

**THE ALLEGED FRAUDS BY A MIRFIELD PHYSICIAN.**

**DR. WHALLEY COMMITTED ON A SECOND CHARGE.**

Yesterday, at the Dewsbury Court-house, Thompson Whalley, M.D., of Mirfield, who was committed for trial on Monday, on the charge of obtaining, by false pretences, from the British Prudential Assurance Company, a policy of insurance upon the life of Hannah Hepworth, for £41 14s., payable on her death, was examined on a second charge, before Mr. J. B. Greenwood and Mr. Joshua Ellis, West Riding magistrates. Mr. J. A. Alsop (Eyre and Co., London) again appeared to prosecute; and the prisoner was defended by Mr. N. Learoyn, of Huddersfield.

Mr. ALSOP, in stating the case, said that in the present instance he intended to prosecute the prisoner for attempting to defraud the British Prudential Assurance Company, by falsely and fraudulently representing that one Law Walker, a pauper residing at Mirfield, was in good health, whereas he had been suffering for two years from abscess in the spine. The circumstances would be somewhat similar to those adduced at the hearing of the case of Hannah Hepworth, on the previous day, and therefore he would not detain the Bench with any observations of his own, but at once call witnesses.

*Pearson Sumner*, canvasser for the British Prudential Assurance Society, was the first witness, and he gave evidence similar to that given on the previous day. He said the proposal for insurance on the life of Law Walker, and the medical certificate, were attested by Dr. Whalley.

*Martha Taylor*, wife of John Taylor, Dewsbury, confirmed the last witness in his material statements.

*John Taylor*, the agent for the British Prudential Society at Dewsbury, said that he had received the premium on the policy of Law Walker from the prisoner. The insurance had been effected in August last. The prisoner paid eight weeks' premium, which cleared the policy up to about a fortnight ago. The office did not allow policies to lapse if the premium was paid within eight weeks.

[The proposal for the policy which was handed to the Magistrates was dated Aug. 4th, and purported to be from Law Walker, of Brackenhill, labourer. It stated that he was thirty-three years of age; that the proposed amount of assurance was £33 6s; payable on death, that he had been last ill three months before, his complaint being diarrhoea, that he was now in good health, and that he was sober and temperate. The medical report which accompanied the proposal was signed "Thompson Whalley, M.D.," and stated that applicant was healthy; that the stamina of his constitution was fairly maintained, and that he was a first-class life.]

*Law Walker*, the person assured, was next examined. He appeared to be in a very weak state of health, and was accommodated with a seat in the witness box. In reply to questions by Mr. Alsop, he said—I have never effected a policy of assurance on my life in the British Prudential, or in any other office. I have never authorised any person to insure my life, and up to a few days ago I knew nothing whatever of a policy having been granted in my name. I have never had any conversation with Dr. Whalley about insurance. The signature, "Law Walker" on the proposal is not in my handwriting. I am suffering from abscess in the spine, and have been ill for about two years. It is about eighteen months since I consulted a doctor. I was then attended by Mr. Ellis, surgeon, of Mirfield. I have been attended by the prisoner. I was an in-patient of the Huddersfield Infirmary for seven weeks. I went in about the 26th of May, and came out on the 16th or 17th July. When I applied to the Guardians of the Dewsbury Union for relief the prisoner gave me a certificate, and my wife gave that certificate to Mr. Ellis, the relieving officer. I never heard of the insurance policy until the present inquiry was instituted. Cross-examined.—No one ever asked my wife to come here as a witness. She says that she was aware of this insurance; and she told the gentleman who asked me to come here that she knew of it. I don't think I ever told Dr. Whalley that I had been in the Huddersfield Infirmary. I have not worked any for a year and a half; and have been ill for two years. My employment was a millwright. I have made no search in my house for a policy of insurance.

Mr. ALSOP.—He would be rather astonished to find one there. (Laughter.)

Mr. LEAROYN.—And you have not done so since your wife told you about the policy?

Witness.—No.

Re-examined.—When I came out of the Infirmary I walked by the aid of a crutch and a staff. I have met the prisoner whilst I was using them.

*Maria Walker*, residing at Brackenhill, Mirfield, said—I am the wife of William Walker, a labourer, and the mother of the last witness. I never asked Dr. Whalley to effect a policy on my son's life, and never heard of one being effected. I never gave Dr. Whalley money for that purpose. I have never seen any policy in my house. My son lives with me. My son has been ill for two years. I remember him coming out of the Huddersfield Infirmary. No medical man has attended him since, but Dr. Whalley saw him before that time. In August last my son used a crutch and a stick. His disease is spinal complaint; and he has abscesses down his back. I have another son ill—a little boy; and he was attended by Dr. Whalley up to last Wednesday. My boy was ill for a fortnight. The policy was never named by Dr. Whalley.—Cross-examined.—Dr. Whalley had not attended my son for a long time before he went into the Infirmary. He attended him about two years ago, for a few weeks. My son has been better and worse, and sometimes he was pretty well.—Re-examined.—My son never went to Dr. Whalley's house for medicine.

*Joseph Rhodes Ellis*, surgeon, Mirfield.—I attended Law Walker, from September, 1864, to the middle of December in the same year. The nature of his complaint was abscess on his back, connected with the spine. It was not an immediately serious disease. It is probable he may get permanently well with deformity, and if his general health improves. I have never spoken to Dr. Whalley of this case either in consultation or otherwise. I have not seen Law Walker professionally since December last, but lately I have seen him walking about by the aid of a crutch and stick. I should certainly not call him a healthy subject; I should not call him a first-class life. I should consider the disease under which he suffers as tending to shorten his life. I should not consider that the stamina of his constitution was fairly sustained.

