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24, 1952

No. 4 of 1952 UNIVERSITY OF LONDON W.C.1. -9 OCT 1956 INSTITUTE OF ADVANCED LEGAL STUDIES

IN THE PRIVY COUNCIL

24, 1952

ON APPEAL
FROM THE MEDICAL DISCIPLINARY COMMITTEE

44421

B E T W E E N

ARTHUR JAMES DALY Appellant

and

THE GENERAL MEDICAL COUNCIL .. Respondent

C A S E FOR THE RESPONDENT

RECORD

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1. This is an Appeal from a determination of the Medical Disciplinary Committee, made on the 29th November 1951, that the Appellant had been guilty of infamous conduct in a professional respect, and that the Registrar of the General Medical Council should be directed to erase from the Register the name of the Appellant.

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2. The Appellant is, and was at all material times, a medical practitioner registered under the Medical Acts.

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3. On the 28th and 29th November, 1951, the Medical Disciplinary Committee held an inquiry into the following charge against the Appellant:-

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"That being a registered medical practitioner:-

(1) You committed adultery with Agnes Halliday, a married woman, of which adultery you were found guilty by the decree of the Probate, Divorce and Admiralty Division (Divorce) of the High Court of Justice dated December 11, 1950, and made absolute on January 23, 1951, in the case of Halliday v. Halliday and Daly, in which you were the co-respondent:

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(2) You stood in professional relationship with the said Agnes Halliday at all material times.

And that in relation to the facts so alleged you have been guilty of infamous conduct in a professional respect."

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4. At the said inquiry the facts alleged in support of the charge were presented by Counsel instructed by the Solicitors to the General Medical Council; and the Appellant was present and was represented by his Solicitor.

5. On the latter day of the inquiry the Medical Disciplinary Committee determined that the facts alleged in the charge had been proved to their satisfaction, and further determined as set out in paragraph 1 hereof.

6. At the inquiry, evidence was taken from the following witnesses:-

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In support of the facts alleged in the charge:-

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Raymond Halliday (hereinafter referred to as "Mr. Halliday"), being the Petitioner in the divorce proceedings referred to in the charge;

pp.13-16

Dorothy Lilian Hope (hereinafter referred to as "Mrs. Hope") who had at the material times been Receptionist and Secretary to the Appellant;

pp.68-69

Anthony John McCreadie (hereinafter referred to as "Dr. McCreadie"), whose evidence was given in the form of a Statutory Declaration.

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On behalf of the Appellant:-

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Arthur James Daly (the Appellant);

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Agnes Halliday (hereinafter referred to as "Mrs. Halliday"), being the former wife of Raymond Halliday aforesaid;

p.16-18

Stanford Howard, being a witness as to character only.

7. At the inquiry, the following facts were accepted as correct by the Appellant and the Respondents with the exception of those under sub-paragraphs 4 and 10 where the evidence of the respective witnesses is set out :-

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(1) 25th September, 1941:

Raymond Halliday married Agnes Marchbank

Mr. Halliday was then a serving soldier; and he served at home and overseas until released on demobilisation in May, 1946.

(2) January - March 1946:

Dr. McCreadie, who had for many years carried on a medical practice at 20-22 Carr Road, Nelson, Lancashire, sold the practice to the Appellant.

During this period of three months the Appellant took part with Dr. McCreadie in attending upon the patients of the practice; and Dr. McCreadie finally handed over the practice completely to the Appellant on the 1st April, 1946.

- (3) At the period mentioned above, Mrs. Halliday was already a paying patient of the practice.
- (4) The Appellant testified that his first meeting with Mrs. Halliday was not in a professional capacity, but took place in January 1946 when he called at her father's office in connection with a loan with which the Appellant ultimately purchased the practice premises.

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Mrs. Halliday testified that her first meeting with the Appellant was in his professional capacity on the 18th March 1946.

- (5) 18th March 1946:

Mrs. Halliday consulted the Appellant. This was the first occasion upon which Mrs. Halliday consulted him professionally, and she did not again so consult him until the 10th June 1947.

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- (6) May 1946:

Mr. Halliday was released from the services, and came to live with his wife at Nelson, Lancashire.

- (7) November 1946:

Mr. and Mrs. Halliday went to live at 2 Spring Bank, Gisburn Road, Nelson, Lancashire.

- (8) Towards end of 1946:

Mrs. Halliday's attitude towards her husband changes at about this time.

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- (9) End of 1946 and early 1947:

Next door to 2 Spring Bank there lived a Mrs. Burrell, a chronic invalid, upon whom the Appellant frequently called professionally. Mrs. Halliday also frequently went into Mrs. Burrell's house, to assist her. The Appellant frequently met Mrs. Halliday on such occasions.

