

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN COMMON LAW,

SUIT NO. C. L. 1975/CO43

BETWEEN	HOPETON CAVEN	PLAINTIFF
A N D	DR. TREVOR MUNROE	DEFENDANT

Mr. David Muirhead Q. C. and Mr. R. N. A. Henriques instructed by Mr. Jerome Lee of Hew and Bell for the plaintiff.

Mr. Dennis Daley, Mr. Richard Small and Mr. Roy Fairclough instructed by Mr. Ronald Thwaites for the defendant.

Heard January 8, 9, 10, 26, 1979.

Rowe, J:

Dr. Trevor Munroe, then a lecturer at the University of the West Indies and holding office as Vice-President of the University and Allied Workers Union was the victim of a vicious physical attack on the 6th day of December, 1974 as a result of which, on his own account, he received one hundred stiches. The people of Jamaica were greatly incensed by this wanton attack upon a Trade Union Leader and the matter received extensive publication in the Daily Gleaner newspaper, the Star, the Daily News newspaper, on radio and on television. Responsible persons and organizations within the community and even from overseas condemned the attack. On the very next day, the Prime Minister, speaking for the government and for himself "deplored" the attack, and assured the nation that the Commissioner of Police had ordered an immediate maximum investigation into the matter under the personal direction of Assistant Commissioner of Police Roy Smith. The Bustamante Industrial Trade Union (B.I.T.U.) issued a statement in which it condemned the brutal and vicious attack on a number of people and "officers of the University and Allied Workers Union" and demanded that the authorities concerned use all means at their disposal to expose those who were responsible for "this organized violence" and bring them to Justice. The National Workers Union, (N. W. U.) "vigorously condemned the violent developments in the

Kingston waterfront and regarded the attack "as a blot in trade unionism in Jamaica". On the same day that the condemnations of the B. I. T. U. and N. W. U. appeared, there was published a statement by the Trades Union Congress (T. U. C.) in the Daily Gleaner newspaper which reads in part:

" The Trades Union Congress strongly condemns the foul deed; wishes categorically and emphatically to disassociate itself from all those responsible for an exceedingly cowardly act and hopes that Dr. Munroe and the other victims will soon be restored to a state of good health".

Malcolm Sharp a Gleaner columnist, writing in the Daily Gleaner on the 9th December, 1974 in an article Captioned "Black Friday" commented on the attack on the defendant and its implications and said inter alia:

" Please be in no doubt. This murder - attempt was directed".

A host of other organizations joined in the chorus of condemnation. These include the Human Rights Council, the Dockers and Marine Workers Union, the Jamaica Union of Bank Employees, the National Youth Service Workers Union, the Jamaica Union of Students and the Union of Journalists and Allied Employees, and a group based in Georgetown, Guyana.

Between the 7th and 12th December, 1974, the Daily Gleaner carried Seven (7) separate reports and articles dealing specifically with the attack on Dr. Munroe, The Star Newspaper carried Two (2) articles one with a photograph, while between the 7th and 10th - December, 1974 The Daily News carried Five (5) separate reports and articles on the same subject matter. There was no direct evidence of the number or dates on which publications of the attack on Dr. Munroe were made on radio and television but it was admitted in the defence that the attack on Dr. Munroe "was the subject of wide-spread press, radio and television publicity and condemnation".

Up to Sunday December 15, 1974 the attack on Dr. Munroe was of topical interest. On that day Dr. Munroe addressed the public session of the Second Annual Congress of the University and Allied Workers Union (U.A.W.U.). Some 500 cheering supporters were present. See

Daily Gleaner article Ex. 9. Dr. Cheddie Jagan, the Leader of the Opposition in the Parliament of Guyana was on the platform. Newspaper reporters were there; Radio reporters were there and so were the television cameras. The Daily News - Ex. 2, referred to Dr. Munroe's address as "an impassioned talk". I went along to the studios of the J. B. C., and viewed, along with the parties and their Attorneys two video - tape films made by the J. B. C. television crews, of Dr. Munroe addressing the Congress. The first film ran for approximately 4 minutes and the other for approximately 9 minutes. Prominently displayed immediately behind the platform were six large photographs displaying the wounded and extensively bandaged naked torso of Dr. Munroe. It was on this occasion and in this atmosphere with this background, that Dr. Munroe uttered the words which the plaintiff claims were calculated to disparage him in his calling and office as a Trade Union Leader and Legislator. He further alleged they were meant by the defendant, Dr. Munroe, and were understood to mean that the plaintiff had committed a criminal offence punishable by imprisonment. The defendant specifically admitted this latter allegation.

