

*Judgment of the Lords of the Judicial Committee
of the Privy Council on the Appeal of
Simmons v. Mitchell, from the Court of
Appeal for the Windward Islands (Grenada)
delivered November 26th, 1880.*

Present:

SIR JAMES W. COLVILLE.
SIR BARNES PEACOCK.
SIR MONTAGUE E. SMITH.
SIR ROBERT P. COLLIER.

IN this case, an action for slander was brought by Mr. Charles Simmons, the Appellant, against Mr. Mitchell, the Respondent, in the Supreme Court of Grenada. The Chief Justice, who tried the case, having offered the Plaintiff a non-suit, which he declined, directed the jury to find a verdict for the Defendant. A rule having been granted to show cause why that verdict for the Defendant should not be set aside and a new trial had, the Chief Justice adhered to his ruling and discharged the rule. Whereupon there was an appeal to the Appellate Court of the Windward Islands, consisting of four Chief Justices. The Appellate Court was equally divided, and therefore the judgment of the Chief Justice stood discharging the rule for a new trial. These are the circumstances under which this Appeal comes before their Lordships.

The declaration was in respect of words alleged to be slanderous uttered by the Defendant, Samuel Mitchell, who is described as the clerk of the Crown, and having reference to the Plaintiff, who is a merchant in Grenada. The declaration contains a prefatory statement that the Defendant, "being clerk of the Crown, and, as such,

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“ having the control and custody of depositions
 “ and other proceedings taken at the inquisitions
 “ of coroners in and for the said island of Grenada,
 “ and contriving and intending to injure the
 “ Plaintiff, and to cause it to be believed that he
 “ had been guilty of murder, and to subject him
 “ to the pains and penalties by the law made and
 “ provided against and inflicted upon persons
 “ guilty thereof,” used the words complained of.
 The declaration contains four counts, and this
 prefatory averment is applicable to each of them.
 The words set out in the first count are these :—
 “ ‘ People who go to the Secretary of State had
 “ ‘ better see that their characters are clear, for
 “ ‘ your brother ’ (meaning the Plaintiff) ”—the
 words being addressed to the brother of the
 Plaintiff—“ ‘ lies here ’ (meaning the office or
 “ place of business of the Colonial Secretary
 “ of the said island and clerk of the Crown)
 “ ‘ under suspicion of having murdered a man
 “ ‘ named Emanuel Vancrossen at the Spout
 “ ‘ some years ago, ’ ”—and this is the inuendo—
 “ meaning thereby that there was among the
 “ records of the said clerk of the Crown some
 “ documentary evidence or charge implicating
 “ the Plaintiff with the murder of the said
 “ Emanuel Vancrossen at the Spout, and which
 “ warranted the Defendant in saying so.” The
 second count alleges the use of the same words
 with a somewhat different inuendo, the inuendo
 being, “ meaning thereby that there was some
 “ evidence in the said office of clerk of the
 “ Crown that the Plaintiff had murdered Van-
 “ crossen.” The third count alleges the
 speaking of these words :—“ ‘ Haven’t you ’
 “ (meaning the person with whom the Defendant
 “ then conversed) ‘ heard that Charles Simmons ’
 “ (meaning the Plaintiff) ‘ is suspected of having
 “ ‘ murdered one Vancrossen, his brother-in-law ?

“ ‘A proclamation offering a reward for the
 “ ‘apprehension of the murderer is now in my
 “ ‘office,’ (meaning the office of clerk of the
 “ ‘Crown,) ‘and there is only one link wanting to
 “ ‘complete the case’”—and the inuendo is in
 these terms, “meaning thereby that there was some
 “ ‘evidence in the office of clerk of the Crown,
 “ ‘and that there was required only one link in
 “ ‘the chain of such evidence to put the Plaintiff
 “ ‘upon his trial for the alleged murder of the
 “ ‘said Emanuel Vancrossen.’” There is a
 fourth count alleging the speaking of these
 words: “ ‘Some years ago Emanuel Vancrossen
 “ ‘was murdered, and his body was found at
 “ ‘ ‘American Point’ (meaning a place usually
 “ ‘known as the Spout, situate on the northern
 “ ‘shore of the lagoon adjacent to the town of
 “ ‘Saint George, in Grenada aforesaid.) And
 “ ‘upon being asked the question ‘What about
 “ ‘it?’ by the person with whom the Defendant
 “ ‘then conversed, the Defendant then answered,
 “ ‘ ‘Charles Simmons was the person suspected
 “ ‘of having committed the deed’ (meaning the
 “ ‘murder of the said Emanuel Vancrossen). ‘I’
 “ ‘(meaning the Defendant) have spoken to Orgias
 “ ‘and Sheriff’”—meaning the doctor and the
 Attorney General of the Island—“ ‘about it.’”
 Such is the declaration, to which the plea is “Not
 guilty,” only.

