

George Alfred Smith - - - - - Appellant

v.

The Royal College of Veterinary Surgeons - - - Respondents

FROM

THE DISCIPLINARY COMMITTEE OF THE ROYAL COLLEGE OF
VETERINARY SURGEONS

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF
THE PRIVY COUNCIL, DELIVERED THE 19TH MAY 1980

Present at the Hearing:

LORD DIPLOCK

LORD RUSSELL OF KILLOWEN

LORD LANE

[Delivered by LORD DIPLOCK]

This Appeal from the decision of the Disciplinary Committee of the Royal College of Veterinary Surgeons ordering the removal of the appellant's name ("Mr. Smith") from the Register is brought against the finding of the Committee that he was guilty of disgraceful conduct in a professional respect and also against the penalty inflicted upon him.

It is indeed a sad case. It concerns a Veterinary Surgeon who obtained the degree of Bachelor of Veterinary Medicine in 1959; his name was entered on the Register in that year. Over the following years he has established himself as an expert in the field of exotic birds, particularly parrots. He was in private practice in Peterborough and at the material time was also a Local Veterinary Inspector of the Ministry of Agriculture, Fisheries and Food. In both capacities he frequently had occasion to give certificates as to the health and condition of animals and birds and, in particular, certificates for export. That all certification should be undertaken with the utmost care and accuracy is a matter to which the Royal College of Veterinary Surgeons attaches great importance. This is emphasised in the Guide to Professional Conduct issued by the College to its members. The relevant entry reads as follows:

" 20. Certification.

20.1. *Misleading or improper certificates.* When a veterinarian is required by law to give a certificate, or is asked by a client to provide a certificate for a particular purpose, it is vital that the certificate be prepared with care and accuracy after all the necessary steps have been taken to ascertain that the matters to be certified are in fact true. Misleading, inaccurate or untrue certificates not only reflect adversely upon the veterinarian signing them but also affect the general reputation of the profession. Such certificates can also result in the spread of disease,

financial loss to clients and exporters, and embarrassment to Government departments. In several cases, the Disciplinary Committee has held that the issue of inaccurate certificates has amounted to disgraceful professional conduct.

Veterinarians have a duty to read thoroughly and consider carefully all the implications of a certificate tendered by the client or third party for signature. A veterinarian should not sign any such certificate if he would thereby be attesting matters which he cannot properly and truthfully certify."

One of Mr. Smith's clients, whose business was in Leicester, was Mr. Cooke, a dealer on a large scale in birds, particularly for export. The charges against Mr. Smith on which he has been found guilty of disgraceful conduct in a professional respect arose out of his dealings with that client.

According to the evidence that Mr. Smith himself gave at the hearing before the Disciplinary Committee, it was his regular practice when calling upon clients away from his surgery to take with him a supply of blank sheets of paper headed with his professional address and bearing at their foot his signature above a rubber stamp "Geo. A. Smith, B.Vet.Med., M.R.C.V.S., Veterinary Surgeon", followed by his address, and also at the foot of the sheet of paper another rubber stamp bearing the legend "Local Veterinary Inspector, Ministry of Agriculture, Fisheries and Food". These blank sheets of paper he would fill in at his client's premises with whatever was the appropriate wording of the certificate that the client required.

Their Lordships appreciate the obvious convenience of taking with him on his visits the appropriate forms, but they are at a loss to understand why the forms should be already signed, seeing that the rest of the document would have to be filled in by Mr. Smith in his own hand-writing or on his client's typewriter. No satisfactory explanation of this was proffered by Mr. Smith in his evidence. In their Lordships' view it manifests a gross disregard of the rules in the Guide to Professional Conduct which their Lordships have already quoted.

A consequence of this practice formed the subject-matter of the first charge, viz:

"1. on Sunday 20th August 1978, as a Local Veterinary Inspector employed by the Ministry of Agriculture, Fisheries and Food, you examined fifty pairs of parakeets, the property of one Gordon Cooke, well knowing that the said parakeets were to be exported to Holland, and you supplied to the said Gordon Cooke a sheet of your professional writing paper which you had signed and stamped but had otherwise left blank intending that the said paper should be completed by the said Gordon Cooke and presented to the Dutch Veterinary Service in connection with the import of the said parakeets. . . ."

