly had in their honour.

[9] Less than a month later and despairing of the manner in which the war effort was being conducted and believing himself to be uniquely placed to salvage some benefit on behalf of the British before the imminent collapse of the French army, Wintle attended at the Air Ministry on June 17 and demanded an aeroplane to fly him to Bordeaux. To back up his demand and lend credibility to his sincerity he drew his service revolver and, it was alleged, threatened to shoot himself and Air Commodore AR Boyle. Furthermore, he had said words to the effect that certain of His Majesty’s Cabinet Ministers and all officers of the RAF above the rank of group captain and most senior Army officers ought to be shot. Consequently he did not make the trip to France and was instead confined to the Tower of London awaiting his court martial which began on August 26, and lasted two days. On August 14, the Under-Secretary of War answered two Parliamentary Questions regarding Wintle’s imprisonment.

[10] Wintle was represented by Caswell KC and Astell Burk. He pleaded “Not Guilty” to the three charges of
(i) feigning infirmity (defective vision);
(ii) assaulting Air Commodore Boyle; and
(iii) conduct contrary and to the prejudice of good order and military discipline.

[11] The tribunal found him not guilty on the first and last charges and on September 10, sentenced him to be “severely reprimanded” on the second charge. Wintle had been imprisoned in the Tower for almost twelve weeks.

[12] The source for his further exploits in WW II is Wintle himself and he lays claim variously to the following:

* sent to France as a spy, captured by the Vichy French and kept in solitary confinement after a failed escape from Toulon gaol, escaping on the next attempt and returning to England by way of Spain;
* service in Burma and India which included training as a spy; and
serving on Wavell’s staff in the middle east working in intelligence with
(among others) Aly Khan.

[13] Wintle’s claimed various activities do not, in themselves, raise doubts. His manner
and approach could easily result in his various commanding officers sending Wintle
elsewhere at short intervals.

[14] In 1943 he wrote *Aesop* which the *Times Literary Supplement* described as a modest
and unpretentious book.

[15] Wintle survived the hostilities and in 1945 ran as the Liberal candidate for Norwood,
standing against the sitting Cabinet Minister (Duncan Sandys) wherein both lost in the
Labour tide that swept Churchill from office. Wintle received just enough votes to
secure the return of his deposit. At this time he re-introduced himself to Jones:

> [Jones’s wife] was much alarmed to hear a great crash in the sitting room and
> found that a motor car had come through its front window. The house was on
> a bend, which the driver had obviously taken too fast. When he stepped out, it
> was Freddie Wintle … “My dear lady,” he said, “I am most frightfully sorry. I
> must have upset your nerves. What you need most is sherry which I will now
> go and get.” And just as on the occasion of my first meeting him, he went to
> the local pub and returned with the sherry.

[16] Although only five years had passed since the Air Ministry incident and his court
martial which had ended in a severe reprimand for the one charge found proved,
candidate Wintle unabashedly informed his would-be constituents that he had been
imprisoned in the Tower and court martialled for having made the journey to France
and his court martial had resulted in an acquittal and thus vindicated his journey to
enemy occupied territory.

[17] In 1947, an eccentric cousin of Wintle’s died and the effect of her will was that of a
£115,000 estate, the solicitor who drew up her will was to receive £44,000. Wintle
was outraged. His protestations both to the solicitor and the Law Society fell on deaf
ears. Neither saw anything untoward. Wintle wrote several pungent letters to the
solicitor indicating that both he and his sister were not prepared “to tolerate that you
should acquire for your own use the bulk of my cousin’s estate by means of a will
drawn up by yourself in your own office in your own favour.” The letters went on to
suggest that the solicitor had stolen the cousin’s money and referred to him as “a cad,
a liar and thief and embezzler.” Wintle was determined that the matter should be aired
publicly. He succeeded.

