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(Transcribed by Vivien Moss)

**CHARGE OF MANSALUGHTER AGAINST PARGETER, THE
POLICEMAN ENGAGED AT THE SHRIVENHAM STATION AT THE
TIME OF THE LATE FATAL ACCIDENT**

George Pargeter, aged 20, was indicted on several counts for having by negligence in the discharge of his duty as policeman at the Shrivenham Station on the Great Western Railway, occasioned the melancholy and fatal accident which occurred on that part of the line in May last, and thereby caused the death of Mr Arthur Augustus Lea, one of the unfortunate sufferers.

Mr Slade and Mr Cole appeared on behalf of the prosecution; and Mr Stone and Mr Cox for the prisoner.

Mr Slade, in opening the case to the Jury, said - My learned friend, Mr Cole, and myself appear on the present occasion on the part of the Crown to conduct a prosecution arising out of the very melancholy and fatal accident that occurred at Shrivenham, in the adjoining county of Berks, in May last, by which many persons lost their lives, and among these persons Mr Arthur Augustus Lea, whose death we charge against the prisoner, as having by neglect of duty caused the accident whereby the death of the deceased was occasioned. After stating the law as regarded cases of this description, which, the learned Counsel said, would be more fully explained by his Lordship, Mr Slade proceeded briefly to state the facts to be addressed on behalf of the prosecution. - The duty of Pargeter, as policeman, was to keep the line clear at his station, or in the event of any obstruction on the line to make certain signals known to those who drove the engine and trains which were running by or expected to arrive at that station; which duty was clearly expressed in printed instructions given to all engaged upon the line, and to which list of instructions the prisoner attached his signature. - Now there are day signals and night signals. In the day time one of the signals of the policeman on the line is indicated by his pointing his right hand out, which is intended to show

that all is clear and that the engine with the train may pass without any obstruction. If, on the contrary, he has reason to apprehend danger, although there may be no actual obstruction on the line, it is his duty to hold up one hand in a vertical position, which is understood by the driver as a caution to go forward with particular care and attention. If, again, on the other hand, any obstruction be on the line - anything which may impede the due course of the coming train, - the policeman has orders to hold up both hands in a vertical position. But in addition to that, there are at all the stations on the line, certain signal posts. Those signal posts, as you are doubtless aware, are very lofty masts, from 80 to 100 feet high, on the top of each of which is a round disc and underneath a crossbar, the turning on of either of which indicate to the driver of the coming train, for a considerable time before it approach, what the state of the line is. From the fatal spot at Shrivenham the driver has the opportunity of seeing this signal upwards of a mile and a half off, and it is the duty of the policeman, if there should be anything to prevent a train from passing the line, not only to hold up both his hands, but to turn on the cross signal, which is the signal to stop; and, if that be turned on, the driver of the engine approaching from Bristol towards London, would, as I have said, see it a mile and a half off, and have ample opportunity to stop the train before it could reach the station. Now you are all probably aware that there are two express trains from Exeter to London daily - one leaving Exeter at half-past 8 in the morning and arriving in London at 11; the other leaving Exeter at 12 and arriving in London at half-past 4. The train which leaves Exeter at 12 is due at Shrivenham a few minutes after 3, and it passes that station at great speed - nearly 60 miles an hour - a speed perfectly consistent with safety if the line be kept clear and free from obstruction. On the day in question, the express train which leaves Exeter at 12, and is due at Shrivenham at one or two minutes past 3, on account of some delay down the country, was 21 minutes late at Swindon. It did not consequently leave that station until after 3, and the accident occurred at the Shrivenham Station at 23 minutes past 3.

Now it was the duty of all parties connected with the rails at the Shrivenham Station - and especially of the policeman - to know that at 16 minutes past 3 the express train had not passed, that it might be expected momentarily, and to take care, therefore that no obstruction was upon the line. It was the express and positive duty of Pargeter to have kept a sharp lookout - to have had his eyes everywhere about him - to have been enabled to indicate to the driver of the express engine, (who had no reason to apprehend any obstacle at Shrivenham), by turning on the crossbar, should any impediment be upon the line. At three o'clock the "all right" signal was turned on by Pargeter, and kept flying, so that when the driver of the engine came within a mile and a half

