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BCW COUNTY COURT

Before His Honour Judge Smyly

T A Y L O R

V

K E M S L E Y and Others

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J U D G M E N T

Wednesday 4th December 1912.

HATCHETT JONES, BISGOOD & MARSHALL

48, Mark Lane, E.C.

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Before

His Honour Judge Smyly

T A Y L O R

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K E M S L E Y and O T H E R S

(Transcript of the Shorthand Notes of Messrs Harry Counsell & Co., The Gateway, New Court, Carey Street, London, W.C.)

Counsel for the Plaintiff: Mr. A. Powell K.C. and Mr. Profumo.

Counsel for the Defendants: Mr. McCardie.

J U D G M E N T

HIS HONOUR:- In this case the Plaintiff's action is against certain Defendants -- some of those gentlemen who were originally Defendants have been discharged from the action, not being proceeded against -- for an assault committed whilst the plaintiff was being removed from the tent and

from the grounds within which the tent was pitched at a meeting to hear Mr. Lloyd George.

The facts I find are as follows:- On the 29th June Mr. Lloyd George was going to address a meeting at the "Harts", Woodford Green, Essex, in a tent pitched in private grounds. The Plaintiff, who lived at Nottingham, obtained a genuine half crown ticket, No. 25 F row, to attend the meeting. The Plaintiff arrived at the meeting about five o'clock and proceeded to his seat. He alleges that he went to the meeting with the intention of hearing Mr. Lloyd George, and with no intention of interrupting, but if he did so, such an intention was changed for what I am obliged to call very insufficient reasons, first, because his ticket was examined three times, and, secondly, because the tickets of some ladies were even more strictly examined. He became very indignant. When Sir John Simon presented Mr. Lloyd George to the meeting as the greatest living liberal and democrat he became still more indignant, and when Mr. Lloyd George said "Mr. Chairman" his indignation so overcame him that he jumped up, moved towards the gangway, and as he went called out "Mr. Chairman, I protest against Mr. Lloyd George". When he got as far as that some five or six gentlemen in the gangway, most if not all of whom, were stewards, came up and hurried him to the door of the tent. Anyone who has read the newspapers for the last few months would anticipate that tickets would be very strictly examined at any meeting about to be addressed by a Cabinet Minister, and anyone who attends a meeting must know that whoever introduces a Cabinet Minister to a meeting would be bound to use complimentary terms, and certainly any person might say that Mr. Lloyd George's "Mr. Chairman" was not a sort of remark to arouse anyone's wrath. The protest

therefore was given without any reasonable grounds existing, as during the singing of the song "He's a jolly good fellow" the Plaintiff might have made his way out before Mr. Lloyd George rose to address the meeting. Making the protest would naturally lead the stewards to suspect, and, I think, reasonably to suspect, that the Plaintiff had come to the meeting merely to interrupt and not to hear Mr. Lloyd George, or to suspect that he was acting in concert with other persons who did interrupt the meeting for some time, and continued to interrupt the meeting until they were one by one ejected. The Plaintiff has denied on oath that he came with any such intention, or that he acted in concert with anyone else, and as there was no direct evidence of his acting in concert I accept his statement and acquit him of acting in concert with others who disturbed the meeting. but I find that he acted in a way which was best calculated to irritate a large meeting, and as he must have known, best calculated to produce disagreeable experiences to himself, and with very little consideration for other people who were attending the meeting. Whilst the Plaintiff was making his protest he was moving towards the gangway. The only request made to him to leave was that one of the stewards placed his hand on his shoulder. I find that Mr. Taylor never attempted to remain once he moved from his seat, Once the Plaintiff got into the gangway he was taken down the tent in quick time, certainly faster than he would have gone, and faster than he could reasonably be expected to go had he been left to himself. He was held by the elbows and propelled forward. If his hat and umbrella were in his hand they would naturally, and as indeed happened, have been swept out of his grasp and his glasses broken as he alleged. I find as a fact that he was taken at a quick pace

down the tent by the stewards, but I think there is no evidence that any of the stewards took him further than the door of the tent. He was in fact by some people taken to a horse trough but not pushed into it, and thence to the gates of the private grounds. Anyone who was identified as having assisted or encouraged those who propelled him after he was moved from the tent would be guilty of assault but no evidence was given of any of the Defendants or any steward having done so.

Now the law as to persons who disturb meetings has been laid down by Mr. Justice Avory in the case of Hawkins V Muff which was tried at Leeds in March 1911, and I am bound by the law he has laid down. I have tried to find out and enquired whether any appeal has been entered against the law then laid down, and so far as I can find there has been no appeal, and, therefore, I am bound by the law as laid down by that learned judge. In looking at the shorthand notes of that case at page 4, line 2, I find the learned judge says this "I am quite clear that a mere intervention such as has been proved in this case does not authorise either the Chairman of the meeting or the stewards or anybody else summarily to eject that person from the meeting without any previous request to him to go. Being lawfully there, he was as has been described, at least a licensee, as the law calls it. He was licensed to remain there until that license was determined. And if he misbehaves himself, if he behaves in such a way as in the opinion of those responsible, to either disturb or prevent the business of the meeting being carried on, he may be requested to leave. And if he is requested by persons in authority to leave that may determine his license; and if he remains he may be a trespasser after that. But until he

