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AUTHOR'S APPEAL DISMISSED

Mr. Aleister Crowley

JUDGES AND HIS LIBEL ACTION

"No Other Result Possible"

The magic which Mr. Aleister Crowley is alleged to have practiced was discussed before Lords Justices Greer, Slesser, and Roche in the Court of Appeal yesterday.

Mr. Crowley, the author, was appealing from the judgment of Mr. Justice Swift in a libel action he brought against Miss Nina Hamnett, authoress of "Laughing Torso," Messrs. Constable and Company, publishers, and Messrs. Charles Whittingham and Briggs, the printers.

Mr. Crowley said the book imputed to him the practice of black magic. According to him, black magic was "foul and criminal," and he had never practiced it. The case for the respondents was that on Mr. Crowley's admissions in the witness-box and on statements made in his published works, he had practiced a form of magic which was "the negation of what every decent and right-minded person had ever held to be either decent or sacred." They also maintained that his reputation was that of a "black magician."

Mr. Malcolm Hilbery, K.C. (for the publishers), said that until Mr. Crowley went into the witness-box no one thought of the distinction between black magic and white. Mr. Hilbery read the cross-examination of Mr. Crowley at the trial.

Lord Justice Greer: I suppose you are using this to show there was a conclusive case of justification so far as black magic is concerned?

Mr. Hilbery: Yes.

Lord Justice Slesser: He constantly affirms the difference between black magic and white magic.

Mr. Hilbery: No reasonable jury could believe there was a bit of difference.

Mr. J. P. Eddy, in reply for Mr. Crowley, said that though there was much to suggest that his client had practiced magic, there was a vital distinction between white and black magic. That distinction was made plain both in the "Encyclopaedia Britannica" and in Frazer's "Golden Bough."

The Judge's Summing-Up

Lord Justice Greer, giving judgment dismissing the appeal, said the Court had come to the conclusion that though there might be something to be said in favour of the view that the summing-up was not as full as it ought reasonable to have been, the only possible result in this case having regard to the evidence and admissions of Mr. Crowley, was a verdict for the defendants. For a long time Mr. Crowley had been cross-examined, and he made admissions in regard to his conduct which Mr. Justice Swift described as admissions of the grossest kind he had heard in forty years' experience at the Bar and on the Bench.

It was not alleged in the statement of claim that the words "black magic" had a special meaning. They could only be considered as having the ordinary meaning of English words. "So far as I am concerned," added Lord Justice Greer, "I had never heard of the distinction between black magic and white magic until it was explained by the evidence as a technical distinction which is known to those who study magic and study the arts of people who either are or pretend to be magicians, black or white."

Mr. Crowley, he continued, had written a book when he was a young man and it was admitted to be obscene, though the author said it was only obscene "in a technical sense." "It contains one poem." continued the Lord Justice "which Mr. Crowley says he did not write but which was of the most horrid description. It was published as part of the book. In 1929 when he published his 'Confessions' he does not seem to have apologized very much for what he had done as a young man.

Legal Point

"Is it astonishing that a jury of common sense, after hearing evidence of that kind—and it is multiplied by a lot of other evidence about his efforts as a magician—should think it was impossible that they could give a verdict for the plaintiff?"

It was true, the Judge said, that the plaintiff had to prove his reputation was damaged. "That is not in accord with the

law. If an untrue defamatory statement is made of a man of bad character he is just as much entitled to succeed as a man of good character. He is entitled at least to nominal damages, but it does not follow that because there has been a misdirection in one respect there ought to be a new trial." He thought there ought not to be a new trial in this case.

"The Judge at the trial of the action had been listening for a long time to this filth and blasphemy which the plaintiff had been guilty of on his own confession, and I cannot help thinking the words Mr. Justice Swift used were not as measured as they would have been if he had not been naturally in some state of indignation in regard to the conduct of the plaintiff and his idea that this was a case in which he was entitled to come before a jury and ask for damages."

Lord Justice Slesser, who concurred, said he would not deny that the case had given him very considerable difficulty. "In my view," he said, "it is impossible that if this case were to go before another jury any other result would follow than that which was attained at the end of the first trial."

Lord Justice Roche also agreed.

"I am satisfied that not only was a just and proper decision reached, but that this decision was inevitable and that any other decision would be intolerable," he said.

The appeal was dismissed with costs.