

Excerpt from: Wellman, Francis Lewis (1854-1942), *Day in court, or, The subtle arts of great advocates* (Macmillan, New York, 1910)

## Art in cross-examination

The tone of voice when asking a question has the greatest effect with witness and jury. Every one knows that emphasis on one particular word produces quite a different effect than upon another.

The following anecdote of a well-known actor and musician, Tom Cooke, as told by the *London Sunday Times*, affords a good illustration of the important part played by emphasis and accent.

At a trial between certain music publishing houses as to an alleged piracy of a popular song, Cooke was subpoenaed as an expert witness by one of the parties. On his cross-examination by Sir James Scarlett, that learned gentleman rather flippantly questioned him thus: —

“Sir, you say that the two melodies are the same but different. Now, what do you mean by that?”

“To this Cooke promptly answered, ‘I said that the notes in the two copies are alike, but with a different accent, the one being in common time and the other in six-eight time; and consequently, the position of the accent of the notes was different.’

“*Sir James*. ‘What is a musical accent?’

“*Cooke*. ‘My terms are nine guineas a quarter, sir.’ (A laugh.)

“*Sir James* (rather ruffled). ‘Never mind your terms here; I ask you, what is a musical accent? Can you see it?’

“*Cooke*. ‘No, Sir James.’

“*Sir James*. ‘Can you feel it?’

“*Cooke*. ‘A musician can.’ (Great laughter.)

“*Sir James* (very angry). ‘Now, pray, sir, don’t beat about the bush, but explain to his lordship and the jury, who are expected to know nothing about music, the meaning of what you call accent.’

“*Cooke*. ‘Accent in music is a certain stress laid upon a particular *note* in the same manner as you would lay a stress upon a given *word* for the purpose of being better understood. Thus, if I were to say, “You are an *ass*” the accent rests on *ass*; but if I were to say, “*You* are an ass,” it rests on *you*, Sir James.’

“Reiterated shouts of laughter by the whole court, in which the bench itself joined, followed this repartee.”