Mr. Smith, according to his evidence, had visited Mr. Cooke to inspect a consignment of 100 parakeets which Mr. Cooke proposed to export to Belgium or the Netherlands. He had completed this inspection and sat down at the typewriter in Mr. Cooke's office to make out the appropriate certificate on one of his blank forms which already bore his rubber stamp and signature. He had written the introductory words giving his name, his description as "the Local Veterinary Inspector of the Ministry of Agriculture, Fisheries and Food" and stating "I do hereby certify" when a telephone message was brought to him by Mr. Cooke to say that Mr. Smith's father had been seriously injured in a traffic accident and that he was wanted at home. Mr. Smith left immediately leaving the form which already bore his signature in the typewriter for Mr. Cooke to complete himself. This Mr. Cooke did. He appears to have got the wording wrong, the certificate was unsatisfactory to the Dutch authorities, inquiries were initiated, and the whole matter came to light.

The second and third charges arose out of a single incident. They were in the alternative. The lesser charge on which Mr. Smith was found guilty was in the following terms:

“3. on or about 22nd September 1977, as a Local Veterinary Inspector employed by the Ministry of Agriculture, Fisheries and Food, you negligently allowed one Gordon Cooke to come into possession of a sheet of your professional writing paper which you had signed and stamped but which was otherwise left blank. . .”

The graver alternative charged him with having “supplied” Mr. Cooke with a blank signed piece of paper to take away.

These charges arose out of a visit to Mr. Cooke’s premises by an officer of H.M. Customs and Excise on 22nd August 1978. He found there a sheet of Mr. Smith’s professional writing paper stamped and signed by Mr. Smith in the same way as the certificate which was the subject of Charge 1. There had been typed on it, apparently on Mr. Cooke’s typewriter, the date “22nd September 1977” and the words “Health Certificate”, but the remainder of the sheet was blank. Neither Mr. Smith nor Mr. Cooke, who also gave evidence at the hearing, was able to give any satisfactory explanation of how it came to be left on Mr. Cooke’s premises. Mr. Smith made what on cross-examination turned out to be no more than surmises as to how he could have come to leave the paper there. These surmises the Disciplinary Committee were fully entitled to regard as most improbable.

The Disciplinary Committee having been advised by their legal adviser that the evidence was not sufficient to justify a finding against Mr. Smith on Charge 2 found him guilty of disgraceful conduct in a professional respect on Charges 1 and 3.

It has been submitted by Counsel on Mr. Smith’s behalf that the appellant’s conduct on which Charge 1 was founded amounted to nothing worse than an error of judgment and was not disgraceful in a professional respect. In their Lordships’ view, having regard to the importance which the College rightly attaches to its members’ observing great care and accuracy in signing certificates, particularly for export, the Disciplinary Committee were entitled to take the view that Mr. Smith had shown himself unfit to be trusted in relation to certification and that, as the events showed, what he did was calculated to bring the profession into disrepute. Such conduct may properly be regarded by a Disciplinary Committee as disgraceful in a professional respect.

As respects Charge 3, it was submitted that since Charge 2 had been dismissed, all that had been established against the appellant was an isolated act of negligence which was incapable of amounting in law to disgraceful conduct in a professional respect. Their Lordships agree that the offence as proved was considerably less heinous than Charge 1, but, as Mr. Smith’s own evidence at the hearing showed, the negligent leaving of the signed and stamped blank sheet of his professional writing paper on Mr. Cooke’s premises was a consequence of his regular practice of carrying with him on visits to his clients’ premises professional writing paper *already signed and stamped*. In their Lordships’ view it was open to the Disciplinary Committee to conclude that Mr. Smith’s conduct indicated so reckless a disregard of the need for care in certification as to amount to disgraceful conduct in a professional respect.

Turning next to the appeal against sentence, this is always a matter with which this Board is very slow to interfere. The governing professional body is normally in a better position than this Board to assess the relative gravity of professional misconduct. As their Lordships said at the outset this is a sad case—inevitably so. Nothing dishonourable was proved against Mr. Smith and this no doubt is a matter which the Disciplinary Committee will

bear in mind if he applies for the restoration of his name to the Register as he will be entitled to do ten months after the date of its removal. Nevertheless, the Disciplinary Committee expressed their view of the gravity of the offences in the following terms:

“ The Committee would wish to re-state the words of my predecessor in a previous case. This Committee takes the gravest view of the offences for which you have appeared before us, especially as false certification can result in serious consequences to others and to the reputation of this profession both at home and overseas. With your experience, you must have been aware of the dangers of signing incomplete certificates, and we must make it clear that such behaviour will not be tolerated within this profession ”.

It is quite impossible for this Board to say that no reasonable Disciplinary Committee could have taken that view.

Their Lordships humbly advise Her Majesty that this Appeal must be dismissed. There will be no order as to costs.



In the Privy Council

GEORGE ALFRED SMITH

v.

THE ROYAL COLLEGE OF
VETERINARY SURGEONS

DELIVERED BY
LORD DIPLOCK

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