

WHISTLER *v.* RUSKIN: AN ATTORNEY'S STORY OF A FAMOUS TRIAL

BY JUDGE PARRY

[The author gratefully acknowledges the kind permission of Miss R. Birnie Philip, the executrix of Mr. Whistler, and Mr. Alexander Wedderburn, K.C., the executor of Mr. Ruskin, to make use of the documents hitherto unpublished which are quoted in this article.]

FRIENDLY chance threw in my way an old brief. What a vast amount of biographical and social history lies hidden in these foolscap folios tipped on to the solicitors' slag heap after the fires of litigation are burned out and forgotten! What would we give, for instance, for Mr. Saint John's brief in Hampden's case with the defendant's own suggestions of the line to be taken by his advocate, or for Brougham's brief in Queen Caroline's case, or Campbell's brief in 'Norton *v.* Melbourne!' The true story of many a *cause célèbre* is never made manifest in the evidence given or in the advocates' orations, but might be recovered from these old papers when the dust of ages has rendered them immune from scandal.

The title of this particular brief is: '1877 W. No. 818. In the High Court of Justice, Queen's Bench Division. Whistler *v.* Ruskin. Brief on behalf of the Defendant. The Attorney General. With you Mr. C. Bowen.' I was deeply interested in this libel action at the time, as my father, Sergeant Parry, appeared with Mr. Petheram for the plaintiff and ultimately wrested from Sir John Holker the glorious victory of a farthing damages.

The unfortunate dispute which brought these two great ones into the

squalid purlieus of Westminster Hall was not based upon any mean personal antagonism but was a passing form of the eternal quarrel between those who worship the art of personal impression and those who demand a literary inspiration—a picture with a story. Could it have been tried before a tribunal of 'amateurs' eager to give ear to the earnest pleading of the litigants, good might have come of the contest, but before Baron Huddleston and a Middlesex jury who cared for none of these things the trial was a sorry farce.

The trouble began in this way. Ruskin was at the zenith of his fame as an art critic and had adopted the public rôle of prophet. He was wont to attack all and sundry with a savage merriement which even his best friends at times resented. The story goes that he wrote to a friend hoping that a fierce criticism published by him on his friend's picture would make no difference in their friendship. To which his friend had the wit to reply, 'Dear Ruskin — Next time I meet you I shall knock you down, but I hope it will make no difference in our friendship.'

In his own circle this kind of thing did not matter, but Whistler was not of the circle. Twelve years before Swinburne had asked Ruskin to come with Burne-Jones and himself to

Whistler's studio, but the visit was never made. 'I wish you could accompany us,' he writes. 'Whistler, as any artist worthy of his rank must be, is of course desirous to meet you and to let you see his immediate work. As (I think) he has never met you, you will see that his desire to have it out with you face to face must spring simply from knowledge and appreciation of your works.' The prophet of Herne Hill was not inclined to come down into the studio and 'have it out' with the apostle of a new gospel, and the men never met.

In the year 1877 Ruskin was writing his letters to workingmen which he entitled *Fors Clavigera*. The libel Whistler complained of appeared in Letter 79, and is dated 'Herne Hill, June 18, 1877.' That Ruskin ever thought of or intended to injure Whistler personally is unthinkable. If you read the whole letter, it is clear that the very mention of Whistler was almost accidental. He was striving to teach the lesson that true coöperation was not a policy of privileged members combining for their own advantage, but that we must 'do the best we can for all men.' This leads him to consider whether under present conditions any sort of art is at all possible, and he arrives at the characteristic conclusion that it is not. Music he finds is possible, and that is because 'our music has been chosen for us by our masters and our pictures have been chosen by ourselves.' If someone like Charles Hallé could guide us in our choice of pictures as he does in music, all would be well.

This of necessity brings him to the recent opening of the Grosvenor Gallery by Sir Coutts Lindsay, and giving him credit for good intentions he dismisses him lightly with the phrase 'that he is at present an amateur both in art and shop-keeping.' He then proceeds to tell his workingmen readers that the

work of his friend Burne-Jones 'is the only art work in England which will be received by the future as "classic" of its kind, the best that has been or could be,' and goes on to pronounce this final decree upon his pictures: 'I *know* that these will be immortal as the best thing the mid-nineteenth century could do.'

