

## *Ernest Lyons*

VIRGINIA

**I**N the little congregation of colored folks at Reid's Ferry, Virginia, in the summer of 1908, there arose a division over the question of who should serve as pastor of the flock. Rev. James Smith had been the regular pastor for some time, but he was losing the support of many of the members. These members favored the selection of Rev. Ernest Lyons, a younger man, who, on occasion, had been assisting Smith in the preaching. Smith, it seems, lived in the Lyons home, but as the rivalry between them became more intense they developed suspicions of each other and at times had serious quarrels. This was especially true after Lyons began to suspect Smith of intimacy with Lyons' sister-in-law.

On July 31, 1908, the congregation intrusted its funds to Smith to be taken to the regional church conference which was to start the next day in Suffolk—the beautiful old tide-water town a few miles away which serves as the county seat of Nansemond County, and is reputed to be the peanut capital of the world. That day Smith and Lyons were said to have quarreled over some of the conference details, and in the heat of the argument Lyons threatened to kill Smith. Nevertheless, they were seen leaving the church together at about six o'clock in the evening. The next day Lyons arrived at the conference, but Smith never did appear. This was especially unfortunate for the members of the Reid's Ferry congregation, since they were unable to make the expected good showing with their \$45 conference fund. Lyons reported that he had left Smith shortly after their departure from the church, and that Smith had said he would follow the next day.

Smith completely disappeared and Lyons became the preacher of the church, although many folks, especially Smith's friends, were unconvinced by Lyons' story of their last separation. Their suspicions were confirmed in a very short time when the corpse of a large negro was found in the Nansemond River near the church—disintegrated beyond recognition. The body was buried by the county au-

thorities. Rumors immediately spread through the colored community and soon came to the attention of the Commonwealth's Attorney. The corpse was of about the same build and proportions as Smith, and several of the latter's friends identified various articles of clothing found on the corpse as similar to those worn by Smith when last seen. A woman friend of Smith's, who had not seen the corpse, told the authorities that if the body were really Smith's they would find a ring, with a purple setting, on the little finger of the left hand. The body was exhumed and a ring exactly fitting this description was found on the finger mentioned by the woman. The ring could not be gotten off the finger because of its swollen condition, so the finger was amputated by the medical authorities for use as an exhibit in court. The doctors reported further that the autopsy showed that the man had died by violence—a blow upon the head with a dull instrument—and that he had been thrown into the river when he was dead or dying.

The Commonwealth's Attorney presented this evidence to the Nansemond County Grand Jury, which returned an indictment against Lyons for murder. The trial was called on January 13, 1909, before Judge James L. McLemore of the Nansemond County Circuit Court, and was held in the old Colonial courthouse in Suffolk. The trial attracted a large crowd of people, and despite the strong accumulation of circumstantial evidence against him, Lyons was persistent in his assertions of innocence. Lyons was defended by Robert W. Withers, one of the leaders of the bar of southern Virginia; and the prosecution was in charge of the equally able Commonwealth's Attorney James U. Burgess. The state submitted all of its evidence on the identity of the corpse and on the alleged motive the defendant had for getting rid of Smith. It was also shown that Lyons had told a number of conflicting stories about the disappearance of Smith, declaring at various times that he had seen Smith since his disappearance, in Portsmouth, Norfolk, and Newport News. These statements were shown to be untrue. The defense tried to show that the corpse was not Smith's, that Smith was still living, and that in any event the evidence connecting Lyons with Smith's disappearance was too weak

to sustain a conviction. The Commonwealth's Attorney urged the jury to return a verdict of first-degree murder, carrying with it a sentence of death.

At the close of a three-day trial, the jury returned a verdict of second-degree murder, evidently believing that Lyons had killed Smith, but that the crime was an incident of the renewed outbreak of their quarrel. The Commonwealth's Attorney's plea had made such a deep impression upon Lyons' imagination that when the milder verdict of second-degree murder was returned, a look of great relief—almost of joy—was markedly noticeable upon his face. Instead of execution, he received a sentence of eighteen years in the penitentiary.