from the station he saw it, and had every reason to believe that the course was clear. Having arrived at the bridge (near the station) he came in sight of the policeman Pargeter, who was standing in his box, with the "all right" signal up and with his hand out: so that in addition to the signal, seen a mile and a half from the station, when within 150 yards of the spot where the accident happened, the prisoner was standing, giving the accustomed sign that the train might pass through with safety. At that very time a horse-box was directly across the line, and a cattle truck so near behind that the engine could not pass without striking it. The train came with amazing violence, throwing the one and the other against the station, knocking away the sides of the carriages, and throwing many of the passengers out upon the ground, some of whom were killed on the spot, and others severely wounded. Among them was Mr Lea, who had both his legs broken, and received such internal injuries that after lingering until the following Saturday he died. - After the driver had seen Pargeter, he observed a man (Weybury) run across the line and hold up both hands, indicating danger. The caution, however, came too late. The train was then within 20 yards of the obstruction, and although every endeavour was made by Weybury to stop it, the accident occurred as I have stated. Now we shall not be able to show with great exactness how long the horse-box and cattle-truck had been upon the line or the exact time when they were put there, but I think we shall be able to prove without any doubt that that horse-box and that cattle-truck had been in the position they were found at least five minutes- quite time enough - if the man Pargeter had exercised but ordinary care and attention - had he not been guilty of gross negligence - to have gone and turned on the signal to stop. It is indeed perfectly clear that he was not exercising that care, as at the very time the train approached he had his hand held out; when, if he had looked down the line, it was impossible for him not to have seen the horse-box and cattle-truck upon the line. After a few further remarks, Mr Slade was about to call the first witness, when-

Mr Stone rose and contended that if the case as opened by the learned Counsel was proved, it would not bear out the indictment.

Mr Justice Coleridge, however, thought the case had better proceed, and

Stephen Carter was called: I am, he said, a labourer living at Shrivenham. In May last I was employed at the Station by Mr Brotherhood, and was there about 20 minutes past 3 of the day of the accident. There is a siding at the goods' shed, which leads (in a slanting direction) on to the main line. I was walking from the office to the goods' shed on the opposite line, when I saw a horse-box standing partly on the main line and partly on the siding, and close

behind it a cattle-truck. No one was near them; but almost immediately I saw James Weybury come out from the siding, holding up both his hands to stop the express train which was coming. I knew it was the express train. Weybury was standing between the office and the goods' shed. I saw Wm. Willoughby also, on the same siding by the shoot where the carriages are loaded. The train which was about 200 yards off when I first saw it, came and struck the cattle-truck and the horse-box, and threw them both of the line on to the platform. I saw immediately afterwards, a good many people lying on the line. I went to their assistance, and found 3 lying dead and several more wounded.

Cross examined - I could not have run across the line between the time when Weybury held up his hand and when the collision took place. There is a high road leading from Shrivenham to Bishopstone which crosses the line near the station and close to the policeman's box.- When I passed Pargeter, he was standing close to the gates which open at each side of the crossing, and which it is his duty to attend to. I did not see whether anyone was about to pass or not. The gates are not locked but merely fastened with a latch. If he had been closing either of those gates his back would have been turned to the up-line and to the goods' shed.

Thomas Higgins: I am in the employ of Mr Kent (a carrier). I was at the station at Shrivenham on the 18th May, at a quarter before 3 in the afternoon. After I had been there half or three-quarters of an hour I saw Weybury and Willoughby shove a horse-box across the turntable, partly on to the main line. They then went back and fetched a cattle truck and pushed that also across the turntable, but I don't think a wheel of it went on the main line. There were about three wheels of the horse-box on, and a little of the cattle-truck was overhanging the main line. A loaded goods' truck was also on the shoot where these two trucks were taken from. I was helping Weybury and Willoughby move this, when I said, "Here is the train coming!" and Weybury ran out and held up both his hands, saying, "Oh dear! Oh dear! It's the express!" The train came up directly, struck the cattle-truck and horse-box, and threw them upon the platform.- Pargeter was standing at the gate when I was in the yard. If he had looked down the line he would have seen the horse-box.

Cross examined He could not have seen it if he had been shutting the gates.

Joseph Moss, a servant in the employ of Mr Brotherhood, the contractor, who was also present; and saw the trucks removed, said he saw Weybury run

immediately after he heard the break-whistle. Mr Hudson, the clerk, crossed over from the down train, which had just past, before the horse-box was brought out: and Pargeter was at that time standing at the signal post. The time for the down train was 17 minutes after 3, but it was about a minute before its time that day; and it was not until after it was gone that Weybury and Willoughby moved the trucks. About 5 minutes after its departure the express train came up.