- (10) November 1946 - June 1947: (That is to say, between the time when Mr. and Mrs. Halliday went to live at 2 Spring Bank, and the time when for the second time the Appellant attended Mrs. Halliday professionally) the Appellant frequently paid calls of a social nature at 2 Spring Bank. The Appellant testified that on at least three occasions Mr. and

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Halliday had accompanied him to entertainments such as the theatre or the cinema; Mr. Halliday testified that he could remember one such occasion

(11) During the years 1947 - 1950:

The Appellant dined at the house of Mr. and Mrs. Halliday on two or three occasions, and Mr. and Mrs. Halliday dined at the house of the Appellant on one occasion. (No witness was able to remember the precise dates of these occasions).

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(12) 10th - 28th June 1947:

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The Appellant put in evidence a Ledger-sheet shewing that he attended Mrs. Halliday professionally on several occasions during this period. As a result of a consultation between the Appellant and Dr. McCreadie (who was then practising as a consultant) Dr. McCreadie operated upon Mrs. Halliday for appendicitis at Reedyford Hospital, Nelson.

(13) July 1947 - June 1948:

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The Appellant testified that he had a long series of professional attendances upon Mrs. Halliday. The Ledger-Sheet put in evidence by the Appellant as mentioned above, and three corresponding receipted accounts for professional services put in evidence by Mr. Halliday, shewed that those attendances were frequent during this period.

(14) 5th July 1948:

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On the coming into effect of the National Health Service, both Mr. and Mrs. Halliday were registered with the Appellant for purposes of that Service.

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(15) Throughout 1948 and 1949:

The Appellant continued his professional attendances upon Mrs. Halliday.

(16) Up to May 1949:

Up to this date the Appellant and Mrs. Halliday, though on terms of social friendship, were not on terms of familiarity, and Mrs. Halliday had not hitherto been calling him by his Christian name.

(17) May 1949:

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The Appellant, who had to go by car to London and back, was asked by Mrs. Halliday to give her a lift so that she could visit a friend; and he did so. During the course of the journey Mrs. Halliday

told him that she was unhappy with her husband.

(18) First part of 1950:

The Appellant attended Mrs. Halliday professionally on a number of occasions during this period.

(19) Up to July 1950:

There had been no misconduct between the Appellant and Mrs. Halliday up to this date.

(20) 22nd - 23rd July 1950:

10 The Appellant spent a week-end with Mrs. Halliday at a London Hotel, and committed adultery with her there.

Mrs. Hope (then Receptionist and Secretary to the Appellant) received a note from him (which she produced) saying that he had gone to Burton. Mrs. Hope, having reason to believe that the Appellant had not gone to Burton but was in London, telephoned to him at the Piccadilly Hotel, London, and spoke to him there. The Appellant and Mrs. Halliday later admitted to Mr. Halliday that they had committed adultery in London.

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(21) 10th September 1950 - 28th November 1951:

Mr. Halliday went to live with the Appellant, and she was still doing so at the time of the inquiry before the Medical Disciplinary Committee.

(22) 11th December 1950, and 23rd January 1951:

30 Decree Nisi in the case of Halliday v. Halliday and Daly, on the ground of Mrs. Halliday's adultery with the Appellant, was pronounced on the earlier and made absolute on the later of these two dates; and the office copy of the said decree absolute was produced.

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8. On behalf of the Respondent Council it will be contended that the determination of the Medical Disciplinary Committee was right and should be upheld, for the following and other

R E A S O N S

40 (1) BECAUSE on the 18th March 1946 the Appellant attended upon Mrs. Halliday professionally; and from June 1947 until the first part of 1950, inclusive, there was constant professional attendance by the Appellant upon Mrs. Halliday.

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- (2) BECAUSE there was no undue familiarity between the Appellant and Mrs. Halliday from the date of the first meeting (in 1946) until May 1949, though they met socially (how often is not clear) during this period.
- (3) BECAUSE in July 1950, and subsequently, the Appellant committed adultery with Mrs. Halliday.
- (4) BECAUSE the foregoing facts afforded ample grounds upon which the Medical Disciplinary Committee were entitled to determine as they did. 10
- (5) BECAUSE (the Respondent Council will humbly submit) the Medical Disciplinary Committee exercised the powers and carried out the duties entrusted to them fairly and properly.

S. GERALD HOWARD

JOHN MACGREGOR

No. 4 of 1952.

IN THE PRIVY COUNCIL

ON APPEAL

FROM THE MEDICAL DISCIPLINARY
COMMITTEE

B E T W E E N

ARTHUR JAMES DALY Appellant

_____ and _____

THE GENERAL MEDICAL COUNCIL
Respondent

CASE FOR THE RESPONDENT

WATERHOUSE & CO.,
1 New Court,
Lincoln's Inn,
W.C.2.
Solicitors for the Respondent