

Colonel Benett-Stanford's Colonial Visitor 1931

Arrest at Tisbury Station



Arthur Barling Lush, a native of Donhead St Andrew, who had spent 44 years in Australia, was charged at Tisbury Police-court on Saturday with obtaining £2 by false pretences and with intent to defraud from Colonel Benett-Stanford, of Pyt House, Wiltshire, on January 3rd.

Mr Jones (Hamilton, Fulton & Sant, Salisbury) appeared to prosecute and Mr L Williams (Tretlowan & Vincent, Salisbury) defended.

Mr Jones said it was alleged that the accused told a number of lies in order to induce Colonel Benett-Stanford to part with his money. Something was said about the money being treated as a loan, but that did not matter if the sum was obtained by false pretences.

According to the evidence of Col Benett-Stanford, the accused represented himself to be a cousin of Mr George Lush, the clerk to the Tisbury Bench of Magistrates, and he asked for the money to pay for his lodgings at Donhead.

The prosecution relied upon those statements to prove their case, and the magistrates would hear that the defendant was not a cousin to Mr Lush, though he might be a remote relation, and that he had not been lodging at Donhead since August of last year.

Lieut-Colonel John Montague Benett-Stanford stated that at 4.30 on January 3rd he found the defendant awaiting his return to Pyt House. He introduced himself as a son of Mr Lush, brewer, of Donhead, and mentioned Lady Allenby and Lady Downes, stating he knew them very intimately. These ladies were the daughters of the late Rev Horace Chapman, rector of Donhead St Andrew.

The accused also stated that Mr Justice Lush was his uncle and that he was related to Mr Montague Lush, a well-known legal personality. He added that Dr Lush, Mayor and MP for Salisbury, was his uncle. He made a great point of showing his Australian passport. He mentioned Mr George Lush, clerk to the Tisbury Magistrates, stating that Mr Lush was his first cousin and also Mr Robert Lush. Having ingratiated himself, he stated that witness's solicitors in London were agents for his Australian solicitors, and then added "I am very hard up; could you lend me some money?" Witness offered to pay his third class fare to London.

Defendant then said "The Australian exchange is so much against me and there is no Australian money in London to meet my bills of exchange. I particularly want £2 to meet my lodging expenses at Donhead". Witness gave him £2 relying on his statement that he was a first cousin to Mr Lush and Mr Robert Lush and a respectable fellow. As he was going, the accused said "Do you remember the last time we met? It was at Warmbath, where you were in command of the Wiltshire Regiment". Witness never was at Warmbath and was not in command of the Wiltshire Regiment. He communicated by telephone with Mr Lush and Mr Robert Lush, and after failing to find any trace that the accused had been staying at Donhead, he applied for a warrant.

In cross-examination, Colonel Benett-Stanford said he had received information that the accused was the son of a man who was a brewer at Donhead.

Mr Williams: Have you made any enquiries as to whether his statement about Lady Allenby and Lady Downes was correct?

Witness: They are both in Algeria, so I can't. Will you take it from me that the accused is a son of Mr Gilbert Lush, who was a churchwarden to the Rev H Chapman, father of those ladies?

Mr Williams: I will take your word for that. And that the accused was brought up with Mr Chapman's daughters?

Colonel Benett-Stanford: I doubt that.

Colonel Benett-Stanford said he was quite sure he was not shown a telegram, upon which defendant's address was Salisbury and not Donhead. "If I had seen that, I should not have wasted two hours in going round Donhead", the witness observed. He was quite sure that the accused said he wanted money to pay for his lodgings in Donhead. The accused did not offer to give an IOU or promissory note, but he did state that he would send the £2 back when he received his Australian money.

At the close of Colonel Benett-Stanford's evidence, the Chairman announced that subject to the consent of the defendant, the Bench proposed to deal with the case summarily. Mr Williams said the defendant would elect to be tried by a jury if the evidence was deemed sufficient to justify a committal.

Mr George Edward Lush, clerk to the Tisbury Magistrates, stated that he met the accused in August at his brother's house. Defendant introduced himself as a relative who had spent most of his life in Australia, and he produced a passport. He mentioned witness's brother, who was in Sydney, and gave other details, which satisfied witness that he was a member of the Lush family, and he gave defendant an invitation to his house. He (the accused) was inquisitive about the family pedigree and seemed to think that he was a much nearer relative to Lord Justice Lush than witness and his brother.

