

# THE ALLEGED FRAUDS BY A MIRFIELD PHYSICIAN.

## DR. WHALLEY COMMITTED FOR TRIAL.

At the Dewsbury Court, yesterday, Thompson Whalley, M.D., of Mirfield, who was apprehended on Friday on a charge of having attempted to defraud the British Prudential Assurance-office, (of which he was medical referee for Mirfield district), was brought up for examination before Mr. J. B. Greenwood, Mr. J. S. Hurst, Mr. T. F. Firth, and Mr. Joshua Ellis, West Riding Magistrates. The case has excited a good deal of interest, and the anxiety to hear the evidence was so great that the Court was crowded long before the Magistrates took their seats on the Bench. Mr. J. A. Alsop (Eyre and Co., London) appeared to prosecute, and Mr. Learoyd, of Huddersfield, defended. The charge against Dr. Whalley was, that on the 25th day of September, in the parish of Mirfield, he "did unlawfully and knowingly, and by means of certain false pretences, obtain from the British Prudential Assurance Company a valuable security, to wit, a policy of insurance upon the life of Hannah Hepworth, for £41 14s., payable on her death, with intent to defraud."

Mr. ALSOP said he appeared on behalf of the British Prudential Assurance Company and the British Nation Life Assurance Company to prosecute the defendant for a series of frauds in connection with life assurance. The defendant was a medical man, who had hitherto been held in high repute in Mirfield. The way in which he was charged with having committed these offences was this: He sought out persons in a very serious state of ill-health, and, without being sent for either by the parties or their friends, forced his presence upon them, and attended them, or pretended to do so, for the complaints under which they were labouring.

Mr. LEAROYD protested against these insinuations.

Mr. ALSOP said he would not state anything he could not prove by evidence. In this particular case, Hannah Hepworth was a young woman twenty-six years of age, who had been seriously ill for a considerable time before the prisoner became acquainted with her at all. She was being attended by Mr. Ellis, a surgeon in the neighbourhood. The defendant called at Mrs. Ruth Hepworth's, with whom her daughter Hannah lived, and pressed to be allowed to attend and give his advice. He attended her (Hannah) for some little time, and then, although she was confined to her bed and in a dying state, he caused a policy of assurance on her life to be entered into in the British Prudential Office, for £41 14s. He filled up the usual form of proposal, and certified that the "personal appearance and general conformation of the party about to be assured is healthy." He also certified, "I have seen and examined the above applicant, and am of opinion that she is in good health, and at first-class rates eligible for assurance."

Mr. GREENWOOD.—What does that mean?

Mr. ALSOP.—That it was an unexceptionable life, and might be taken at the smallest rates of premium. On that proposal being sent to London, a policy was issued in the usual way. It was sent down to the local agent, who gave it to Dr. Whalley, by whom it was to be handed to the proper parties. This was in August, and in November, within three months, Hannah Hepworth died. The next fraud charged against the defendant was that he sent to the registrar of the district a false certificate as to the cause of death, an offence for which, if convicted, he was liable to a severe punishment. The body of the deceased was exhumed, and a post-mortem examination made. This showed that she had suffered from cancer of the rectum, an incurable complaint, and he (Mr. Alsop) was prepared to prove that, instead of treating her for that, the defendant treated her for something else, which certainly did not tend to prolong life.

Mr. LEAROYD, interposing, said such a remark was scarcely fair. It was not material or relevant to the inquiry, and yet it went forth through the medium of the press without the defendant having an opportunity to deny it.

Mr. GREENWOOD.—It may be in favour of the defendant. It may be he is ignorant, but you can't punish him for that.

Mr. ALSOP continued.—The prisoner next called upon the agent of the company, Mr. Taylor, and asked for the usual forms in order to make a claim on the policy. These were supplied, and he filled them up in the following manner:—"I certify that I attended Hannah Hepworth, whose life was, as I am informed, insured in the British Prudential Assurance Company, that she died on the 6th of November, 1865, and appeared about twenty-five years of age. Cause of death, fever—duration, two weeks; secondary disease, if any, enteritis, inflammation of the bowels, two days.—Signature, Thompson Whalley, M.D., Over Hall, Mirfield, 8th November, 1865."

