



TRANSCRIPTIONS OF THE ORIGINAL NEWSPAPER, 1836 - 1887
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by

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6 JULY 1855, Friday

JAMES KENT, 40, schoolmaster, was charged with unlawfully obtaining, by a false pretence, the sum of 10s.1d. from ANN BENALLICK, at St. Austell, in the month of June, 1854: - The pretence being that he was authorized to receive the tithe rent charge in respect of the vicar's tithes due to the REV. FORTESCUE TODD, of St. Austell. MR. SHILSON conducted the prosecution; MR. STOKES the defence. ¶¶ANN BENALLICK deposed: I am the wife of WILLIAM BENALLICK. On the 5th of June, 1854, prisoner came to my house with my husband, and he said "I am come for the tithe money." We searched for the printed paper demanding the tithes, and I said I did not think he had brought any for the last half-year, my husband was called away, and Prisoner went with him and returned alone and told me that the money must be got in, and the books made up by ten o'clock next morning, and if I would give him a bit of paper he would give me a receipt. I asked him if he was authorized to receive tithe-rent. He said he was, and that no one would demand it of me again. I don't recollect that he said who had authorized him to receive the money; but I knew that he was employed by MR. CARLYON, and came from his office. It is in respect of vicar's tithes that Mr. Carlyon collects.

¶After having paid this money to Kent, we heard there was a ten days' notice of distress issued out against my husband for not paying his tithes; the year's tithes had not been paid in; there was a half-year's due at the 1st of July, 1853, and another half the 1st of January, 1854; after having paid the prisoner the 10s.1d., I ascertained from Mr. Carlyon that my husband's name was in arrears for the year's tithes. I have since ascertained that Kent was not authorized to receive the money. I paid him the money because he told me he was authorized to receive it.

EDMUND CARLYON - I am a solicitor at St. Austell, and collect the small tithes for Mr. Todd. The prisoner was in my employ in 1853; I employed him to deliver tithe notices and other matters. Some time in 1853, I discovered that he had been receiving money; I think in the latter part of 1853. I had not given him any authority to receive money; certainly not. When I first employed him, I cautioned him against receiving money; his duty was simply to deliver notices; not to receive money. I think his employment began with the collection of the tithes due July 1852. I was in the habit of receiving tithes at a stated place - one of the Inns; but arrears were to be paid at my office. All sums above 10s. were to be paid at the Inn; and sums under 10s. and all arrears were to be paid at my office.

Having discovered in 1853 that the prisoner had been receiving moneys, I told him I was sorry to find that he had been receiving moneys and not accounting for them, and that if I ever found anything of the kind occur again, he should be discharged, or should suffer for it, or something to that effect. He then assured me that there was nothing more - that he had told me everything, and that I should never find anything of the kind occur again.

Mr. William Benallick, of St. Austell, is one of the tithe payers; in July 1853 there was a sum of 10s.1d. due from him for a half-year's tithes; I never received anything from him either for that half year, or for the subsequent one to the 1st of January, 1854.

In Cross-Examination, Mr. Carlyon said he had not the slightest doubt in his own mind that it was in the latter part of 1853 that he desired the prisoner not to collect any moneys; but he would not swear it might not have been in the early part of 1854. When I spoke to him about his having received moneys, he said 16s. or 17s. was all that he had received. After the caution I continued to employ him to serve notices.

RE-EXAMINED: I have since found that he has received GBP 27 or GBP 28 in small sums that never have come into my hands; and that notwithstanding the two cautions I gave him not to receive money - first, when he came with me, and again in the latter part of 1853.

EDWIN MARRANCE, clerk with Mr. Carlyon, deposed: When I came with Mr. Carlyon in the spring of 1853, I found Kent in his employ. It is my duty to attend to the tithe matters. It was Kent's duty to take out notices, but not to receive moneys. - payers on the book; William Benallick is one of the tithe-payers on the book; on the 1st of January 1854, there appeared to be due from him GBP1.0s.2d., for two half-years' tithes; that sum is still due; I have never received it. In January, 1854, I sent, by Kent, a notice to Benallick demanding the GBP 1.0s.2d; not receiving it, I afterwards sent a ten days' notice of distress by Kent; that was about the latter part of May, 1854; I sent the notice in duplicate and desired him to return me one copy with service endorsed on it. I asked him several times for the duplicate; he told me it was in his house; but he never returned it. He told me that the reason why he was not paid was that Benallick had put by the notice, and it was quite forgotten, but Benallick would call at the office and pay it. No distress was enforced, and the GBP 1.0s.2d. still stands in arrear in our books.

CROSS-EXAMINED: Since I have been with Mr. Carlyon, I have found that Kent had been receiving sums of money; I demanded of him a list of the sums he had received; he gave me a list, but I afterwards found that that list did not contain all he had received; he paid me over some moneys, after I found out that he had received them. I never gave the prisoner a list to collect by; I gave him a list of arrears to be paid at Mr. Carlyon's office. The sums he paid to me as having been received by him amounted to about seventeen shillings. I believe he never levied any distress after 1853; the last time I delivered him any ten-day's notices of intention to distrain was in May, 1854; I then gave him about sixty or seventy, out of which he returned to me only about fifteen or twenty endorsed.

REV. FORTESCUE TODD stated that he was Vicar of St. Austell, and Mr. Carlyon collected his tithes. I never gave authority to the prisoner to receive tithes, and never had any communication with him touching receiving. I never gave him any authority whatever to act for me in respect of tithes.

For the defence, Mr. Stokes took objection to the indictment. In a charge of false pretence, the evidence must square in all respects with the allegations of the indictment. The indictment alleged that the prisoner pretended to Mrs. Benallick that he was sent and authorized by Mr. Carlyon to collect the money; but, according to the evidence, he said he was come for the tithe money, and did not mention Mr. Carlyon's name.

Mr. Shilson replied that it was not at all necessary that the pretence should be in words at all; an act done was sufficient. The court held that the indictment would do. Mr. Stokes then addressed the jury, stating that the

case relied mainly on Mr. Carlyon's evidence; he submitted that the original caution not to receive moneys was waived by subsequent conduct towards the prisoner; and that Mr. Carlyon's uncertainty as to the time when he gave the second caution ought to be construed in the prisoner's favour. The jury found a verdict of GUILTY

There was another indictment against prisoner for obtaining by false pretence, the sum of 11s.9 ½ d. from ELIZABETH WILTON, at St. Austell. The circumstances of this case were said to be precisely similar to the preceding case and the indictment was not proceeded with.