He told defendant that assuming him to be a son of Gilbert Lush, their nearest relationship was that they had come down collaterally from the same great-great-grandfather. He could not be either a first or second cousin, and, after their conversation, the accused had no reason to believe that such a relationship existed.

By Mr Williams: He thought accused left him still under the belief that they were cousins.

PC Symons deposed that he made enquiries at Donhead and found that defendant lodged at the New Inn, Donhead St Andrew, and left in September. He paid his debts. Witness arrested Lush at Tisbury Railway Station at 10pm on January 3rd.

Mr Williams submitted that there was no case to answer, but the magistrates held that the hearing must proceed and the defendant elected to give evidence.

Lush stated that he was a native of Donhead, now aged 58, and went to Australia in 1887. He came home on business last year, arriving in England on Easter Monday. He was a licensed commission agent in partnership with John E Lane at Adelaide-street, Brisbane, and their business was connected with farms, hotels and other properties. When he wanted money, he had to write to Colonel Gehrman to whom he had given a letter of attorney. Owing to the adverse balance of trade, the banks would not issue letters of credit. Colonel Gehrman sent money in English notes as he was able, but witness had received nothing since November 4th. Colonel Gehrman held some shares and other securities, and he (witness) held a quarter share in some land and oil concessions at Timor, Queensland. This was the business which brought him to England.

He also held a reversionary interest in two houses in Oxfordshire, and Messrs Martin & Martin, of London, were the solicitors for the estate. They were also solicitors to Colonel Benett-Stanford, and the agents for his (defendant's) solicitors in Australia.

In August witness stayed for three weeks at the New Inn, Donhead St Andrew. He came down to Salisbury in December and took rooms at 28 College-street. He requested Colonel Gehrman to send remittances to Salisbury post-office, but as nothing came, he cabled to Australia, and from the Commonwealth Bank he received the reply he had shown to Colonel Benett-Stanford. He went to Colonel Benett-Stanford because he was the only one alive of the generation which had known him and his family when he lived at Donhead and subsequently at Grove House, Semley.

He tried to recall Colonel Benett-Stanford's memory and asked him what had become of Lady Allenby's sisters, as he and the Chapman children were playmates together. Colonel Benett-Stanford constantly told him to repeat what he said, as he was deaf.

The Colonel asked what he had come about, and witness told him his position and asked for help until his money came through. The Colonel offered to pay his fare back to London, but witness said he could not go back and leave his lodging account unsettled. When Colonel Benett-Stanford lent him £2 he offered a P.N. or I.O.U. The Colonel said "I don't want an acknowledgement. Send it when you are fixed up".

During the conversation, Colonel Benett-Stanford asked if he was related to Mr George Lush and Mr Robert Lush and witness said that so far as he knew he was a sort of a cousin. He did not say he was a first cousin. The Colonel also asked if he was related to Sir Robert Lush and he said he had always been taught to regard Sir Robert as his uncle. In South Africa, where he served with the 1st Queensland Bushmen, he saw the Wiltshire's at Hammonds Krall, and he enquired for Colonel Benett-Stanford. It was on this basis that he told Colonel Benett that he was not with the Wiltshire's at that time, and the Colonel said he was then a Royal Dragoon.

He could not declare that Colonel Benett-Stanford read the cable from the Commonwealth Bank, but it was placed in his hand and he said he did not know what it was about.

In reply to Mr Jones, the defendant agreed that if he told Colonel Benett-Stanford that he was a first cousin to Mr George Lush, it was a lie.

Mr Jones: You were at your wit's end. You hadn't a bean?

Witness: Till I received money from Australia

Mr Jones: Can't you get money through quite easily up to a limit?

Witness: You are rationed.

After a consultation in the magistrates' room, the Chairman, Captain J Hastings, said the Bench had come to the conclusion that the prosecution had not made out their case. False pretence had to be clearly proved, also that the statement made was false to the knowledge of the accused, and that it influenced the mind of the person parting with the money. The Bench were not satisfied on that point and therefore they had decided to dismiss the case.

The magistrates present were Captain Hastings, Mr A R White, Lord Arundell of Wardour and Mr E Young.

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