Mr. WITHERS felt convinced of Lyons' innocence. He made a motion for a new trial, which was denied by Judge McLemore. Mr. Withers was not satisfied and requested the Judge to grant a rehearing of the motion. This the Judge agreed to do if Withers would first go to the jail and, after advising Lyons that the motion for a new trial had been denied, ask him for the true story of what had happened. Mr. Withers did this merely to satisfy Judge McLemore. His surprise was great when Lyons confessed that he had participated in the killing of Smith. The details of his confession, concerning the way the crime had been committed, were exactly as the Commonwealth's Attorney had alleged them at the trial, but Lyons implicated many of the members of the church. All of those implicated, incidentally, had been witnesses against Lyons at his trial. The Commonwealth's Attorney had them all arrested.

The next morning, the implicated negroes were lined around the reception room of the jail, and Lyons was brought in. There was astonishment on both sides. Lyons, however, repeated his confession as he had given it the day before. The others were dumbfounded, and so frightened that they could not find words to speak. Finally the Commonwealth's Attorney told Lyons to raise his right hand to heaven—which he did—and to repeat, "If I have told a lie, may God strike me dead." Lyons dropped his hand without a murmur. The officials were convinced of the falsity of the

statement implicating the others, and they were all released immediately. Lyons had lied entirely too often. He was sent to the penitentiary.

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MR. GEORGE E. BUNTING, the Clerk of the Circuit Court, owned a farm on the Nansemond River, and had known Lyons and Smith well. Although Lyons went to the penitentiary, Mr. Bunting believed that Smith was still alive. He was inclined to give credence to a story passing about that the corpse was that of an unknown negro who had come up the river in a rowboat with another unknown man. The deserted boat was later found near by, and the tracks of only one person could be seen leading away from it. Mr. Bunting investigated the matter privately as opportunity offered from time to time. Although he never unraveled the mystery of the corpse, he did find Smith alive and in the best of health just across the state line in North Carolina. After much urging, Smith was induced to return to Suffolk, where he was produced before Judge McLemore and was identified by a large number of people who knew him. Smith admitted that when he obtained the \$45 conference fund he fled into North Carolina, where he had remained. He had seen the newspaper stories of the trial and conviction of Lyons, but had done nothing because he feared prosecution for having taken the money. He had a ring exactly like the one on the corpse. One calling at the courthouse today will find, in the archives, the ring from the amputated finger. It is a ring made from the cheapest kind of yellow alloy metal and has a setting of purple glass.

Needless to say, the officers of Nansemond County were thoroughly disgusted with Smith, and possibly with their own credulity. Commonwealth's Attorney Burgess immediately laid the whole situation before Gov. William H. Mann, who granted Lyons a pardon without delay on April 3, 1912. Lyons had served over three years for the murder of a man who was still alive.

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THIS was a clear case of circumstantial evidence. The body of the negro in the river was never really identified as that

of the Rev. Mr. Smith, but the disappearance, the quarrel, the supposed motive, and the discovery of the fatal ring with a purple setting on the little finger of the left hand were sufficient to tip the scales against Lyons. The coincidence of the ring probably convinced the last skeptic, but like many other coincidences it was utterly worthless as evidence of guilt. Fortunately, the jury refused to heed the demand of the Commonwealth's Attorney for a verdict of murder in the first degree. The jury did what the law itself should do in all such cases, namely, make impossible the death penalty when the conviction rests upon circumstantial evidence alone. Whether greater zealousness in establishing the truth could have enabled the Commonwealth's Attorney to find Smith in North Carolina, as he was later found by Mr. Bunting, it is hard to say. The eloquence of the Commonwealth's Attorney so unnerved the distressed Lyons, that, alarmed and chagrined at his fate, he not only admitted, after conviction, a crime he did not commit, but implicated unfriendly witnesses whose testimony helped to bring about his predicament. Only the fortunate circumstance that Mr. Bunting took a personal interest in unraveling the mystery saved Lyons from a harsher fate; not all erroneously convicted persons have such good fortune.

#### BIBLIOGRAPHY

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6. Acknowledgments: Judge James L. McLemore of Suffolk; Miss Olivera Whitehurst, Deputy Clerk of the Circuit Court.