[18] That his cousin, the testatrix, was eccentric, there seems no doubt. She would every
day write a letter to herself. At Seacroft, her house at Hove, she would write to herself
by the first post and when it arrived by the afternoon post she was delighted. When
going from Hove to East Grinstead she would write a letter to herself so that it would
be there when she arrived. She did not destroy letters but put them into a handbag.
When it was full the bag was placed under her bed and she bought another. Finally,
the bags under the bed were put into a cupboard and a new lot started. Her doctor
from 1936 to her death in 1947 testified at the 1957 civil action that she was just
content to exist, inert and had no intellectual interests. The doctor was unable to
suggest that his patient should treat herself with insulin because she had insufficient
intelligence to fill a syringe or to read the scale. In the same action Miss Marjorie
Wintle (the Colonel’s sister) testified that the deceased cousin never read a
newspaper, never understood that there was a war on (this despite living on the south
east coast of England), did not know the value of money and was no
conversationalist, she preferred silence. Throughout the action Colonel Wintle
referred to the testatrix as a “jelly-fish.”

[19] In 1955, through a series of telephone calls to the solicitor, Frederick Nye, and
purporting to be an old business acquaintance (Lord Norbury) whom Nye had not
seen for many years, Wintle lured Nye on April 6, to a flat in Hove which he had
borrowed for the purpose. Wintle had arranged for Norbury’s name to be on the
residents’ directory as living at Flat Number 11. Upon Nye’s entrance Wintle set upon
him. The solicitor’s calls to Norbury for assistance were not answered and Wintle
soon disabused him of any belief in Norbury’s presence. Although Wintle had
purchased rope to tie up Nye it was unnecessary, Wintle later describing the rope as
mere “window dressing” to impress Nye who, according to Wintle, had been
accustomed to dealing with old women and not with a person who would stand no nonsense from him.

[20] Wintle prevailed upon Nye to sign a cheque in the sum of £1,000 payable to Wintle’s sister and also to sign a document acknowledging the solicitor’s past misdeeds. Thereupon, Nye posed for a number of photographs while wearing a newspaper hat and trouserless. It is untrue that Wintle debagged the solicitor. He invited Nye to remove his trousers which he did with alacrity. Doubtless, had Nye declined the invitation his trousers would have been forcibly removed. Later, when giving sworn evidence, Wintle said he told Nye that he was going to photograph a particular part of Nye’s body. Thereafter Nye was locked in a cupboard for a short time before Wintle turned the solicitor, still trouserless, out of the flat and into the street.

[21] The same afternoon Nye’s trousers were exhibited in the trophy room of Wintle’s London club. There are conflicting versions of how the Police got into the act. In the subsequent criminal trial the prosecution alleged that upon a complaint laid that day by Nye, Wintle was arrested the same night. The later civil proceedings have Wintle going around the countryside showing the photographs and boasting of the incident according to Nye while Wintle maintained that he himself reported the incident to the Police as a means of publicly airing the solicitor’s conduct.

[22] Wintle was arrested and bailed to appear at a preliminary hearing on April 28 at Hove where he was committed for trial notwithstanding Wintle’s no case submission. Wintle reserved his defence and bail was renewed.

[23] The trial took place at Sussex Assize in July before Byrne J and continued for three days. Wintle pleaded “Not Guilty” to the two charges of assaulting Nye and fraud with violence arising from the £1,000 cheque. Wintle was represented by WR Rees-Davies.

[24] On July 26, Wintle changed his plea to “Guilty” to the charge of assaulting Nye. He was acquitted of the fraud charge after Byrne J told the jury that if a person honestly believed he was entitled to something he could have no intent to defraud. Wintle
received six months for the assault. It is not known whether Barwick QC, Windeyer QC or Coppel QC, or any of the other Australian delegates to the Commonwealth and Empire Law Conference travelled down to Sussex to sit in on the trial which was widely reported under the heading “The Colonel and the Solicitor” and was of more interest than the seminar topics at the conference.

[25] On August 2, Wintle’s solicitor lodged Notice of Appeal against sentence and on August 17, GD Roberts QC and James Mendl appeared for Wintle before the Court of Criminal Appeal (Hallet, Pearce and Havers JJ) which dismissed Wintle’s application for leave to appeal.

[26] Wintle emerged from this third period of incarceration in need of a stiff drink and with a profound respect and understanding of Her Majesty’s laws which he later was to put to good use when he re-entered the fray with Nye.