Mr. GREENWOOD.—What is the regulation respecting paying the money? I suppose you would inquire whether there was a will, or who had administered?

Mr. ALSOP.—For sums under £50 the Company did not require letters of administration.

Mr. GREENWOOD.—You had no right to part with a shilling except to the parties legally entitled.

Mr. ALSOP.—I quite agree, but that does not excuse the defendant's conduct. As a matter of fact, the money could have been received. Mr. Alsop then explained, as has already been narrated in the *Mercury*, the circumstance of the papers having been dropped by the defendant from his pocket when riding in a gig, and their being picked up, and brought to the knowledge of the Company. Mrs. Hepworth was called upon, and she knew nothing of the matter, and the defendant afterwards called upon Mr. Taylor, the agent, told him he had seen Mrs. Hepworth, who had agreed to give up the claim, the claim paper was put into the fire by Taylor, and the policy handed over to Taylor by the defendant.

Mr. GREENWOOD.—Is there any reason to suppose that Taylor was conniving with the defendant?

Mr. ALSOP.—I am afraid there is.

The following witnesses were examined:—

*Pearson Sumner* said he was in the employ of Mr. Taylor, the agent; lived at Wakefield-road, Dewsbury, and was canvasser and collector for the British Prudential Assurance Company, which had its offices in Ludgate-hill, London. On the 5th August, defendant called at the office for the purpose of passing members, and asked for two blank forms of proposals. He said he had got two lives to insure who did not like the agent at Mirfield. Witness gave him the forms, and saw him fill them up. [Form filled up in Hannah Hepworth's name was put in witness's hand, and identified as one of them. In it, the applicant was described as being twenty-six years of age, as wishful to insure for £41 10s.; payable on her death, that she was last ill "long ago," that her complaint was cold, that she was then (in August) in good health, that she had not suffered from any disease or disorder tending to shorten life, that all these answers were correct, and that no material fact had been omitted.] Witness continued.—The signature "Hannah Hepworth," was in his writing. He signed it because he believed what the Dr. said, that he had got her consent to insure her life. He also signed the attestation "Thompson Whalley, M.D." No one gave him authority to sign that name; could not say whether the defendant was present at the time, or whether he saw it afterwards. The proposal and also the medical report were in the handwriting of the prisoner, and was filled up in witness's presence. The proposal was sent to the head office with others. In cross-examination witness stated that the defendant's practice was to visit twenty, thirty, or forty people who were applicants at their own houses, return to the office, and fill up the forms from memory. Witness had signed other forms in the same way.

Mr. GREENWOOD (to Mr. Learoyd).—Are you not exposing your defence?

Mr. LEAROYD.—I am at present bringing out as much of my case as will enable me to ask you not to commit for trial. I am not assuming that you will commit.

Mr. GREENWOOD.—But if we do send for trial, your defence is exposed both to the prosecution and to the world.

Mr. LEAROYD.—I don't, so far, think there has been anything which can be considered inappropriate. This case is one of great importance to Dr. Whalley, independently of the actual result at which you may arrive. As a professional man—

Mr. GREENWOOD.—But we are sitting here to hear whether there is sufficient evidence to warrant us in sending the case to a higher tribunal. That is all we have to do, although I know that the mere fact of any surgeon being brought into a criminal court—(it ought not to be so)—is enough to damage his character, however innocent he may be.

Mr. LEAROYD.—That is what I feel.

Cross-examination continued.—It had not been a practice to give out blank forms. The signature "John Taylor" is also in my writing. I have been in the habit of signing his name. It is not true, as that report states, that I had seen the proposer, and considered her eligible for insurance as a healthy life. I have filled perhaps twenty proposals in a week, and perhaps a score of the applicants have not been seen.

Mr. GREENWOOD.—Is not all this with the view of influencing the jury?

