

THE CURIOUS CASE OF BARING WALL

By Peter Jordaan

Over the centuries, homosexuality and the law has touched members of Britain's Parliament in myriad ways. Many cases have been presumably been smothered as deeply as Lord Battersea's.

The 1978 trial of M.P. Jeremy Thorpe for conspiracy to murder his lover Norman Scott, will always be a landmark case, not least because of its bizarre and tragi-comic aspects. The 1833 case of M.P. William Banks, who fled into exile after being arrested with a guardsman, shares a similar status, due to the legacy of art Banks shipped back to his English home of Kingston Lacy.

However, a case similar to that of Banks, which also occurred in 1833, is worthy of note. It involved Charles Baring Wall (1795–1853), a Conservative M.P. for Guildford who was a wealthy bachelor member of the Barings Bank family.

In late February that year, Wall was arrested for, as the *Daily Police Report* phrased it, “indecently assaulting John Palmer, with intent to incite him to certain filthy and indecent acts and practices, in Marylebone.” Remarkably, Palmer was a police constable.

Wall's friends claimed it was all “a foul conspiracy.” A summons was issued against two men acting on behalf of Wall, after Palmer complained to police commissioners that, posing as reporters, they'd attempted to bribe him to accept an offer of fifty pounds down, and fifty pounds more, in order to have the bill of indictment thrown out for want of evidence, or Mr. Wall acquitted.

At a hearing before a magistrate the men claimed to have met the policeman purely by accident at the Yorkshire Stingo, a public house in Marylebone. They further alleged that, believing as they did the accusation against Baring Wall had been:

made by the policeman for the purpose of extorting money, they

determined to put him to the test, by pretending that there were authorised to offer him...a large sum, if he would consent to holding back his evidence. Palmer said he would negotiate with only one of them, and retiring with one of the parties accused, agreed to take 50/ the next day, and the sum of 50/ after the sessions, in case of no prosecution; and the like sum of 100/ to be paid to the inspector. As proof that they had no intention of bribing him, but that the proposition was made as a touchstone, in order to ascertain whether he was an honest man or not, and whether the charge had been preferred from sinister motives, they did not see him again, nor attempt to send the money, but actually gave information to the bail, of Palmer having agreed to accept money to forego the prosecution; and it was not until three or four days afterwards, the money not having been paid, that a summons was taken out against them for an attempt to suborn him [Palmer] to commit perjury.

It was reported that: "After a patient investigation, the magistrate dismissed the parties as the charge [by Palmer] could not be supported."

It can be readily surmised that the encounter of the men with the policeman in the pub was no chance encounter, but a concerted plan to compromise him, and thereby cast doubt upon his evidence. If so, it worked like a charm. Palmer was forced to resign before Wall came to trial. Another newspaper stated:

on Palmer giving his resignation, he was required by his superintendent...to return three coats, two pairs of trowsers [*sic*], oil-skin cape, and hat-cover, &c, and notwithstanding that 2s. a week had been deducted from his pay since April 1831 [for the uniform], the Superintendent thought it proper to make a charge of 11.11.3d. for the repair of the clothes returned. This case has caused a general conversation in the parish of Marylebone...Palmer has got a respectable solicitor to take his case into Court. – We know nothing of this case beyond what has appeared in the public prints – but we put it to our readers and the public in general, whether enough has not transpired from that quarter to justify them in the opinion that a man in an inferior station in life, is a *ruined man*, if he dare to accuse one of higher degree of an immoral crime.

Charles Baring Wall's trial came to court in May before a special jury – i.e. selected persons of wealth and station, rather than a common jury; it also

being reported: “A vast number of the Members of both Houses of Parliament...were in attendance.” Barrister Eugene Clarkson appeared for the prosecution; and Sir James Scarlett and Charles Phillips for Wall. Clarkson opened the case by informing the court:

At the time the offence was alleged to have been committed, the prosecutor was a policeman, letter D, No.122. He need not tell them that his circumstances were such that it had been without considerable inconvenience he had been able to present so humble an individual as himself to state his case. The defendant was a person of considerable importance. Mr C. Baring Wall was a gentleman of rank and fashion, moving in the highest and best circles of society, and up to the time this charge was made, a gentleman whose character was beyond reproach. He was in a condition to avail himself of the assistance of most profound lawyers in the world. This was an advantage which the prosecutor did not possess.

Clarkson went on to state the basic issue was whether Charles Baring Wall “should continue a member of society,” or John Palmer was “a base slanderer and a villain, and one who deserved the execration of the world.” Palmer then testified that:

on the 28th of February, early in the morning, he was on duty in Harley-street...About a quarter to one o’clock, Mr. Baring Wall came up to him and asked what it was o’clock. Witness told him. He had never seen him before. Mr. Wall said, “It is a b—y fine morning.” Witness replied, “Yes, it is a fine morning.” Mr. Wall then asked witness what religion he was of, and he told him he was of no particular religion, any more than the rest of the people. Mr. Wall said. “D—and b—t¹ all religions, they are all humbug.”