By the Judge. - About three parts of the horse-box were upon the line before the cattle truck was pushed behind it and gave it an impetus forward. It might have been about a minute after the horse-box was removed that the cattle-truck was pushed across the turntable and about a minute after that the train came.

Robert Roscoe: I am an engine driver on the Great Western Railway. On the 10th of May I had charge of the express train. I took it up at Swindon. Its proper time to arrive at Swindon is 45 minutes past 2, and the time of its dispatch 55 minutes past 2. It did not arrive in due time that day, and when it left Swindon it was 21 minutes late. When we are running we go about 60 miles an hour - a speed which, if the line is clear, is quite consistent with safety. We take between 7 and 8 minutes in running to Shrivenham. I could see the signal post at the station there upwards of 2 miles before we reached it.

By the Judge - Our time much depends on the weight of the train and the state of the rails.

That day we had 6 six-wheel passenger carriages (3 first and 3 second class), the luggage van, tender and engine. That is considered rather a heavy train, but we can run at our usual speed with it. About a mile and a half before we reach the station the signal is taken out of sight, and continues invisible for about half a mile. It then remains in sight another quarter of a mile, and with the exception of the time that is taken in passing a bridge, continues in sight till the station is reached. On the day in question, when I came to the point where it is first visible, (about 2 miles off) the "all right" signal was on, and I observed the disc at all the different points till I passed the bridge, about a quarter of a mile from the station. Having passed that, the first thing I saw on the line was the policeman, Pargeter, holding out his hand (the "all right" signal), and directly afterwards I saw a horse-box and a cattle-truck upon the line. I immediately blew the break whistle, (a sort of groan for the guards to put on the breaks) and I saw Weybury come out and put up both hands. All the breaks were put on but there was not time to stop the train. The first thing

that we came in collision with was the carriage truck. After I had run about a third of a mile I succeeded in stopping the train. The effect of the collision was to destroy all the breaks except those attached to the engine, to knock out the sides of the carriages, and completely "gut" them.

Cross-examined - The injury was done by the cattle -truck, which swung round and gutted the passenger carriages.

Michael Lane: - I am an engineer in the service of the Great Western Railway Company. I am acquainted with the station at Shrivenham. Since the accident I have particularly examined the station at the point where the siding joins the line. The turntable is 24 feet from that point, and if a cattle-truck (which is 20 feet in length) were upon it, 2 wheels of a horse-box must be upon the main line. With 5 men it would take a minute and a half to remove the horse-box from about the place where I understood it was to where it stood when the accident happened; the removal of the cattle-truck would occupy about the same time; and to bring the loaded goods truck from the shoot to the turntable, and then wheel it up midway up to the goods' shed (the position in which it was at the time of question) would take 2 minutes and a half. I have since tried this with Capt. Simmonds. (There were only 4 men engaged when the accident happened). I have also made an experiment by placing a truck (which is not so easily seen as a horse-box), in the place where the obstruction is described to have been, and no man could help seeing it from the position in which the policeman stood, if he looked that way. It would be impossible for him not to see it. The distance is a little better than 400 feet.

Other witnesses, among whom were the cousin of the deceased, Mr. C.J. Axford (of Swindon), and a person who was in the same carriage as the deceased at the time the accident occurred, were then called to speak to the identity of the deceased; and a list of the printed instructions to the policeman on the line (with the prisoner's signature attached) having been put in, the case for the prosecution closed; when

Mr Stone rose and submitted that the evidence did not support the offence as laid in the indictment.

The Judge, however, over-ruled the objection.

The learned gentleman then proceeded to address the Jury in Pargeter's defence. When, (he said) they came to consider the nature of the charge and the testimony of the different witnesses who had been called

before them, he felt, that they could hardly help coming to the conclusion that all those disastrous consequences of which they had heard had been solely the result of accident. In order to convict a man for an omission of duty there must be distinct, undoubted evidence of a gross neglect of that duty.

Mr. Justice Coleridge thought "gross" was hardly a proper word to use. He remembered on one occasion making use of the term when speaking before Lord Lyndhurst, and being asked by his Lordship to be good enough to give him a definition of the term.