[27] The next engagement was a civil suit designed to upset his cousin’s will and, to gain standing, Wintle induced a beneficiary to assign his interest to him and thus In the Estate of Wells came before Barnard J and a jury. The plaintiffs were Wintle and his sister. Nye, the executor appointed by the will and the residuary beneficiary, was the defendant. On Wintle’s side were Phillimore QC and Scarman QC (later Sir Henry Phillimore, Lord Justice of Appeal and Lord Scarman, Lord of Appeal in Ordinary). Afterwards, Wintle was to describe his counsel as unreliable outriders spilling at the first ditch. Ifor Lloyd QC appeared for Nye.

[28] On May 15 and 16, Wintle was cross-examined by Lloyd QC:

\[You\text{ are a bit of a writer yourself?}\]
- No, I am a very considerable writer and publisher to a lesser extent.

[Presumably, although The Times did not so report, Lloyd was seeking to place Wintle’s “scurrilous” letters to Nye before the jury.]

\[Up to 1948 there was not a word to Mr Nye challenging the will?\]
- I deal with matters from the military point of view. I regard Mr Nye as an enemy and I do not disclose my plans until they are matured. Then I launch my heavy artillery on him and we get busy.
His Lordship: If we go on like this the jury will want a map in which they can put pins.

You are prepared to say anything to wound and injure Mr Nye?
- I tell the truth and if it injures Mr Nye that is his misfortune.

[29] Wintle told the jury he was very proud of appearing at the criminal trial where he was convicted of assaulting Nye. In relation to the cheque:

I had no intention of presenting it. I am more accustomed to dealing with horses than dirty papers. In my heart and belief my sister has been defrauded by this man. I do not dislike a person like Mr Nye. I had to resort to violence in order to get the matter into the public eye. It has succeeded and that is all my interest in his physical existence.

[30] On May 20, at the conclusion of His Lordship’s summing up a woman juror asked if the verdict had to be unanimous.

His Lordship: Yes, I am afraid so, but do not be like the juryman who would not agree and said he had never met eleven such obstinate people.

[31] The jury went out at 12.15 pm and Mr Grant of counsel sought leave to make a statement on behalf of Messrs Nye and Donne, a firm of Brighton solicitors (not to be confused with Mr Nye’s firm, Nye and Murdoch, also of Brighton). Leave was refused. The fact that this unsuccessful application received publicity was no doubt sufficiently effective to fulfil the expectations of Mr Grant’s instructors.

[32] At 2.15 pm the jury returned after having requested and being provided with a transcript of Nye’s evidence. Wintle had lost and though his sister had her costs paid from the estate, Barnard J did not make a similar order in Wintle’s favour because “he had had his fun and now must pay for it.”

[33] While awaiting the hearing of the appeal Wintle hosted a party at his 300-year-old cottage, Coldharbour. The occasion was the second anniversary of the debagging. Nye did not respond to his invitation.
[34] On appeal before Hodson, Morris and Sellers LJJ, Wintle appeared in person and on
November 14 the Court reserved its judgment. Things had gone well for Wintle. None
of the members of the Court were impressed by the “no lapse” clause providing that,
should Nye predecease the testatrix, the residue of her estate was to go to Nye’s
estate. Also, one of the appeal judges had picked up on (and thus alerted Wintle to) the
implication of a letter from Nye to the testatrix written in 1939. In order to discharge
his duty to his client, it was incumbent upon Nye to ensure that she appreciated the
size of the residue of her estate. Yet the 1939 letter, one of the very few
contemporaneous documents, suggested some doubt on the parts of both Nye and his
client as to whether the residue was sufficient to permit a bequest to be increased
from £40 per annum to £120. Wintle noted that this letter had been examined by at
least five QCs and innumerable counsel and solicitors, none of whom had recognized
the implication that the appellate court judge had.

[35] It came as a shock to Wintle when, on December 16, the Court (Sellers LJ dissenting)
dismissed the appeal and granted leave to appeal to the House of Lords. The majority
had been unable to overcome their reluctance to upset a jury decision. When it came
to costs the only common ground between Wintle and Lloyd QC was that this was no
ordinary case.

[36] The costs, by now estimated to be about £3,000, must have concerned Wintle for he
next sought an order from Sachs J to compel the Legal Aid Committee to provide him
with a certificate. Sachs J held that he was powerless to so order the Committee and
did not appear at all favourable towards this disgruntled losing litigant.