In this rambling and possibly inebriated attempt at chat-up, Palmer stated that Wall then went on to say, apropos nothing: “a parcel of boys...14 or 15 years of age, are sent to college, and brought up to govern the country.” He then asked what regiment I had belonged to, and whether I had belonged to the Guards? I said “No.”

This was a pointed query, as by long tradition the Royal Guards had serviced the sexual needs of upper class gentlemen – a tradition new

¹ Damn and blast.

recruits were swiftly inducted into.² Palmer's testimony of Wall's alleged insinuations continued.

"Are you allowed to take money?" said he. I replied, "No." He then said, "Suppose I was to chuck a shilling on the pavement, would you pick it up?" I said "No." He then said "— and —the police. I hate the system, don't you?" I said, "No, I don't." Upon that I was going away, when he caught my hand. I did not know what he meant. I had scarcely time to speak before he put one shilling into my hand.

According to Palmer, Wall then squeezed his hand and placed it "upon a certain part of his person." Wall then allegedly thrust half-a-crown into Palmer's hand, after which, as press put it: "Here followed details which are quite unfit for publication." Palmer then testified that:

he seized Mr. Wall by the collar, and told him he would take him to the station-house. Mr. Wall, upon this, offered him another shilling if he would let him go; but witness told him he would sooner let a gang of burglars go, than a fellow like him. Mr. Wall afterwards said, he would give witness any thing if he would let him go, but witness made the same reply as before, and conducted him to the station-house in Marylebone-lane, where witness gave him in charge of the Inspector for an indecent assault. He produced before the Inspector the money which prisoner had forced into his hand.

The police station's chief clerk then took the stand to testify that:

Mr. Wall said, "I confess to having stopped the witness, and to having given him a shilling, and two and sixpence afterwards. All the rest is a fabrication. I never touched him...I gave him money to let me go, for I told him it was not the question whether the charge was weak or strong – it was sufficient to blast my character. I thought I had given him a sovereign and not a shilling."

Sir James Scarlett for Wall then addressed the jury, and quoting the influential legislator Lord Hale, said: "charges of this nature are easily made, but very difficult to be defended.' What were the means of defence left to the accused?" Scarlett suggested the only way was by a careful sifting of the facts, and an examination of the defendant's previous

² See: *A Secret Between Gentlemen: Lord Battersea's Hidden Scandal And The Lives It Changed Forever*, pp148-150.

character.

Scarlett reminded the jury that Wall was a member of Parliament; that the House of Commons sat to a late hour, and on leaving its “heated atmosphere...it was not surprising that he should be glad to walk in the quiet of the night along the streets to enjoy the refreshing effects of the cool morning air.” He further suggested that the first shilling had been given to Palmer “as a reward, for the civility of his answer.”

Even by the gentlemanly standards of 1833, doling out coinage to a copper for a polite response in this context was stretching credulity to the limit. Scarlett was on firmer ground in the claiming the subsequent money had been handed over in order to escape from a false charge:

Mr. Wall would have given anything, so would any one in court, if similarly situated, rather than such a charge should be made. These were the real circumstances of the transaction, and he would submit to them, that the story was so inconsistent and unlikely that they could not give credence to it. He should produce before them a host Mr. Baring Wall’s friends to prove that his character was such as to make it impossible he could be guilty...

A string of noble and worthy gentleman then gave testimony to Baring Wall’s stainless character, including the Dean of Salisbury, Wall’s valet, and not least, an uncle of Henry Labouchère³ who shared his name.

The Lord Chief Justice then began his summing up, when the Jury intimated they considered it unnecessary. However the judge replied:

“You had better consult together, Gentlemen, before you pronounce a verdict.” The Jury turned round in the box for a minute, and returned a verdict of ‘Not Guilty’. They were also unanimously of the opinion that there was not the slightest suspicion against Mr. Wall, but that his character was spotless.

It was a lucky escape: one enabled by money, connections, and clout, and in which true innocence – in the event that had been the case – played no part at all. Privilege was everything. This was underlined the very next month by a prisoner in a sordid case. A Captain Henry Nichols⁴ was

³ Henry Labouchere, 1st Baron Taunton (1798 –1869) prominent Whig and Liberal M.P.

⁴ Spellings vary, and include Nicholl and Nicols.

apprehended for sodomising a young teenage boy he'd enticed to his home with the promise of employment as a servant. At his hearing, Nichols informed the presiding magistrate:

I have lost every thing – my name has been erased from the Army List – and the half-pay which I earned in the service of my country has been stopped, and I have been degraded in every way possible...I have no attorney; and, in fact, have the means of employing one.

Despite the vastly different moral scale of his crime to the adult diddlings of Baring Wall, Nichols dragged his name up to make a valid point:

If Mr. Baring Wall had been placed in my unhappy position, without the means of defending himself from the charge alleged against him, what might not the consequences have been?...You have the whole treasury of the country at your disposal to prosecute me, and here I am without the means of affording to pay the expenses of a defence to the accusation against me.

Unfortunately for Nichols, damning testimony made a capital sentence for his own wrongdoing a foregone conclusion. Following his hanging, his unclaimed body was delivered to a hospital for dissection.

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