Mr Stone said he was much obliged to his Lordship for extending to him the lesson he had received, and he would endeavour to profit it by it. There must then, I will say, be evidence of very "great" neglect - not of a mere casual omission, such as might truly be said to result from slight inattention - to make a man a felon, however disastrous the consequences might be. Having made these preliminary remarks (said Mr Stone) give me leave now to draw your attention to the evidence. On the 10th May the express train was expected to arrive at Shrivenham at two minutes after 3. There had been considerable delay, and it was twenty minutes after its time. The policeman's duty was to stand at the signal post, about 80 yards in a direct line from the signal which it was his duty to manage. He had there a very difficult task to perform. He had to guard two gates, neither of which were kept locked, (and I cannot account for that neglect) so that any one travelling either in a gig, in a carriage, with a cart, on horseback, or on foot, would at the time a train was expected, necessarily demand his attention, which, if he had neglected to give, and a person in passing across the line had been killed, would have subjected him to a charge of great neglect. - Now time becomes of essential importance in this case. You will observe that at 17 minutes after 3 the down train was due. Mr Hudson, the clerk, had gone across the line to attend to it. Weybury and Willoughby had also been engaged in despatching that train, which I take it as it had not left (as it is stated to have arrived a minute before its time) till 17 minutes after 3. As soon as it was started, Weybury and Willoughby cross the line and go into the shed where the cattle-truck, the horse-box, and the loaded truck were standing. Mr Hudson also crosses the line over the very spot where the horse-box is said to have been (and I must say I much lament that he is not here today) the horse-box and truck are pushed out across the turntable, and the first witness tells you that within a minute afterwards up came the express train, and the fatal accident occurred. Where was the policeman? One single minute! Where was he? Shortly before he is seen standing at the gate to watch the down train, 80 yards from the signal it was his duty to alter. Was it in his power to have gone to that signal and to have

altered so as to prevent the accident that occurred? It is in that very small portion of time (not a minute, remember) that he is expected to have prevented the catastrophe. I ask you, therefore, whether considering all the surrounding circumstances - irrespective of the "experiments", which to my mind were perfectly useless - whether when you remember that it was the impetus of the cattle-truck by which the horse-box was pushed onwards - that the train was at the time coming at a speed of 60 miles an hour - I ask you whether, under all the circumstances of the case, you can say that the negligence of the prisoner was the cause of the accident? Whether, rather it was not the result of circumstances over which he could by possibility have no control? Mr Stone then called -

The Rev. T. Conyers (of Corsham) with whom Pargeter had lived nine years, who gave the prisoner an excellent character, and described him as a cautious, attentive man.

Mr Justice Coleridge, in summing up the case, said- Every person must think in matters of this sort, that the public interest was best served by a strict inquiry into all the circumstances connected with them. He did not know who instituted the prosecution, but he thought it was rightly instituted, because when evils of this kind occurred, and there was the least reason to think that those who had been instrumental in causing them ought to be brought to justice, the only way in which due care and caution was likely to be observed was by making a thorough examination of the circumstances, with the view of ascertaining to what parties blame (where it existed) attached. But beyond that, when they came to examine the case of each particular individual, they must remember that every thing but the interests of justice should be thrown aside. Now what the prisoner stood charged with was, that he having undertaken a certain office, the discharge of which affected the safety of the lives and limbs of her Majesty's subjects, and for the due discharge of which, so as to prevent accident, he had made himself responsible - had not used that due care and caution; required of him, and had thereby caused the death of Mr Lea. There were two propositions involved in this charge:- First, that the prisoner had not use due care and caution; second, that the want of it, in this particular instance, had occasioned the death of the deceased. If he had been guilty of a want of due care and caution, he might not be guilty of causing the death; and on the other hand, if death occurred, but that death was not occasioned by his want of due care and caution he could not be said to be guilty of the charge laid against him. They must be satisfied with an affirmation on both points. Now, what was meant by due care and caution? - He apprehended that the degree the act in which a party was engaged - For instance, he would take the case of

