

Angry Artists Who Went To Court

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The jury accordingly gave a verdict for the artist against the critic, putting the damages at a farthing to emphasise the fact that they considered that the critic would have been in his right if his occupation had been a lawful one. And if Mr. Bennett had called on me next day, and asked me in the common interests of our profession and of the public never to mention that artist's name again, he could have been indicted for conspiracy, and imprisoned.

"In spite of the adverse verdict, some critics expressed themselves as satisfied with the termination of the case, on the ground that the artist had a fine lesson, since he gained nothing, and incurred both heavy costs and loss of reputation, not to mention such press boycotting as arises spontaneously from the *esprit de corps* of the critics, without any express concert between them. No doubt this was so, though it does not offer the smallest set-off to the still heavier costs incurred by the defendants."

It says something for Shaw's dexterity that in six years as a music critic of the most outspoken sort he never gave rise to a libel case against the paper for which he wrote.

THE SITWELLS' CASE

MUCH more recently—in 1941—an English Court had to decide what damage had been done to the reputation of three noted English writers, the Sitwells, by the publication of a slighting comment on all three of them.

Reynolds News reviewed "Edith Sitwell's Anthology" in February, 1940, and said:

"Among the literary curiosities of the nineteen-twenties will be the vogue of the Sitwells, sister and two brothers, whose energy and self-assurance pushed them into a position which their merits could not have won. One brother wrote amusing political verse. The sister produced a life of Alexander Pope. Now oblivion has claimed them and they are remembered with a kindly, if slightly cynical smile."

Twelve months later, the three Sitwells (Edith, Osbert, and Sacheverell) claimed damages from The Co-operative Press Ltd., publishers of *Reynolds News*. They claimed that the words published meant that they were persons of no literary ability, whose arrogance and conceit constituted their sole claim to prominence and that they had in consequence been seriously injured in their reputation and profession.

Opening the case, the Sitwells' lawyer (G. O. Slade) said that the word cynical really meant "contemptuous." The statement to which the plaintiffs took greatest exception was that they had passed into oblivion. They themselves felt that they might be said to be almost only on the threshold of the more important part of their literary career . . . To refer merely to Miss Sitwell's *Alexander Pope*, published in 1930, without referring, for example, to her book *Victoria the Great*, published in 1936, which was a best-seller, was false in the present connection.

The first witness was brother Osbert, who said he had published his book *Escape With Me* in November, 1939, and his last book *Two Generations* in October, 1940, so that he must have "passed into oblivion" at some time after November, 1939.

Cross-examined by G. D. Roberts, K.C. (acting for defendants), Osbert Sitwell agreed that he had had quarrels with critics, but had not said offensive things about them.



EDITH AND OSBERT SITWELL
Brother Sacheverell got £350, too

Mr. Roberts: Have you and your family always done everything you can to attract public attention?—No we have not.

She Could Not Be A Snob

Next day, Edith Sitwell gave evidence—about her works, her present reputation, and so on. Her vogue had not died away, and a perfectly fair critic could not truthfully say it had, she said. She agreed that she had described Alfred Noyes's poetry as "like cheap linoleum"; but cheap linoleum was a very useful thing. She agreed that she had compared the poetry of John Masefield to "a steam-roller." She agreed that an article "People I Annoy," written in 1928, in reply to a critic, showed bad manners, and had been written in a bad temper, but it was not snobbish. She had lived in a small flat in Bayswater and done all her own work, so she could not be a snob. Her reason for not suing Wyndham Lewis for criticising her was that he was an old acquaintance, and no one ever took any notice of what he said about other people's work anyway.

Before Sacheverell Sitwell entered the box, Arthur Waley and Charles Morgan gave evidence, both holding that the Sitwells were far from sinking into oblivion.

Sacheverell gave similar evidence to that of his brother and sister, and said in cross-examination that he had not passed into oblivion and had no intention of doing so.

On the third day, publishers and book-sellers were called to testify to the present standing of the Sitwells, and then a photograph from an evening paper was produced by counsel for defendants, showing the Sitwells posing for the photographer outside the court.

Closing the defendants' case, Mr. Roberts said that the action was unjustified, that the plaintiffs had been courting publicity (the photograph bearing this out), but they were not a penny the worse for the review having appeared, and that the sum of £500 each, which they had named when approached for settlement out of court, was farcical.

In his judgment, Mr. Justice Cassels held that the remarks were defamatory, and not fair comment. No facts had been proved on which the comments

could be based, so the question of malice did not arise. Had it arisen, he would have concluded, from the absence from the witness-box of Hamilton Fyfe (writer of the review), that injury was intended.

Each of the Sitwells was given judgment for £350.

Comment By "The Times"

Under the heading "That's for Remembrance," a leading article appeared in *The Times* (from which we have taken our account of the case).

"Another notable victory has been won in the long struggle of the persecuted race of poets to emancipate themselves from the oppressions of the critics" said *The Times*, recalling that in the century of Robert Burns, it was commonly accepted:

"Who shall dispute what the Reviewers say?"

Their word's sufficient, and to ask a reason

In such a state as theirs, is downright treason."

Keats and Rossetti had not retaliated on their critics but in 1878 James McNeil Whistler, "provoked by the arrogance of the most pontifical critic of the day, determined to 'have the law of him.' It is true that he recovered no more than a farthing. But then Ruskin had only called him a Cockney and a coxcomb who had asked 200 guineas for flinging a pot of paint in the public's face. That, the jury evidently held, was scarcely even rude . . .

"And though Miss Sitwell is eloquently conscious that

our mountain-high forgetfulness

Through centuries is piled above the Dead

yet she will see her defamers in Court before she lies down under the mountain in her lifetime . . .

"The Sitwell family are clearly determined to haunt any who should dare accuse them of being forgotten . . . They will not claim to be exempt from the sentence of Holy Writ: *Our names shall be forgotten in time, and no man shall have our works in remembrance.* But, if Saint Beuve rightly defines a critic as one whose watch is five minutes ahead of other people's, yesterday's judgment is a salutary warning that that habit may be expensive."

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