*Privy Council Appeal No. 21 of 1955*

**Robert Taylor Noel Simpson** - - - - - - - *Appellant*

*v.*

**The General Medical Council** - - - - - - - *Respondent*

FROM

**THE MEDICAL DISCIPLINARY COMMITTEE OF THE GENERAL MEDICAL COUNCIL**

# REASONS FOR REPORT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL, DELIVERED THE 24TH OCTOBER, 1955

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*Present at the Hearing:*

VISCOUNT SIMONDS
LORD KEITH OF AVONHOLM
LORD SOMERVELL OF HARROW

[*Delivered by* VISCOUNT SIMONDS]

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This is an appeal from a decision of the Medical Disciplinary Committee of the General Medical Council whereby the appellant, then a medical practitioner registered under the Medical Acts, was adjudged guilty of infamous conduct in a professional respect and it was determined that his name should be erased from the Register. The said Committee was exercising under s. 14 of the Medical Act, 1950, the functions conferred on the General Medical Council by s. 29 of the Medical Act, 1858, as amended by s. 18 (1) of the later Act, which enacts as follows:—

> "29. If any registered medical practitioner shall be convicted by any court in the United Kingdom or the Republic of Ireland of any felony, misdemeanour, crime or offence, or shall, after due inquiry, be judged by the general council to have been guilty of infamous conduct in any professional respect, the general council may, if they see fit, direct the registrar to erase the name of such medical practitioner from the register."

The relevant facts are not in dispute and can be briefly stated. The appellant was at Chelmsford Assizes in November, 1954, charged with, and pleaded guilty to, a number of very grave offences against his female patients which clearly constituted infamous conduct in a professional respect unless effect is given to the plea now advanced on his behalf. Having pleaded guilty he was duly convicted, but the learned Judge, having heard medical evidence, did not pass any sentence upon him but placed him on probation, the condition of the probation order being that he should submit to treatment as a resident patient at the Runwell Mental Hospital, Wickford, Essex, for 12 months or such less period as the Superintendent might direct and should thereafter submit to treatment by and under the direction of the Superintendent of the said hospital. The result of these proceedings was that by virtue of s. 12 of the Criminal Justice Act, 1948, the appellant's conviction could not be deemed to be a conviction for any purpose other than the purposes of these proceedings and must be disregarded for the purposes of any enactment which imposes any disqualification or disability on convicted persons or authorises or requires the imposition of any such disqualification or disability.

It was therefore not open to the Committee whose duty it was to review the conduct of the appellant to proceed upon the footing that he had been convicted of a crime. It was for them to determine after due enquiry whether he had been guilty of infamous conduct in any professional respect and, if they so determined, then, if they saw fit, to direct the Registrar to erase his name from the Register.

It was agreed by the appellant before the hearing by the Committee that the depositions of certain witnesses taken at the Magistrate's Court should be put in as evidence and at the hearing the facts alleged in the charge were agreed and admitted on his behalf. No evidence was called as to the appellant's mental condition, but it was stated by counsel on his behalf that although he was not within the McNaughton Rules (i.e., the plea of insanity was not open to him) he was suffering from a defect of reason of a schizoid nature which made him think that the action which he took was in fact medical treatment in the bona fide interest of his patients. Evidence of this character had been given on his behalf at the trial and it may be assumed that the learned and experienced Judge who tried the case, did not altogether reject this view: for otherwise he would not have made the order that he in fact made.

Before their Lordships it has been urged on behalf of the appellant first that the Committee did not take into account the mental condition of the appellant, and secondly that, if they had done so, they could not properly have come to the conclusion that he had been guilty of infamous conduct in a professional respect. It was conceded that, if the conclusion was a correct one, the erasure of his name from the Register could not be challenged.

In their Lordships' opinion both these contentions fail. They see no reason to suppose that the Committee did not give proper consideration to the mental condition of the appellant, a fact that was necessarily brought specially to their notice. Nor do they understand how, accepting the long familiar test of infamous conduct from Allinson's case [1894] 1 Q.B. 750 at 763 as conduct " which would be reasonably regarded as disgraceful and dishonourable by his professional brethren of good repute and competency ", they could have come to any other conclusion. The acts committed by the appellant, into the details of which their Lordships have not thought it necessary to enter, were of such a character that the epithets " disgraceful " and " dishonourable " are scarcely adequate to describe them; and they do not the less deserve that description even if it is assumed that the appellant thought that they would be beneficial to his patients. The Medical Acts are designed at the same time to protect the public and to maintain the high professional and ethical standard of an honourable calling. If a practitioner, having committed the grave offences of which the appellant has been guilty, can upon such a plea successfully resist the charge of infamous conduct and the erasure of his name from the Register, the public will lack their proper protection and the honour of the profession may be endangered by the continued practices of one who can still claim to be of their number. It was urged by counsel for the appellant that the standard of conduct, infamous, disgraceful, or dishonourable, is to be judged by the mental condition of the practitioner. It is not necessary for their Lordships to determine whether there may be circumstances in which weight should be given to such a consideration. But upon such evidence as the Committee has before them in this case as to the appellant's mental condition and the nature of his offences, their Lordships are clearly of opinion that they came to a proper conclusion.

Their Lordships have therefore humbly advised Her Majesty that this appeal should be dismissed. The appellant must pay the respondent's costs of the appeal.

(39506) Wt. 8064—69 60 11/55 D.L.

# In the Privy Council

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ROBERT TAYLOR NOEL SIMPSON

*v.*

THE GENERAL MEDICAL COUNCIL

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DELIVERED BY VISCOUNT SIMONDS

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