a carpenter, who with a knife or implement of that description, was cutting a stick. No great consequences to be said to arise whether the cut be cut deep or not: if he did cut deep, no one would say he had been guilty of inflicting a great injury. But suppose a surgeon, performing an operation on a vital part, where, if he went two hairs'-breadth too far, he would destroy the life of his patient, they could not say that the care and caution he was bound to use was at all analogous to that of the man cutting the stick. He merely mentioned this to shew that in proportion as the neglect of the discharge of a duty involved great risk to other persons, so it was to be expected of the party who undertook the discharge of that duty should bring to it great care and caution; and this was especially required in the case of a person filling the situation of the prisoner, where neglect might be attended with the most frightful consequences. Common sense, therefore, was the only reasonable way in which they could arrive at a just conclusion in matters of this sort; and after all the facts had been laid before them, it would be for them to say whether the prisoner had exercised that care and caution which might naturally have been expected from him? And whether, if he had instantly done all he could to prevent the accident from the time he saw the obstruction, in their opinion there would have been sufficient time for the driver to have stopped the train? Because if he had no opportunity of seeing the train until such a time as, by doing all he could, the train could not have been stopped, though the accident happened it could not have been occasioned by him. The learned Judge then drew the attention of the Jury to the charges in the indictment, and to the duties the prisoner, by his own written attestation, had undertaken to perform; after which his Lordship went carefully through the evidence and concluded by observing that the case was one which turned on very nice points, and that if the Jury, after fully considering those points, did not think the prisoner guilty, or if they had any doubts upon the matter, he was undoubtedly entitled to a verdict of acquittal.

After about 10 minutes' consultation, the Jury returned a verdict "Guilty", upon which Mr Cox moved an arrest of judgement, on the ground that the counts in the indictment did not sufficiently set forth the duties the prisoner was expected to perform.

This objection, however, was, after some discussion, over-ruled by the Judge, who said he did not see how the indictment could have been framed more explicitly than it was; and

His lordship accordingly then proceeded to pass sentence on the prisoner:

Prisoner at the bar: The Jury have considered your case with a great deal of attention, (and, I am quite sure, have not arrived at a conclusion in any other than a calm and dispassionate manner), and they have thought, taking all the circumstances of the case into their consideration, that you have been guilty of the charge brought against you. I have already said, and I now repeat it, that persons undertaking such duties as you were required to discharge - where, according as you were either careful or careless, the lives, the limbs, the happiness or the ease and comfort of so many of her Majesty's subjects were so greatly affected - are bound to exercise care and caution in the highest possible degree; and where neglect takes place, and so frightful a loss of life follows, as occurred in this instance, it is most right and proper that the party who has been guilty of that neglect should be brought to justice. I hope, however, that the great object of this prosecution has now been effected. It has shewn that the persons holding your situation, who are found wanting in the exercise of proper due care and caution, will be brought to justice. The amount of punishment afterwards may undoubtedly appear immeasurable with the fatal consequences that took place; and to lay on the shoulders of an individual in your situation such an amount of punishment as would impute that you alone are to be held responsible for the frightful accident which took place, would be unjust. Still, I should be very sorry that any impression should hereafter prevail that the Judge who tried this case thought lightly of it. Such a belief would be most mischievous - it would be making those who are already careless, less careful than they were before. They might say, the chances are we shall not be convicted; or, if we are, we learn by example that the punishment will be but slight; and therefore the difficulty I have in this case (thinking that it is not expedient to inflict a heavy punishment) is, to prevent that feeling from existing in the minds of persons in your situation. We ought, however, whatever may be the consequences to the public, to regard the circumstances applicable to the prisoner who is to suffer, and looking at the circumstances of your case, and having regard to the character you bear - I am glad to be able to come to the conclusion that although you have shown yourself in this instance a most careless person - that although such frightful consequences took place - yet that sufficient time did not elapse to make your case one of great aggravation. In this instance the time was short, but you ought to have used the time with the greatest diligence; and when it is recollected that when the train came in sight, it was impossible for you or any human being to arrest the fatal consequences which must ensue - when undoubtedly, beyond all question, if you had used your eyes you must have seen the obstruction on the line - at that moment, so careless were you, that your arm was extended, indicating that the line was clear. That appears to me in measuring the punishment I shall inflict upon you, the most important fact

in your case; yet remembering that the time was short, and looking at all the circumstances, I hope, as I said before, the great object of the prosecution has been attained, that I shall not impair that object by the punishment I am about to inflict - on the contrary that person in your situation will learn from it the duty of observing the greatest vigilance in the fine discharge of their duties. The sentence of the court on you is that you will be imprisoned in the common gaol of this county for the term of three calendar months, and that during the time you be kept at hard labour.

Willoughby and Weybury were also arraigned, but as the Counsel on the part of the prosecution declined offering evidence against them they were discharged.

Mr Hudson, the clerk of the Shrivenham Station, who was bound over to attend the trial, failed to do so his recognizances were therefore ordered to be estreated.