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COURT OF APPEAL

**"BLACK MAGIC" LIBEL ACTION:
PLAINTIFF'S APPEAL**

**CROWLEY v. CONSTABLE AND CO.,
LIMITED, AND OTHERS**

***Before* LORD JUSTICE GREER, LORD JUSTICE
SLESSER, *and* LORD JUSTICE ROCHE**

The Court continued the hearing of the appeal by the plaintiff, Mr. Edward Alexander (Aleister) Crowley, an author, of Carlos Place, Grosvenor Square, W., against the verdict and judgment given against him in the action tried before Mr. Justice Swift and a special jury which the plaintiff brought against Constable and Co., Limited, of Orange Street, W.C., Charles Wittingham and Griggs (Printers), Limited of Brunswick Park Road, London, and Miss Nina Hamnett, in respect of an alleged libel in a book entitled "Laughing Torso," published, printed, and written by the defendants respectively.

Mr. Crowley complained that in "Laughing Torso" Miss Hamnett stated that he had had a temple at Cefalu, in Sicily, where he was supposed to have practised Black Magic.

The defendants denied that the words complained of were defamatory and further pleaded that if they were true in substance and in fact.

The jury returned a verdict for the defendants, for whom Mr. Justice Swift entered judgment with costs.

The case was reported in *The Times* of April 11, 12, 13, and 14 last.

The plaintiff appealed.

Mr. J. P. Eddy appeared for the appellant; Mr. Malcolm Hilbery, K.C., and Mr. Paul Springman for the respondents the

publishers and the printers of the book; and Mr. Martin O'Connor for the respondent Miss Hamnett.

Mr. Eddy, continuing his argument for the appellant, said that what was complained of fell under two heads:—(1) summing-up; and (2) the cross-examination of Mr. Crowley. He submitted that a plaintiff was entitled to a verdict from the constitutional tribunal, which was a properly directed jury. The jury were told, quite rightly, that it was for the defendants to prove justification, but there was not a word in the summing-up about the evidence or the absence of evidence on all important points. Nor was there any reference to the prolonged cross-examination of Mr. Crowley. Part of the cross-examination was no doubt directed to the plea of justification, but a very large portion of it was wholly irrelevant to that plea.

Some people practised what was called White Magic; others practised what was alleged to be Black Magic. Mr. Crowley said that there was a vital difference between the two.

Lord Justice Greer.—That is irrelevant. If a special meaning was to be put on the words "Black Magic" it ought to have been pleaded as an innuendo, and it was not.

Mr. Eddy said that what the plaintiff stated was that it was common knowledge what Black Magic was, and that it had been known for centuries as something foul; whereas White Magic was something in which he had been interested, the object of which was to raise humanity to a higher spirituality.

Lord Justice Greer.—No ordinary persons knew the difference between White Magic and Black Magic. I should have thought that they were both nonsense.

Mr. Eddy.—I am not suggesting otherwise.

Continuing, counsel referred to the books which Mr. Crowley had written. Besides those criticized by the trial Judge, Mr. Crowley had written many beautiful things. He had written about 50 hymns.

Lord Justice Roche.—Do you complain of the accuracy of what the Judge said with regard to the contents of some of the books?

Mr. Eddy replied that beyond all question there were many things to which any decent person would very properly object. He (counsel) did not object to the Judge holding the views he expressed.

Lord Justice Roche.—Do you deny that the expression is accurate?

Mr. Eddy said that he made no submission with regard to whether it was accurate or not.

Lord Justice Greer.—I suppose the references to newspapers in the cross-examination were put in to show that the plaintiff was a man whose reputation was valueless.

Mr. Eddy.—That was undoubtedly the object, but the suggestions in the main were dealt with and refuted by Mr. Crowley.

Counsel contended that there was no direction on the question of libel or no libel. He submitted that the plaintiff was entitled to general damages without proving his actual reputation or any actual damage: see *Hobbs v. Nottingham Journal, Limited* (45 *The Times* L.R., 328, at p. 330; [1929] 2 K.B., 1, at p. 17); *Tripp v. Thomas* (3 B. and C., 427); and *Ratcliffe and Evans* (8 *The Times* L.R., 597; [1892] 2 Q.B., 524).

CASE FOR THE PUBLISHERS AND THE PRINTERS

Mr. Malcolm Hilbery, for the respondents, the publishers, and the printers, said that this was a case in which there could not be an order, for a new trial without a tragic miscarriage of justice. The plaintiff's case was that he had been libeled by the words complained of. In his pleadings Mr. Crowley did not aver that the words complained of were meant or were understood to mean that he had murdered any baby. [Counsel for Mr. Crowley yesterday said that the alleged libel also stated that one day a baby was said to have disappeared mysteriously, that Mr. Crowley's case was that that plainly meant that he had killed the child by means of Black Magic, and that Mr. Crowley had denied that he had practised Black Magic or that any baby had disappeared.] It was not because anybody had been led to understand that Mr. Crowley had murdered a child that he had complained, said Mr. Hilbery. What Mr. Crowley complained of was the charge of practicing Black Magic, and that charge the defendants justified.

The case presented on behalf of the publishers and the printers was that this was no libel on the plaintiff at all, and it could be no libel in the sense of damaging his reputation, because out of his own works and out of his own mouth the defendants undertook to show that Mr. Crowley's work, whatever he called it, was a mixture of eroticism and sex in its most unpleasant and widest signification. He (counsel) would show that that was established out of Mr. Crowley's own mouth. Having got the material out of him as showing his reputation,

he (counsel) had also called evidence of a person who had been at Cefalu, which was clearly indicative of bestial rites at which Mr. Crowley acted as high priest. He (counsel) had put it to the jury that it was impossible for reasonable people to come to the conclusion that Mr. Crowley had been libeled.

On his confessions in the box and throughout his works Mr. Crowley had stood for the negation of what every decent and right-minded person had ever held to be either decent or sacred. From his earliest days he had written poems of every possible sexual perversion of which human beings had ever been guilty. Referring to one of the plaintiff's works, counsel said that it was stated to be an old work, but it was still obtainable at the time of the trial. More than that, it had been brought up to date by a volume of "Confessions" he said that "my admirers have in consequence of the book regarded me as addicted to every sort of abominable vice." That was what he had had to say of his reputation with his admirers.

When he had a house in Scotland he worked on his magic so hard that, in broad sunlight, the thronging spirits made it completely dark to him, and the place became so haunted that the sturdy natives would not go along the road.

Lord Justice Greer.—That sounds very medieval.

It was said, continued counsel, that the distinction between White Magic and Black Magic was that, in the former, the spirits came from the upper air and in the latter they came from the nether regions.

The hearing was adjourned until to-morrow.

Solicitors.—Messrs. Forsyte, Herman, and Phillips: Messrs. Waterhouse and Co.; Messrs. Edmond O'Connor and Co.