It is to be observed that the Plaintiff does not
 in any of his inuendoes declare that the words
 of which he complains were spoken with the
 intention of imputing to him a felony; that is to
 say, the crime of murder. The inuendoes do not
 purport to enlarge the meaning of the words,
 and if the words themselves convey only sus-
 picion the inuendoes do no more.

It has been argued, on behalf of the De-
 fendant, that since the Common Law Pro-
 cedure Act, section 61, has been passed, these
 inuendoes may be rejected and the prefatory

averments may be substituted for them and treated as the real inuendoes ; that is to say, that the prefatory words in the present case, " contriving to " cause it to be believed that the Plaintiff had been " guilty of murder," may be treated as explaining the meaning of the slanderous words set out in each of the counts. But their Lordships think that, there being inuendoes in the declaration whereby the Plaintiff undertakes to explain the meaning of the words spoken, he cannot substitute for them a prefatory averment which does not profess to give the meaning of the words spoken, but only the motives of the Defendant.

But it has been further argued that these inuendoes may now be all rejected, and the declaration may be treated as if it contained none ; and that being so, that the words complained of in the declaration are capable of two meanings in their fair construction : one, that the Defendant meant that the Plaintiff was suspected of having committed a felony ; the other, that he had committed the felony, and therefore that the question of their true meaning ought to have been left to the jury. It has not been disputed that in point of law words merely conveying suspicion will not sustain an action for slander.

With respect to the first, second, and fourth counts, their Lordships have had no difficulty. The words in those counts convey in their natural and ordinary sense suspicion, and suspicion only, and, according to the law of this country, with respect to the policy of which we have nothing to do, would not support an action of slander. Their Lordships have had more doubt with respect to the third count, wherein it is said that the Defendant used these expressions : " Haven't you heard that Charles Simmons is " suspected of having murdered one Vancrossen, " his brother-in-law ? A proclamation offering a

“ reward for the apprehension is in our office, and
“ there is only one link wanting to complete the
“ case.” It has been argued with some force
that these words are capable of bearing the
meaning that the Plaintiff is guilty of murder,
but that the technical proof against him is not
wholly complete. Undoubtedly, if the words
had admitted fairly of two meanings, the one
being an imputation of suspicion only, the other
of guilt, it would have been proper to leave to
the jury the sense in which they were uttered;
but their Lordships have come to the conclusion
that, taken in their natural sense, and without a
forced or strained construction, they do not con-
tain these two meanings, but only one, viz.,
that there was a case of strong suspicion, but of
suspicion only, against the Plaintiff, and are
therefore unable to say that the learned Judge
was wrong in withdrawing the case from the
jury. They have further to observe that, even
if the learned Judge had left the case to the
jury, a finding of the jury that the words
imputed actual guilt would not have been
satisfactory, and their Lordships would have
deemed it their duty to send the case back for
a new trial. Their Lordships observe, indeed,
that, according to the judgment of two of the
learned Judges, the principal stress in the argu-
ment of the counsel of the Plaintiff was laid
upon an answer given by William Simmons, the
brother of the Plaintiff, to a question put to him
in cross-examination, that he regarded the words
as an imputation of the crime of murder; but
their Lordships are of opinion that such a state-
ment by a witness without any proof of sur-
rounding circumstances or conduct leading to
the inference which the witness drew that the
words had some meaning different from their
ordinary meaning, was not evidence on which
the jury would have been justified in acting.

In the case of *Danes and Bradbrook v. Hartley*, 3 Exch. 200, it was expressly ruled in the Court of Exchequer that a witness could not be asked with respect to spoken words in a slander case, "What did you understand by those words?"

For these reasons their Lordships are of opinion that the order of the learned Chief Justice discharging the rule for a new trial was right, and they will humbly advise Her Majesty to make that order which the Court of Appeal of Grenada ought to have made, that is to say, an order affirming the judgment of the Chief Justice; but, considering all the circumstances of the case, and that the Court of Appeal has given no costs of the Appeal, their Lordships are of opinion that in this case the Appeal should be dismissed without costs.