

**29 DECEMBER 1934
EXAMINER
LAUNCESTON, TASMANIA**

"BLACK MAGIC"

Dismissal of Appeal

Decision Must Remain

The Court of Appeal dismissed with costs the appeal of Aleister Crowley, the author, against the judgment of Mr. Justice Swift in a libel action brought against Miss Nina Hamnett, authoress of "Laughing Torso," Constable and Co., publishers, and Charles Whittingham and Briggs, the printers.

Mr. Crowley said the book imputed to him the practice of black magic.

Lord Justice Greer, giving judgment, 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 reasonably 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.

"It is not a question of speculating or guessing," continued the Lord Justice. "I personally have come to the conclusion that, however much the contentions of Mr. Eddy had been repeated by the judge, the result would have been exactly the same as it was", writes the London "Daily Telegraph").

For a long time Mr. Crowley had been cross-examined, and he had 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.

In fact, the judge said this: "Never have I heard such dreadful, horrible, blasphemous, abominable stuff as that which has been produced by the man who describes himself as 'the greatest living poet.' "

It was true the judge would not have been justified at the conclusion of Mr. Crowley's case in holding that the words were incapable of a defamatory meaning, but there was no innuendo pleaded. 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 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 apologised very much for what he had done as a young man.

"He said these sonnets were scientific treatises for the purpose of combating a theory with which he did not agree about people who were addicted to abnormal vices. He said the fact that he published it proved that he was preternaturally pure."

"Is it astonishing," asked the Lord Justice, "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?"

LAW'S IMPARTIALITY

"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.

"The net result of a new trial, if the case is dealt with by ordinary human beings, the man in the street, must be just the same.

"I think any jury, listening to the facts elicited in this case about the plaintiff and about what he did in connection with his 'temple' at Cefalu, would inevitably come to the conclusion

either that there was no libel or that, if the words were defamatory, the statements were justified.

"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 so 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 quite satisfied," he said, "that the desire and intention of the jury to stop the case was not merely natural, but fully justified. I am satisfied that, not only was a just and proper decision reached, but that the decision was inevitable and that any other decision would be intolerable."