has been requested to leave and his license to be there has been determined, any person who lays hands upon him and turns him out of that meeting and out of his seat is in law committing an assault. If I am wrong in this and in law I can be set right elsewhere. But I tell you that is my opinion of the law". On the law so laid down I find that the persons who took the Plaintiff down the gangway in very quick time, faster than he reasonably could be expected to go, were guilty of assault, and I further find that many, if not all, of the persons who did so were stewards but I do not think that any of the Defendants were proved to have themselves laid hands upon the Plaintiff, Mr. Pollard was the only Defendant named as being near the Plaintiff, and there was no evidence that he touched him though he followed those who propelled him along. It was admitted that Messrs Bristow, Redman and Shephard were members of the Organizing Committee of the demonstration, and that they appointed the stewards who acted at the meeting. Now what is the law as to the liability of members of the Committee who appoint stewards for the acts of those stewards they have appointed? Again, I take the law from Mr. Justice Avery's Summing-up in the case I have mentioned. On page 2, line 9 of the shorthand notes he lays down the law as follows:- "The question is: were these stewards, who were employed undoubtedly at that meeting, authorised by the Defendants, who are the Committee of this League, either expressly or impliedly to suppress disturbances or interruptions which might take place at that meeting. In my opinion the answer to that question determines this case. Because, I have no hesitation in saying, as a matter of law, that if stewards are authorised, either expressly or impliedly, and by impliedly of course I mean, as you will

understand, from the nature of their employment they have an implied authority to do what is allowed-- if they are so authorised to suppress disturbance or interruption, and any of those stewards, although he does it in the exercise of his own individual discretion, seizes a man and ejects him without having any lawful right to do so, then his employers are liable in damages for the consequences. That is a plain statement, I think, of what I believe to be the law, and on which I will act in this case, and which you are bound for the purpose of today to accept from me". That direction to the jury left them certain fact to find, whether either expressly or impliedly the stewards were authorised to suppress disturbances or interruptions and to turn out those who did interrupt. It seems to me that the stewards clearly were authorised at this meeting with which we are now dealing so to act, and, therefore, it seems to me that according to the law as laid down by that learned judge those gentlemen who appointed the stewards would be liable for what the stewards did in stopping disturbances inside the meeting and in turning people who interrupted out. Now on the law so laid down by the learned judge I think that those three gentlemen I have mentioned, Messrs Bristow, Redman and Shephard, are liable for the acts of the stewards, and therefore, liable for an assault committed by the stewards in running the plaintiff at a quicker time than he would have reasonably gone down the gangway. I further find that the Defendant Pollard has had no case proved against him and is not liable for the acts of the stewards.

Now as to the damages, I think these Defendants are liable for the hat, umbrella and gold spectacles which were destroyed, but that a very small sum added to the value of those articles would give the Plaintiff all

that he is entitled to. As I have said nothing had been said or done which would justify any reasonable man in making such a protest as the Plaintiff did, and at such an inconvenient time, and I cannot help feeling that he brought upon himself the troubles he has suffered.

I think, therefore, if I award him £5 he will receive as much as he deserves. There will be a verdict for the Plaintiff for £5 and such costs as that sum carries.

Mr. PROFUMO: Owing to the great importance of the case to the public generally, and also, of course to Committees who organise meetings, and to speakers, I ask your Honour to certify for attending before the Registrar on the summons for Interrogatories and for advice on evidence

HIS HONOUR: It does not follow on the scale, does it?

MR PROFUMO: I know. That is why I ask your Honour in view of the importance of the case.

HIS HONOUR: I cannot see that. The law obliges me to give him such damages as he has actually suffered, and perhaps a little more, but I must say that if a person comes to interrupt a meeting, he must take what he gets.

MR PROFUMO: I submit that your Honour should look at the importance of the case

HIS HONOUR: That doesnot make any difference. I have considered that question carefully.

MR PROFUMO: If your Honour please.

MR FIELD: I was going to ask your Honour to deprive him of his costs altogether.

HIS HONOUR: He gets such costs as I think he should have and no more. There will be judgment for the other defendants. Some of them were dropped out at the trial. As to Mr. Pollard I find in his favour.

MR FIELD: Will those costs of the Defendants be upon the B scale?

HIS HONOUR: There will be judgment for the other defendants with costs.

MR PROFUMO: Will the other costs be on the same scale?

HIS HONOUR: I do not say anything about that. As the tree falls so it must lie.

MR PROFUMO: What is sauce for the geese is sauce for the gander.

MR FIELD: May I ask your Honour for a stay of execution. We should like to consider this judgment

HIS HONOUR: Certainly. I will stay execution; so far as I know there has been no appeal from Mr. Justice Avory's decision.

MR PROFUMO: There was no appeal. I believe an appeal was commenced but it was subsequently abandoned.

HIS HONOUR: There will be a stay of execution for 21 days and stay to continue if appeal entered.

MR FIELD: I am obliged to your Honour. There were some costs of Interrogatories which were reserved to your Honour at the trial.

MR PROFUMO: I have dealt with those.

HIS HONOUR: No, I shall say nothing about any special order.

MR FIELD: My point is this that we had to come here and Counsel had to come here to oppose Interrogatories most of which were dis-allowed.

HIS HONOUR: Were the Interrogatories administered by the Plaintiff.

MR PROFUMO: Yes.

MR FIELD: The Plaintiff administered a number of Interrogatories.

HIS HONOUR: I think that will fall in my general order as to costs.

MR FIELD: If your Honour pleases.

HIS HONOUR: There will be a stay for 21 days , and stay to continue if appeal entered.

MR PROFUMO: Your Honour will remember that my friend, Mr. Cardie, appeared for all the Defendants. I do not know how that will affect the question of costs.

HIS HONOUR: That will be a matter to be dealt with on taxation.

MR PROFUMO: If your Honour pleases.