[37] The Colonel pressed on to the House of Lords, compelled by his financial position to
again represent himself (and assisted by several of his doughty comrades from The
Royals). After his victory there he was to assert that his decision to appear as his own
advocate was of his own choice and not occasioned by the prohibitive costs. He said
that it was “not until I got to the Lords was I dealing with my intellectual equals.” He
went alone to the Lords armed only with his sense of what was right and honourable
and his belief in the inestimable advantage of being English. It is a disappointment to
legal scholars that Lord Denning (who in 1958 had not yet “stepped down” to the
Court of Appeal and accepted appointment as the Master of the Rolls) did not participate in Wintle’s appeal. Both believed in the superiority of the English way. One of the Lords who did hear his appeal was Lord Reid who later was to criticize Lord Denning for his outdated confidence in British being better: see the Atlantic Star [1973] 3 WLR 746 at 800-1. Still, Wintle won over the Lords unanimously which necessarily includes Lord Reid.

[38] Included in Wintle’s submission was his reason for creating a scandal: once the will was in Court, it would stand out as its own monument of infamy. He criticized the summing up to the jury by Barnard J in that they were told that Miss Marjorie Wintle had a moral right but no legal standing; the next of kin had a legal standing but no moral right and that this justified the residue going to Mr Nye who had neither moral right nor legal standing.

[39] “Nobody,” he continued, “had told the jury that it is generally understood throughout the world that solicitors will not do the sort of thing that Mr Nye did. When one reaches a certain age one knows that one does not read other people’s letters or peep through keyholes. In the same way one knows, that one does not act as Mr Nye did. The judge slurred over that and so induced a far more benevolent atmosphere towards Mr Nye than was justified. He should have told the jury that it is a matter of professional honour among solicitors not to do that sort of thing and that his acceptance of the testatrix’s refusal to see another solicitor was so suspicious as to demand a far more careful scrutiny of his actions.”

[40] On November 26, 1958 the Lords announced that they had found for Wintle, reasons for judgment being reserved. Nye surrendered. He did not want to involve the estate in further litigation. No doubt he was also conscious of Wintle’s emerging forensic skills and his more intimate appreciation of those facts which would be most damaging to the solicitor in the eyes of a new jury if another trial were ordered. Lloyd QC proposed the terms of an order to be made by the Lords. Wintle rejected them.

Lord Reid What difference does it make? You are going to reach exactly the same position as if Mr Lloyd’s proposals were adopted.
Colonel Wintle  
*His proposals would involve me in going to the Probate Court. They would involve me in the disagreeable experience of having to continue to argue with Mr Nye.*

Viscount Simons  
*I could wish that there was some counsel on your side so that he could agree a form of order with Mr Lloyd.*

Colonel Wintle  
*I am very thankful that there is not.*

Viscount Simons  
*You do not always say the things that endears you most.*

[41] Wintle’s successful submission denying Nye his costs from the estate must have given him sweet satisfaction:

… the fact that the case came on so many years after the death of the testatrix was due to the fact that Mr Nye made it impossible to bring it by placing every obstacle in the way and by putting a veneer of respectability on top of the dirty work he had been doing.

When I lost the action in the High Court Mr Justice Barnard also had discretion to allow my costs from the estate. But he said in open court that having had my fun I must pay my own costs. I submit that this is a case where Mr Nye, having had his fun and having shown himself to be a deliberate and careful arranger of these matters, should pay the costs. The estate should not be burdened with the expense of his misdeeds.

[42] **CAVALRY OFFICER JUMPS LAST HURDLE TO WIN** trumpeted *The Times* and there are suggestions that the young barristers of Lincoln’s Inn toasted his success and congratulated him on his legal expertise. This writer prefers to believe the young barristers were unable to contain their glee at the idea of a debagged solicitor. The *Law Quarterly Review* commented it was “probably the first time in legal history that an appellant, appearing in person, has succeeded in persuading the House of Lords to reverse a decision of the Court of Appeal which had affirmed the judgment given by a trial judge on the trial of the action with a jury.”