This first exhibition of the Grosvenor Gallery was a loan exhibition, and considerable prominence was given to Whistler's nocturnes, including the *Falling Rocket* and *Old Battersea Bridge*. Whistler himself had designed a frieze for one of the galleries and he was treated as an artist worthy of serious consideration. The very fact of this being done in a gallery where his friend Burne-Jones's masterpieces are displayed excites Ruskin to a fit of uncontrollable anger, and with little attention to the context he concludes his panegyric of Burne-Jones with an almost irrelevant attack on Whistler. Nothing is said to the workingmen he is writing for as to why the pictures he dislikes are bad or what it is that is wrong about them. The paragraph suddenly introduces Whistler to an audience that probably knew little or nothing about him in the following terms:

For Mr. Whistler's own sake no less than for the protection of the purchaser, Sir Coutts Lindsay ought not to have admitted works into the gallery in which the ill-educated conceit of the artist so nearly approached the aspect of wilful imposture. I have seen and heard much of Cockney impudence before now; but never expected to hear a coxcomb ask two hundred guineas for flinging a pot of paint in the public's face.

Time has shown that from the shopkeeper's point of view Sir Coutts Lindsay knew more about his business than Ruskin supposed, and the money taunt in the libel, which was wholly outside a critic's jurisdiction, gave an air of malice to the paragraph that was most unfortunate. In so far as money talks

in questions of art, the prices of Whistler's nocturnes have dismissed the criticism of Ruskin as futile and unsound. Battersea Bridge, for instance, the blue and silver nocturne, which was produced at the trial, was ultimately purchased by the National Art Collections Fund for two thousand guineas, presented to the nation, and hangs in the National Gallery.

If the libel had remained interred in the pages of *Fors Clavigera* it would possibly never have reached Whistler's ears. The curious coterie who read Ruskin's monthly letters cared little and knew less about 'nocturnes in blue and gold' and 'arrangements in black.' The magazine was not one that found its way into clubs and the drawing rooms of society. But the passage was too piquant to remain in obscurity. It was copied into other papers, and repeated with a chuckle by the Tadpoles and Tapers of artistic society.

In Pennell's admirable life of the artist, where the circumstances of the trial are very faithfully dealt with, we are told that Boughton remembered Whistler chancing on the criticism in the smoking room at the Arts Club.

'It is the most debased *style* of criticism I have had thrown at me yet,' Whistler said.

'Sounds rather like libel,' Boughton suggested.

'Well — that I shall try and find out,' Whistler replied.

It is a thousand pities that such an idea was ever suggested to Whistler, but it is more than probable it would have come to him spontaneously. The two men stood for opposite ideals. The public at that date regarded Whistler as a mountebank and Ruskin as an English institution infallible and almost sacred in the domain of art. There was some excuse for these erroneous estimates. But here, from Whistler's point of view, was an opportunity to

exterminate a prophet and destroy a false doctrine, and when the challenge was made the old warrior in Ruskin scented the battlefield and the destruction of poisonous dragons.

On July 21 it was stated in the *Athenæum* that Whistler intended to bring an action against Mr. Ruskin 'on account of opinions expressed with regard to the artist, his works, or both, we do not gather which.' On July 28 the writ was issued, and the pleadings were closed on December 11.

Ruskin wrote at once to Burne-Jones full of the early enthusiasm of the joyful litigant:

It's mere nuts and nectar to me, the notion of having to answer for myself in Court — and the whole thing will enable me to assert some principles of art economy which I've never got into the public's head by writing, but may get sent over all the world vividly in a newspaper report or two.

It has been suggested that the libel might possibly be accounted for by Ruskin's morbid mental condition, but his letter does not bear any trace of depression. Moreover, he had penned a similar attack on Whistler in an Oxford Lecture on Tuscan Art in 1873, in which he had said:

I never saw anything so impudent on the walls of any exhibition in any country as last year in London. It was a daub professing to be a 'harmony in pink and white' (or some such nonsense); absolute rubbish, and which had taken about quarter of an hour to scrawl or daub — it had no pretense to be called painting. The price asked for it was two hundred and fifty guineas.