Mr. LEAROYD.—I have not yet made up my mind that it is to go there. At present I am anxious to influence your mind.

Mr. GREENWOOD.—However great the irregularities, if this office were so imprudent as to issue a *bona fide* policy of insurance and to take the risk without any proposal, they could not turn round and refuse to pay. Had not that better go before the jury, and not to us?

Mr. LEAROYD.—Then I may take that as an intimation that the case is likely to go to a jury?

Mr. GREENWOOD.—Yes, unless the judge stops it. This seems to me to have nothing to do with it.

Mr. LEAROYD said his desire was to show that the error was the result, not of fraud, but of laxity or treacherous memory.

Mr. ALSOP.—But this application was made separately and not with one other; he did not fill up fifty or sixty on this occasion?

Witness.—No; this was a special case.

*Matty Taylor*, wife of John Taylor, confirmed the evidence of the last witness.

*John Taylor*.—I live in Wakefield-road, Dewsbury, and am agent of the British Prudential Assurance Company. I have been agent for two years, and canvasser two years before that. The defendant was medical referee for Dewsbury district. I know this document; it is the policy effected on the life of Hannah Hepworth, and is dated Aug. 4, 1864. I have seen the proposal for the policy. It is filled up in Mr. Whalley's handwriting, excepting the agent's certificate and the names "Thompson Whalley" and "Hannah Hepworth." Before the policy was received, about a week after the proposal was sent, the defendant called upon me, and said, "Have you got those cases of mine?" meaning, as I understood, the two policies. I said "No." Shortly afterwards I received the policy from London, and after keeping it for a few days gave it to the defendant. He paid me the premium on the policy. I received 4s. upon it, for eight weeks, on the 25th of September. The premium to be paid was sixpence per week. On Wednesday, the 8th inst., the defendant called upon me and told me "that one of them was dead in Mirfield—Hannah Hepworth." I was much surprised, and said, "Indeed, doctor; what has been amiss with her?" He said she had died of fever, and they were dying very fast in Mirfield. He told me Mrs. Ruth Hepworth, her mother, had put him in to manage the affair for her. I said, "Well, doctor, it does not matter to me who gets the documents,

but I shall pay the money to Mrs. Hepworth, as I shall want her receipt." He said he could get her up to his house. He asked me what would be required to make the claim; and I got down a claim form, and told him that one part would have to be filled up by the claimant and another by the registrar's certificate as to the identity. I also told him a doctor's certificate would be required. He said, "Oh, I can fill that up now," and he did so in my presence. He asked me to fill up the agent's certificate and I did so. He said he wished to post them from Mirfield to London. I filled up the agent's certificate on the faith of the doctor's statement. He took the documents away, but returned within a quarter of an hour, and said he had lost the whole lot. He asked me for another form, and, after I had been to seek for the first, I gave him another, filled up in the same way. Next morning, I went to the defendant's, and said, "Doctor, you remember that young woman being in our house?" He said, "Yes." I said, "She could tell me after you had gone that the woman (Hepworth) was a bad life—that she had been ill two years." He said, "Oh no, make yourself easy; for I went to Mrs. Hepworth's last night after I had been at your house, and she thought she would not make a claim, as she thought there would be some bother about it, and we both agreed to say that she had never been insured, as she did not want the family to know anything about it." He also said he "got the policy from Mrs. Hepworth." I asked him if he would give me it, and he said "Yes." He gave me the policy, and also a second claim filled up in the same way as the other. He said, when he gave me the policy, I should hear nothing more about it, and I put the claim form in the fire.

Cross-examined.—The prisoner told me, when he paid the 4s., that he had never had anything from Hannah Hepworth.

Mr. GREENWOOD.—If you will go on cross-examining, and get out certain answers fatal to your client, we must put them down.

Mr. LEAROYD.—Certainly; we ask the questions at our own risk, and I am not sure that that is an unfavourable answer.

By Mr. GREENWOOD.—I was under the impression that Dr. Whalley, having initiated this claim, would hand over the policy to the proper party.