[43] After his victory, Wintle was probably insufferable in his own confidence as an advocate. He appeared for himself in the final formal hearing of the Probate, Divorce and Admiralty Division of the High Court where letters of administration *cum*
testamento annexo were granted to Barclays Bank Ltd. At the hearing, before Karminski J, the testatrix was no longer “a jelly-fish”, she was affectionately referred to as “old Kitty” by Wintle.

[44] He also appeared in 1960 before the Disciplinary Committee of the Law Society where he succeeded in having Nye struck off the roll of Solicitors. He was less successful against the six partners of the firm Janson Cobb Pearson & Co., which had acted for Nye as his London agents throughout the probate litigation. His complaint regarding their conduct prior to the Court of Appeal hearing was not upheld and he was ordered to pay their costs. Their costs were £230 but upon taxation were reduced to £60 by the Taxing Master. Of course, Wintle appealed against the decision of the Disciplinary Committee, but on October 26, 1960 Parker LCJ, Ashworth and Elwes JJ dismissed the appeal in Re Solicitors: ex parte Wintle. The reports in The Times contain some vintage “Wintticisms”.

[45] Thereafter Wintle stayed out of the public eye except for the publication of a forgotten book (The Club, 1961) and the occasional letters to The Times written from the Naval and Military Club. In 1959, Captain Kerby, MP tabled a motion in Parliament seeking “a free pardon for Colonel Wintle in respect of the offence which he committed in order to get his case before the courts, every legal method to do so having failed, and in respect of which offence he has served the sentence imposed on him.” The ultimate fate of this motion in the House of Commons is unknown.

[46] Wintle died in 1966, whereupon The Times announced the fact on its front page and ran a lengthy obituary. The following day in an editorial entitled “On being oneself” the passing of Wintle was further noted:

*It is not merely because they owed to him quite a number of news stories in the past that the press have taken a respectful and semi-affectionate farewell of Colonel Wintle. He was a resolute fighter; that helped. What endeared him most of all was that, in his own words, he was an eccentric.*
[47] Four days after his death, *The Times* finally published his previously unpublished letter written from the Cavalry Club in 1946, noting Colonel Wintle was able to appreciate that more letters are received by *The Times* than can be printed:

Dear Sir,

I have written you a long letter. On reading it over, I have thrown it in the waste paper basket. Hoping this will meet with your approval. I am Sir,

Your obedient servant,

AD Wintle

[48] The publication of this letter after twenty years raises the spectre of a vast filing system of unpublished material being stored by *The Times* for possible future use when an item becomes newsworthy.

[49] RV Jones writes that on the occasion of Wintle’s funeral, his friend ex-Trooper Cedric Mays of The Royals drank a bottle of Glenfiddich and then, through a mist of whisky and tears sang the Cavalry Last Post and Cavalry Reveille to the astonishment of worshippers in Canterbury Cathedral, the Chapel of Cavalrymen of Britain.

[50] Ray Gosling reviewed Wintle’s posthumously published autobiography *The Last Englishman* (1968) in the *Times Literary Supplement* under the heading “Real super man” and closed his review with an anecdote from the book:

One day at home John [the elder of Wintle’s two nephews] spoke out of turn and announced without being asked that he had been first at school. “That’s splendid,” I said. “Here’s a shilling for you. Well done!” Then, seeing that Peter had remained quietly English and had volunteered no information, I asked: “Well, Peter, and how did you get on?” Peter admitted without enthusiasm that he had been seventh. “Seventh,” I replied. “Splendid. Here are seven shillings for you.” My sister was scandalized …
Minerva Access is the Institutional Repository of The University of Melbourne

Author/s:
Park, M. M.

Title:
A layman's triumph

Date:
1989

Citation:

Publication Status:
Published

Persistent Link:
http://hdl.handle.net/11343/34188

File Description:
A layman's triumph

Terms and Conditions:
Terms and Conditions: Copyright in works deposited in Minerva Access is retained by the copyright owner. The work may not be altered without permission from the copyright owner. Readers may only download, print and save electronic copies of whole works for their own personal non-commercial use. Any use that exceeds these limits requires permission from the copyright owner. Attribution is essential when quoting or paraphrasing from these works.