It is probable that Whistler never saw or heard of this passage, or his legal advisers would have been told of it. But it shows that Ruskin's attack was not a sudden outburst of momentary irritation but was deliberate and intentional.

Ruskin would undoubtedly have enjoyed testifying from the witness box. But, alas for the vanity of human

wishes! long before the case came on Ruskin's serious illness rendered it impossible for him to risk the excitement of appearing in court. It is only fair to Whistler to remember that he extended the time of hearing whenever he was requested to do so, and his advisers were naturally anxious that Ruskin should go into the box to be cross-examined.

Meanwhile the prophet returned to Brantwood and prepared a characteristic memorandum of his views on the particular case and a general dissertation on the ethics of criticism which we find attached to Sir John Holker's brief. Having set out that the function of all good critics is 'to recommend authors of merit to public attention and to prevent authors of demerit from occupying it,' Ruskin tells his counsel that the main strength of his life has been spent in the praise of unappreciated artists.

But (he continues), the Bench of Honorable Criticism is as truly a seat of judgment as that of Law itself, and its verdicts though usually kinder must sometimes be no less stern. It has ordinarily been my privilege to extol, but occasionally my duty to condemn, the works of living painters. But no artist has ever yet been suspected of purchasing my praise, and this is the first attempt that has been made through the instrumentality of the British Law to tax my blame.

Sir John Holker underlines this passage with the pencil of approval.

The defendant then sets out his view of the libel:

I do not know (he writes), the sense attached legally to the word 'libel,' but the sense rationally attaching to it is that of a false description of a man's person, character, or work made willfully for the purpose of injuring him.

And the only answers I think it necessary to make to the charge of libel brought against me by the plaintiff are — first, that the description given of his work and character is accurately true as far as it reaches; and, secondly, that it was calculated, so far as it was accepted, to be extremely beneficial to himself and still more to the public. In the first place, the description given of him is absolutely true. It is my con-

stant habit while I praise without scruple to weigh my words of blame in every syllable. I have spoken of the plaintiff as ill-educated and conceited, because the very first meaning of education in an artist is that he should know his true position with respect to his fellow-workmen, and ask from the public only a just price for his work. Had the plaintiff known either what good artists gave habitually of labor to their pictures or received contentedly of pay for them, the price he set on his own productions would not have been coxcombry, but dishonesty.

In this purely commercial question of price Ruskin was clearly wrong and entirely out of his element. As the market has turned out, Whistler was at that date offering his wares at absurdly cheap prices, and if Ruskin had gone into the witness box he would have been a tempting subject for cross-examination on the question why an art critic should disturb his mind about the price asked for a picture. There was only one picture of Whistler's for sale at the Grosvenor Gallery, the others were loaned, and the fact that Ruskin fastened on the one priced exhibit to attack the artist was some evidence of unfairness if not malice.

Having scornfully disposed of Whistler's musical descriptions of his pictures as mere evidence of quackery, Ruskin then proceeds to lay down the only true gospel of art:

The standard which I gave thirty years ago (he repeats with pride), for estimate of the relative value of pictures, namely, that their preciousness depended ultimately on the clearness and justice of the ideas they contained and conveyed, has never been lost sight of by me since, and has been especially dwelt upon lately in such resistance as I have been able to offer to the modern schools which conceive the object of art to be ornament rather than edification.

He then continues to enlighten counsel on the degradation of trade and art in the nineteenth century, reminding him that in the good old days of flourishing trade and art

the dignity of operative, merchant, and artist was held alike to consist in giving each in their several functions good value for money and a

fair day's work for a fair day's wage. . . . I have now long enough endeavored, much to my own hindrance, to vindicate from the impatient modern some respect for the honesties of commerce and the veracities of art which characterized the simplicity of his uncivilized forefathers. I contentedly henceforward leave the public of this brighter day to appease the occasional qualms that may trouble the liberty of their conscience and the latitude of their taste with philosophy that does nobody any good, and criticism that does no one any harm.

