

L. F. Heyd, K.C., for the defendants.

H. E. Rose, K.C., for the plaintiff.

The judgment of the Court was delivered by BOYD, C. (after setting out the facts and referring to the defendants' laws and rules):—The inquiry as to the man's condition . . . was presented as usual upon the doctor's certificate, and considered upon all the materials that the plaintiff desired to submit. That something else was not done by him is not a ground for disregarding the conclusion of the defendants and their officers. There was really no exclusion of evidence, because there was no tender of it; and, upon the materials before the defendants, the conclusion reached was right. . . .

Nothing was laid before the defendants or the officers who found upon the claim to indicate that the opinion or judgment of Dr. Pyne was erroneous, or that, when the doctors differed, the later opinion was to be preferred to his. The defendants did not take steps to investigate the soundness of Dr. Pyne's opinion by original inquiries, but that is not a matter provided for; they dealt with what was laid before them; and it is no reason for displacing their conclusion or their jurisdiction that a subsequent investigation in a Court of law has led to a different result. The matter is one to be disposed of by the methods of the Order, to which the plaintiff subjected himself on becoming a member. The action of the defendants is final unless it is made to appear that such action is contrary to natural justice or in violation of the rules of the body or done *mala fide*, as said in *Essery v. Court Pride of the Dominion* (1882), 2 O. R. 596, at p. 608.

The judgment in appeal introduces a new and further exception, in that an erroneous medical certificate, given honestly, but by mistaken diagnosis, is, though not intentionally fraudulent, to be regarded as "legal fraud." But it needs *mala fides* or dishonesty to annul the finding of a domestic forum. Lord Bramwell has taken particular pains to exterminate the expression "legal fraud." . . .

[Reference to *Weir v. Bell* (1878), 3 Ex. D. 238, 243; *Holland v. Russell* (1863), 11 W. R. 757, 758; *Wilson v. Church* (1879), 13 Ch. D. 1, at p. 51; *Ex p. Watson* (1888), 21 Q. B. D. 301, 309; *Derry v. Peek* (1889), 14 App. Cas. 337, at p. 346.]

The English authorities point out that all the officers or persons selected to deal with claims and disputes are to be regarded as arbitrators, and in respect of their findings relief is to be given in Courts of law or equity only when the persons designated have