

MACMILLAN & CO., LTD., AND MISS SWANHILDE BULAN v. THE NURSING PRESS, LTD., AND MRS. ETHEL GORDON FENWICK.

(Before Mr. Justice RIDLEY and a Special Jury.)

In this case Messrs. Macmillan & Co., Ltd., and Miss Swanhilde Bulan claimed damages for libel against the Nursing Press, Ltd., Mrs. Ethel Gordon Fenwick, and Press Printers, Ltd.

The defendants admitted the publication, but said that the words were true and were fair comment.

The plaintiffs alleged express malice.

Mr. Dickens, K.C., and Mr. McCardie appeared for the Plaintiffs; and Mr. Gordon Hewart, K.C., and the Hon. M. M. Macnaghten were briefed for the Defendants.

Mr. Dickens said that Macmillan & Co., the publishers, were the proprietors of the *Nursing Times*, of which Miss Bulan was the editor. The Defendant, Mrs. Ethel Gordon Fenwick, with her husband, owned nearly all the shares in the Nursing Press, Ltd., who owned THE BRITISH JOURNAL OF NURSING. The libel appeared in the Defendants' newspaper of May 15th, 1915. It assumed the veil of patriotism, but its real object was to crush the *Nursing Times*. Miss Bulan was chosen as a victim because her father was a German, who, however, had left Germany in 1875.

The Matron-in-Chief of the Territorial Force Nursing Service, Miss Sidney Browne, simply helped in dealing with nursing subjects, she was an expert. She was not able to attend because of illness.

Having read the alleged libel, Counsel submitted that the only meaning was that Miss Bulan was a spy.

Miss Bulan, in giving evidence, said she was born in Strassburg in 1874. In 1879 the family went to New Zealand, where her father became a teacher and lecturer. In 1890 he obtained a certificate of naturalisation from the Governor-General of the Colony. In 1891 her father and family came to England and finally settled here. She had paid three short visits to Germany. In London her father became a journalist. In 1897 witness changed her name from Bulau to Bulan because people used to spell it that way. When the War broke out she was informed that the Colonial naturalisation did not apply in this country, and was told her best plan would be to apply for naturalisation in England, and this she did, obtaining her certificate.

In cross-examination by Mr. Macnaghten, Miss Bulan said that she was of pure German descent on both sides. Her naturalisation certificate called her "an alien" in the name "Bulau." She had never taken any steps to denationalise herself in Germany. She had had no training as a nurse, nor had she ever professed to have. Miss Sidney Browne, Matron-in-Chief of

the Territorial Force Nursing Service, was not in a subordinate position to her, but when attending at Macmillans' she worked in her office; of course, she was paid.

Sir F. Macmillan, a member of the Plaintiff firm, said in his opinion the statement complained of was a very cruel and malicious attack on a lady who had worked very well for the firm.

Mr. Macnaghten, in addressing the jury, said that Mrs. Fenwick had been a trained nurse and Matron of St. Bartholomew's Hospital. She had taken a prominent part in the movement for registration of nurses, and from first to last had not taken one penny from THE BRITISH JOURNAL OF NURSING, which she had acquired to spread her views. She thought that the editor of a nursing paper ought to have nursing qualifications.

Mrs. Fenwick said that she had devoted her life to the betterment of nurses. She had formed the opinion that they were overworked and underpaid, and she tried to get them a legal status without which paid workers were in a very dependent position. She had always thought that Miss Bulan was a Swede. When she saw the certificate of naturalisation she thought the nursing profession ought to know. She wrote the article in good faith. It was an honest criticism on the actual facts of the case, and in writing it she was actuated by public motives.

In cross-examination by Mr. Dickens, witness said she considered that during this war no person of enemy origin should have the power to injure the country. Asked if she believed Miss Bulan's reason for changing her name, she said she considered it a very futile reason. Pressed to say yes or no, she replied no. Her paper was not run specially to make a profit, and she did not attack the *Nursing Times* in order to capture its circulation. Her paper appealed to the educated nurses, not to the uneducated or the ward maids. witness said that she and her husband had sunk £10,000 in THE BRITISH JOURNAL OF NURSING, in support of the work in which they were interested.

In addressing the jury Mr. Macnaghten, contended that every statement complained of was admittedly true, and the only inference to be drawn from the paragraph was that Messrs. Macmillan should not at a time when this country was at war employ a lady who was of German descent. That was an opinion that anyone was entitled to hold and express.

The Judge, having summed up, suggested to the jury that if they found a verdict for the Plaintiffs they should award them substantial damages. As we reported last week, the jury awarded £500 damages.

It is necessary to explain that Mr. Gordon Hewart, K.C., who had been briefed to defend the action was unexpectedly called upon to appear in another Court, and therefore the defendants were deprived at the last moment of the leading Counsel in charge of their case.

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