Holker and Bowen must have thanked their stars that their outspoken client was safe at Brantwood and they were at liberty to make use of as much or as little of his instructions as they thought right. Bowen had already given him an intimation of the course the jury were likely to take, and instinctively notices that the sting of the libel was in the unwise and unnecessary introduction of the price asked for the picture.

Most people of educated habits of mind (he writes), are well aware of the infinite importance of having works of art, or alleged works of art, freely and severely criticized by skilled and competent critics. But Mr. Ruskin must not expect that he will necessarily find juries composed of persons who have any knowledge or sympathy with art. It would, for example, be hopeless to try to convince a jury that Mr. Ruskin's view of Mr. Whistler's performance was right: they never could or would decide on that. They would look to the language used rather than to the provocation, and their sympathies would rather lean to the side of the man who wanted to sell his pictures than to the side of the outspoken critic whose criticism interfered with the sale of a marketable commodity. I think, therefore, that Mr. Ruskin, whose language about Mr. Whistler in *Fors Clavigera* is exceedingly trenchant and contemptuous, must not be surprised if he loses the verdict. I should rather expect him to do so.

One of the main themes of Ruskin's article was the praise of the work of Burne-Jones, the dispraise of his fellow artist Whistler being by way of comparison. Under these circumstances friendship and good taste ought to have prevented Ruskin from inviting Burne-Jones to appear for him as a witness.

But that was not Ruskin's way. In

any contest in which he was engaged he at once found himself fighting on the side of righteousness against the Evil One, and conducted the battle with Old Testament energy, enthusiasm, and even want of chivalry.

On November 2, 1878, he writes to Burne-Jones:

I gave your name to the blessed lawyers as chief of men to whom they might refer for anything which in their wisdom they can't discern unaided concerning me. But I commanded them in no wise and for no cause whatsoever to trouble or tease you.

As a matter of fact the 'blessed lawyers' were given to understand that Mr. Burne-Jones was desirous to give evidence and that Leslie, Richmond and Marks, among the Royal Academicians, would wish to do so also. The worldly lawyers shrewdly suggested that you cannot expect artist to give evidence against artist, and hinted that no artist ever did approve of criticism. In this they turned out to be right, and Burne-Jones was the only one who showed little backwardness in coming forward. The others refused to be mixed up in the quarrel.

In after years Burne-Jones himself regretted that he had felt obliged in loyalty to his friend to accept the invitation. 'The whole thing,' he wrote, 'was a hateful affair, and nothing in a small way annoyed me more — however, as I had to go I spoke my mind and I try not to think of it all more than I can help.' Looking back on the affair he was sincerely sorry that it had happened. 'I wish,' he said to a friend, 'that trial thing had n't been; so much I wish it, and I wish Whistler knew that it made me sorry — but he would not believe.'

For the artist in him loved Whistler's color and admired his technique, though he was on Ruskin's side in the essentials of the artistic quarrel. Ruskin was his chief and his friend, and

called upon to take action he was at the moment very ready for the fray, and sat down and wrote very frankly and at length his view of the position, which we find set out in the brief.

The point and matter (he writes), seems to be this: that scarcely anybody regards Whistler as a serious artist — for years past he has so worked the art of brag that he has succeeded in a measure among the semi-artistic part of the public, but among artists his vanities and eccentricities have been a matter of joke of long standing. . . . It is a matter of jest, but a matter of fact; that he has been ceaseless in all company for years past in depreciating the work of all artists, living or dead, and without any shame at all proclaiming himself as the only painter who has lived.

As Whistler used to say to his devoted disciples: 'You must be occupied with the master, not with yourselves.' Typical, too, was his rebuke to Oscar Wilde, who had suggested that when together their talk was about themselves. 'No, no, Oscar, you forget that when you and I are together we never talk about anything except me.'