*John Moon*, district superintendent of the agents of the company.—On the 13th inst. I saw Mr. Taylor, and had some conversation with him as to the death of Hannah Hepworth. I went with him to Mirfield and saw the prisoner. I said, "What about this case of Hepworth's, doctor?" and he replied, "It is all settled." I asked how that was; and he said, "I have seen the mother and we have agreed not to make a claim." I said, "Doctor, it's a bad case, and you have implicated very seriously both yourself and Mr. Taylor." He said there would be no more trouble about it. He said also that Mr. Taylor was innocent in the matter; that he had nothing to do with it, adding, "I did it for the good of the family." I asked Mr. Taylor if he had got the receipt-book containing the receipts for the premiums. I got it, and Mr. Taylor returned to the defendant the 4s. which he had paid for the policy on Hannah Hepworth. I received the policy from Mr. Taylor and sent it to the head office with particulars of the case.

By Mr. GREENWOOD.—If nothing had occurred the money would have been paid, and there would have been an end of it.

Mr. LEAROYD.—The receipt of the party having been obtained.

*Geo. Schofield*, shoemaker, Batty-fold, Mirfield, spoke to receiving from his son the certificates, &c., as to the death of Hannah Hepworth, which were picked up on the high road. He tried to find to whom they belonged, and went to Mrs. Hepworth. Afterwards, went to the defendant's house on the same day (Sunday, November 12). Saw him in the surgery, and asked him if he had signed a document belonging to Hannah Hepworth for Ruth Hepworth, her mother, to draw some money out of the Insurance Company? He said "No, no." Witness said, "It's a strange thing, Mr. Whalley. There's some one must have been forging your name." He then pulled out the documents from his pocket, and showed them to the defendant, who said, "I've signed this, and lost it too out of my coat pocket." Witness took possession of the papers, and put them in his pocket. The defendant then said, "Those papers will do neither you nor Ruth Hepworth any good; they belong to a person at Dewsbury."—Cross-examined: He did not ask me to leave the papers with him. I told him that the man who found them would want a reward.

*Ruth Hepworth*.—I am a widow, and reside at Batley Fold. Hannah Hepworth was my daughter. She died on the 6th instant. She had been seriously ill for more than a year, and had been confined to bed nearly twelve months. She was ill about two years altogether. Mr. Ellis, of Mirfield, was her first medical attendant, and was attending her at the time the defendant commenced his visits.—Did you send for Dr. Whalley? No.—How long previously to her death had he attended your daughter? Nearly eight months.—How did Dr. Whalley come to attend your daughter? He said he thought he should like to call and see her.

Mr. LEAROYD.—I can call witnesses to show that he was asked by a relative to call and see her.

Witness.—He said he thought my daughter was suffering from ulceration of the bowels, and that if he could do her any good he would, but he was afraid he could not. This was not at first, but a few months before she died. He sent her medicine from time to time. I was present many times when the prisoner saw my daughter. I first heard of the policy on the 10th inst., the day after my daughter was buried. Previously I had never heard of any policy on my daughter's life. The defendant never said anything to me regarding a policy, and I never instructed him to make any application for any money from any assurance society. My daughter gradually got worse after the prisoner attended her.

Mr. GREENWOOD.—There is no suggestion of unskilful treatment.

Mr. ALSOP.—I shall endeavour to show that the treatment of the prisoner was not suitable, and that it was impossible for him not to have known the cause of death.

Mr. GREENWOOD.—Don't make it worse than it is.

Mr. ALSOP.—I can hardly do that.

Witness.—I was present at an inquest held upon the body of my daughter. Cross-examined.—My husband died on the 14th of July. I think it was two months before my daughter's death that the prisoner said he was afraid he could do her no good.

*Mr. J. R. Ellis*, surgeon, Mirfield.—I attended Hannah Hepworth from December, 1864, to March, 1865. She was suffering, I believe, from cancer of the rectum, and I recommended that she should go to Mr. Teale, of Leeds. I certainly did not consider her a healthy life. I thought it an incurable case.