*James Ellis*, relieving officer of the Dewsbury Union—I remember Law Walker applying for relief on the 25th July last. I gave his wife a note to the prisoner, who was medical officer for the parish of Mirfield. She brought a certificate from Dr. Whalley on the 1st of August. I do not know what has become of that certificate. I have searched for it, but cannot find it. We never keep the certificates. I cannot tell particularly what the certificate contained, except that the disease was abscess. I went and saw Law Walker on the same day. He was in bed, and appeared unwell. I relieved him, in consequence of his stating that he required from the nature of his disease additional support.

*Thomas Dewey*, manager of the industrial department of the British Prudential Insurance Company.—I know that a policy was issued on Law Walker's life on the 11th of August last. It was sent to Mr. Taylor, the agent at Dewsbury, on that date.

Mr. ALSOP.—That is the case for the prosecution.

Mr. LEAROYN asked whether the magistrates intended to commit Dr. Whalley on this charge?

Mr. GREENWOOD.—My present impression is that it is a case for a jury.

Mr. LEAROYN.—Does it not strike you as singular that the prosecution have not called the wife of this man?

Mr. GREENWOOD.—She could only corroborate what he has stated.

Mr. LEAROYN.—She would not have confirmed him. He states himself that she knew there was an assurance on his life, and that she was acquainted with the whole circumstances.

Mr. GREENWOOD.—You can call her; and if her evidence is as you say, it will have the effect of defeating the charge.

Mr. LEAROYN.—I think it is unfair on the part of the prosecution not to call her.

Mr. ALSOP.—I was not aware until to-day that he was a married man.

Mr. LEAROYN.—The prosecution must have heard from the officers who went to this man's house that his wife was acquainted with the circumstances of the assurance.

Mr. GREENWOOD.—If you are confident in regard to his wife's statement, I should think you would be glad to know that the case for the prosecution is imperfect, and that therefore your client may be acquitted. Our duty is to commit if a *prima facie* case is put before us.

Mr. LEAROYN.—You must be aware how unwise it would be for me to call witnesses at this stage of the inquiry. The question is, whether, with this knowledge in their possession, it was not the duty of the prosecution to produce the witness. I suggest that the fact of their not calling the wife gives a reasonable doubt regarding the prisoner's guilt, and that therefore you cannot commit him for trial on this charge.

Mr. GREENWOOD.—We think a *prima facie* case has been made out.

*Mr. Martin*, superintendent of the police force, said it was only proper to mention that when he visited Law Walker's house he never heard any such statement made by the wife as that referred to.

Mr. LEAROYN.—After your worship's intimation that there is a *prima facie* case, I will only say that, in the discharge of my duty and the exercise of my discretion, I have advised Dr. Whalley to reserve his defence; and I have to ask through you and through the press, that the public—

Mr. GREENWOOD.—I wish you would not talk about the press here. We know nothing about the press in the discharge of our duty.

Mr. LEAROYN.—You must remember that there are only two of your worships here; but the number of the public who are interested in this case are legion, and I wish them to know—

Mr. GREENWOOD.—All we have to do with here is the discharge of our duty as magistrates. The press may be in the clouds for all we have to do with it.

Mr. LEAROYN.—I merely wish to ask the public to suspend their judgment on the conduct of the defendant until we shall have an opportunity of laying our answer before a jury.

Mr. GREENWOOD.—All people of any sense or prudence will wait until the verdict of the jury is pronounced.

Mr. LEAROYN.—That is all we ask them to do.

Dr. Whalley was then formally committed for trial at the Assizes at Leeds on the second charge.

Mr. ALSOP.—The next case against the prisoner is that of Bottomley; but as it is a most serious one, I wish an adjournment for two or three days before going into it.

Mr. LEAROYN.—I protest against this case being mentioned—a case in regard to which my learned friend knows there is no foundation—until the question of bail is settled. It is introduced simply for the purpose of prejudicing my application for bail.

Mr. GREENWOOD.—You may rest assured that it will not prejudice the Magistrates. What is the nature of this case? We have already committed on two charges; we never send more.

Mr. ALSOP.—This is a case in which we allege forgery.

Mr. LEAROYN.—The examination of the husband in that

case has been taken, and he states that he himself signed the application for a policy, so that no charge of improper conduct can be brought against Dr. Whalley in regard to it.

Mr. GREENWOOD.—I think it is unnecessary to go into it.

Mr. ALSOP.—It is a very important case. The policy was for £1,000, and amounts to a charge of forgery. It is connected with the British Nation Company, and we wish to send a case connected with each company.

Mr. GREENWOOD.—You ought to have taken that case first.

Mr. LEAROYN.—You have taken the examination of Mr. Bottomley, and know there is no foundation for the charge.

Mr. ALSOP.—We have not examined Mr. Bottomley. The case to which my friend alludes is one connected with another Mr. Bottomley, and is only for a small amount.

Mr. LEAROYN.—It is the £1,000 case to which I am referring. The policy was applied for with the full concurrence of the husband.

Mr. GREENWOOD.—I take the responsibility upon myself of refusing to go into the case. If it is desired, an application can be made to the Judge at the assizes, and, if he thinks it important, the prisoner can be detained upon it. In regard to bail, I can name no lower sums than Dr. Whalley's own recognisances of £1,000 and two sureties of £500 each. If he finds bail, the trial will not come on before the spring assizes in March; but, if he fails, the trial will take place at the gaol delivery next month.

Mr. ALSOP objected to the bail as inadequate; but the Magistrates overruled his objections.

The proceedings then terminated.