Burne-Jones knew his man well when he said:

If he were asked if this were the case he would not care to deny it, for he has a perfect estimate of the value of this trumpeting, knowing that there will always be some to be staggered by it and some to believe it. He has never yet produced anything but sketches, more or less clever, often stupid, sometimes sheerly insolent — but sketches always. For all artists know that the difficulty of painting lies in the question of completion; thousands can sketch cleverly, amateurs often as adroitly as artists. The test is finish; in finishing the chance of failure increases in overwhelming proportion. To complete and not to lose the first vigor, that is what all painters have always set before themselves without exception. That Whistler should be an incomplete artist on such terms concerns himself alone, but that for years past he should have been proclaiming this incompleteness with all his power of speech to be the only thing worth attaining concerns Art itself and all artists. And Mr. Ruskin's forty years of striving to raise the ideal of his country's skill could have ended tamely if he could have quietly let pass such an exhibition as Mr. Whistler's theory and practice. . . . And I think Mr. Ruskin's language is justified on the grounds of

the scandal that this violent puffing of what is at best a poor performance brings upon Art. I am sure that an ordinary intelligent person would think that a bad joke was being put upon him if he were asked to admire as a serious work of art the sort of picture condemned by Mr. Ruskin.

It needs no length of explanation for the causes that should for a time give Mr. Whistler a little notoriety, but if anyone caring, as Mr. Ruskin does, for the question of Art, and looking with any reverence on the works handed down to us, could think this meaningless scribbling should be looked upon as real Art for admiration and reward, I think he might lay his pen down and never write again, for Art would be at an end.

Holding these views about Whistler the man, it is good to remember that Burne-Jones in giving his evidence paid a fair tribute to Whistler's skill as an artist and did not go further than endorse Ruskin's principle that good workmanship was essential to a good picture.

After he had given his evidence Ruskin wrote him a characteristic letter of thanks.

BRANTWOOD, November 28.

I'm very grateful to you for speaking up, and Arthur (Severn) says you looked so serene and dignified that it was a sight to see. I don't think you will be sorry hereafter that you stood by me, and I shall be evermore happier in my secure sense of your truth to me and to good causes, for there was more difficulty in your appearing than in anyone else's, and I'm so glad you looked nice and spoke so steadily.

Whistler had the same difficulty that Ruskin had in getting his artist friends to come forward and champion his cause in court. The following letter sent by Mr. Anderson Rose to my father, Sergeant Parry, shows how eager he too was to make a brave show on the day of the fight:

21 November, 1878.

DEAR ROSE: Another view of the case and a further note for Serjt. Parry — First, I am *known*, and *always have been known*, to hold an independent position in Art, and to have had the Academy opposed to me. That *is* my position, and this would explain away the appearance of Academicians against me — and offering to paint my pictures in five minutes! — and I fancy it

would be a good thing for Parry to take the initiative and say this, and prepare the jury for all academic demonstration. Again, I don't stand in the position of the *popular* picture-maker with herds of admirers — my art is quite apart from the usual stuff furnished to the mass, and *therefore* I necessarily have not the large number of witnesses! In defending me it would be bad policy to try and make me out a different person than the well-known Whistler; besides I think more is to be gained by sticking to that character.

However, here are one or two more men to be subpoenaed:

Richard Holmes, Queen's Librarian, Windsor.
Reid, The Print Room, British Museum.

Charles Keen (*sic*), 11 Queen's Road West, Chelsea.

James Tissot, 17 Grove End Road, St. John's Wood.

Though I don't think that Whistler ought to have many more than Boehm and Albert Moore.

What would you think of the Rev. Haweis? You know he *preached* about the beauty of the Peacock Room — and I have his printed sermon — it is a perfect poem of praise. He could be subpoenaed to swear to what he had preached!

Could you subpoena Prince Teck? — to swear that he thought the Peacock Room a great piece of art?

Good night,

J. McN. WHISTLER.

Another thing I have just heard. The other side is not at all so cock-sure as they pretend to be. It's a game of bluff, my dear Rose, and we must n't be bounced out!

Pennell says that Whistler 'thought at first that the artists would be on his side and would combine with him to drive the false prophet out of the temple,' but 'they all sneaked away except Albert Moore.'

Charles Keene, whose work Whistler greatly admired, was among those who with one accord made excuse:

Whistler's case against Ruskin (he writes), comes off, I believe, on Monday. He wants to subpoena me as a witness as to whether he is (as Ruskin says) an impostor or not. I told him I should be glad to record my opinion, but begged him to do without me if he could. They say it will be most likely settled on the point of law, but if the evidence is adduced it will be the greatest 'lark' that has been known for a long time in the courts.