*Dr. Wm. Carr*, of Gomersal.—I made a post-mortem examination of the body of Hannah Hepworth, on the 21st instant, at Mirfield. The body was excessively emaciated, proving that she had died of a wasting disorder. The cause of death was cancerous stricture of the rectum, which must have been of long standing. In my opinion the disease had been in progress at least two years. I think there were no symptoms of disease similar to enteritis. The case was a particularly bad one.

*Mr. Wm. Oates*, registrar of deaths for the Mirfield district, produced the register of the death of Hannah Hepworth, in which the cause of death was described as enteritis, certified in the defendant's handwriting.

*Thos. Dewey*, manager of the Industrial Department of the British Prudential Company, spoke to the policy on Hannah Hepworth's life being issued in accordance with the form of proposal. By Mr. GREENWOOD.—If you had supposed the certificate had been all right, the money would have been paid? Witness.—Certainly, by the next post.

This was the case, and

Mr. LEAROYD then submitted that the policy was not "a valuable security" coming within the meaning of the statute. How could it be a valuable security to the defendant? It was doubtless valuable to Hannah Hepworth or her legal representative, but it could not be valuable to the defendant, as no person could receive the money unless the signature of Mrs. Hepworth had been obtained.

Mr. GREENWOOD.—Was it not a valuable security the day before this woman died?

Mr. LEAROYD.—Yes, to her, but not to the defendant.

Mr. GREENWOOD.—Surely it is a chattel?

Mr. LEAROYD.—Yes.

Mr. GREENWOOD.—Then the words of this section are, "if any person shall, by false and fraudulent pretences, obtain any chattel, money, or valuable security." It is either a valuable security, of which I have no doubt, or it is a chattel.

Mr. LEAROYD, after this intimation, said he would not proceed further, and would simply add in the interests of his client that the time would come—he had hoped it might have come that day—when he should lay before the court the defendant's answer to the charge. There were explanations which would alter the aspects of the case in a most material manner, and he trusted hereafter the fullest possible explanation might be afforded, when no technical difficulty would prevent it. He then applied that the defendant might be admitted to bail.

Mr. ALSOP said he proposed to take two other cases—one in the British Prudential and the other in the British Nation. The last named was a £1,000 case.

Mr. LEAROYD said he was perfectly satisfied there was nothing in that case.

Mr. ALSOP said the case he proposed to take next was that of *Law Walker*. The defendant had given a certificate in this as in the last case to the British Prudential Assurance Company, whilst to the guardians he certified that the man, who was now suffering from abscesses in the spine, was in a very bad state. There were eight or nine other policies which he had also to inquire into.

Mr. GREENWOOD.—What is the £1,000 case? Is it a felony?

Mr. LEAROYD.—If it is anything it is a felony.

Mr. ALSOP.—I have hardly looked sufficiently into it to define what it is.

Mr. LEAROYD.—I have. It is a case in which it will be said the lady whose life is insured did not append her name. Her husband is here, and will say that he did, and that all that was done was by his directions.

Mr. ALSOP.—I think it very likely that Mr. Bottomley may stand side by side with the defendant.

Mr. LEAROYD.—Mr. Bottomley is a highly respectable man.

The COURT.—The question is whether there has been a fraud upon the company?

Mr. LEAROYD.—The person was in perfect health at the time. It is of the greatest importance that the defendant should be admitted to bail.

Some conversation followed on the subject of bail, Mr. Learoyd suggesting that the defendant should be remanded on bail from week to week, so that he might surrender for trial at the Winter Gaol Delivery, as otherwise the case would not come on before the next Spring Assizes, the judges at the gaol delivery declining to try bail cases. Mr. Alsop objected to bail being granted, but Mr. Greenwood said as the case was only one of misdemeanour, if the magistrates were to refuse bail a judge at chambers would grant it. In the result the Bench expressed their readiness, if no *prima facie* charge of felony was made out, to liberate the defendant on bail on obtaining two sureties of £500 each.

Dr. Whalley was then formally committed to the assizes for trial, and remanded in custody until this morning, when a second charge will be gone into.