Even Whistler's friends could not take him or his case very seriously. The real quarrel between Whistler and Ruskin as to the literary or decorative basis of Art was, of course, quite incomprehensible to a judge and jury, and the personal dispute between the two was bound, as Keene saw, to be something of a 'lark.' That was the pity of it.

At the trial itself Whistler certainly enjoyed himself. He was more than a match for the Attorney General, and his famous reply to one of his questions has passed into history.

'Can you tell me,' asked Sir John Holker, 'how long it took you to knock off that nocturne?'

'Two days,' replied Whistler.

'The labor of two days then is that for which you ask two hundred guineas.'

'No, I ask it for the knowledge of a lifetime.'

It is curious that Holker with a hundred guineas on his brief should have risked such a foolish gibe against so clever a man, but I fancy the whole of his cross-examination was really directed to allow the witness to exhibit to the jury his conceit and self-infatuation, qualities which, coupled with his eccentric appearance, were bound to tell in mitigation of damages which was all that Holker expected.

Rossetti, Albert Moore, and W. G. Wills gave evidence for the plaintiff. Burne-Jones, Frith, and Tom Taylor — a curious trinity — testified for Ruskin.

That Ruskin should have called Frith as a witness was remarkable. An amusing incident occurred in his cross-examination when he concurred in the description of Turner's snow storm at sea as seen from the Harwich boat as 'soapsuds and whitewash,' and observed that his latest pictures were as insane as the people who admired them.

Ruskin himself has told us how years ago poor Turner at his father's house sat in a corner murmuring to himself 'Soapsuds and whitewash,' again and again. 'At last,' says Ruskin, 'I went to him, asking him why he minded what they said. Then he burst out, "Soapsuds and whitewash! What would they have? I wonder what they think the sea is like? I wish they had been in it!"'

Ruskin might have remembered this incident before he fell foul of the 'Rocket at Cremorne.'

The details of the trial are well reported in Pennell's *Life of Whistler*, and the artist printed his own inimitable account of the proceedings. The result was a farthing damages, and Baron Huddleston ordered each party to pay their own costs. Ruskin's admirers subscribed his costs, and Whistler wrote to his solicitors suggesting that he too should have a subscription, adding with undiminished humor, 'and in the event of a subscription I would willingly contribute my mite.'

Ruskin, who was in broken health, took the verdict very seriously, and wrote to Liddell to resign his Art Professorship at Oxford on November 28:

The result of the Whistler trial (he says), leaves me no further option. I cannot hold a chair from which I have no power of expressing judgment without being taxed for it by British law.

Whistler, who already on the verge of insolvency was badly injured by the trial and its inconclusive result, solaced himself with pleasant epigrams at his opponent's expense, the best and worthiest of remembrance being perhaps the witty saying: 'A life passed among pictures makes not a painter — else the policeman in the National Gallery might assert himself.'

To the outer world the trial was a storm in a teapot — a trivial personal dispute between two great men, and

the smaller fry chuckled to find that these giants could lose their temper and fling language at each other like men of commoner clay.

But to each individual it was a serious quarrel on a serious subject, though the disputants could not get judge, jury, or populace to understand it. The dispute remains undetermined and the riddle remains unsolved. Whether the cave man and the child are really trying with soul and conscience to tell us the whole outward and inward truth of the subject etched on a bone or scrawled on a slate, or whether they are merely expressing decorative personal impressions of their own emotions about the subjects they deal with — that was roughly the cause of action between Whistler and Ruskin.

The British jury assessed the commercial importance of the proposition at a farthing, but to lovers of art it remains one of the deep unanswered problems of the universe.

[*The Manchester Guardian*]

THE DELIGHTS OF A READER

BY JOHN MASEFIELD

I HAVE been asked to write down the story of my first delight in books.

I cannot now remember what book first delighted me, nor the names of those half-dozen books, prose, and verse, which were pleasant to my early childhood; but I know that when I was about seven years old, I read, or partly read, two books, which made deep impressions on me. One of these books I read through many times and remember clearly. The other, which I never read through and the name of which I do not remember, stays in my mind as a picture. Perhaps the following account of a part of it may help some reader to name for me both story and writer.