The offending words which were admittedly uttered by the defendant were set out in paragraph 8 of the Statement of Claim and are reproduced hereunder:

" That the Attack was directly organised by one of the Leaders of one of the capitalist political unions affiliated to the Government of Jamaica who has ears to hear let him hear who has eyes to see let him see who wants to bring libel action after this let him do it because we are prepared to go in any Court and tell the truth. So that everybody can hear what really happened brothers and sisters the attack was organised and directed by..... This attack was organised and directed by no other than Senator Hopeton Caven I talking it out straight, I am giving it to you cost it what it will. The two dumper trucks crammed with people picked up the people from the Ferry Marl Pit we have our Police and we have our investigations they were picked up from the Ferry Marl Pit and people on the S90 all of them came from Concrete Jungle Concrete Jungle.

Brothers and sisters do you know whose constituency Concrete Jungle is in Concrete Jungle is the place where a member of the Cabinet Tony Spaulding can be found at any time.

And even at this time I am telling it so that those who are here from the Press and those who are not here can hear it and even at this time the brothers and sisters the brethren who work on the Port of Kingston who are leading the drive to organise the workers in the U.A.W.U. the independent Union even at this time they are being intimidated threatened and some of them have got to leave their house you hear me yet they talk about Police investigation.....

The defendant admits in his defence that he was aware of the presence of representatives of the press, radio and television at the Congress and that they were there for the purpose of making a report of his speech and of furnishing the same to newspapers for publication and or broadcasting the speech or a part of it over the radio and television stations. There was no evidence before me of a radio broadcast, but the plaintiff was cross-examined to establish that only the 4 minute video-tape film was screened for television viewers generally and that the plaintiff was not identified by name in that film. The 9 minute video-film contained, inter alia, the libelous statement complained of and set out in paragraph 8 of the Statement of Claim.

Mr. Clifton Neita, the Managing Editor of the Gleaner publications said that in 1974 the Daily Gleaner had a daily circulation in Jamaica of 62,000 copies. A small number of persons in the U. S. A. U. K., Canada and the Caribbean subscribe to the Daily Gleaner and they receive their copies by airmail. The Gleaner can also be purchased at newstands in Times Square, New York Of the Jamaican Weekly Gleaner (N. A.), Mr. Neita said, that in 1974 the circulation was 30,000 per week, 23,000 were distributed in the United Kingdom and 7,000 in Canada and U. S. A.

A news report appeared in the issue of the Daily Gleaner of Monday 16th December, 1974 captioned "MUNROE ASSIGNS BLAME" The material portions of that article which were set out in paragraph 10 of the Statement of Claim are as under:

" Dr. Trevor Munroe in his address to the public session of the University and Allied Union's second congress at Mona, yesterday, said that the December 6 attack on him, was directed by Senator Hopeton Caven, General Secretary of the Trades Union Congress. Dr. Munroe, Vice-President of the Union, said that investigations

carried out by his organization since the attack, had proven beyond a doubt that Senator Caven had organised the attack, which left him with wounds to his head, back and arms, and required 100 stitches. He said that the information which his organization had gathered, because of their non-belief in the sincerity of the Police investigations, was that the gunmen on bikes were from the Concrete Jungle area in Trench Town and that the Crash Programme workers were picked up at the Ferry Marl Pit and taken to the scene of the U. A. W. U's meeting.

" I have to tell the truth, cost it what it will", the Union's vice-president, and Lecturer in the Department of Government at the University of the West Indies, Mona Campus, told some 500 cheering supporters who attended the Union's Annual Congress.

" Whoever wants to bring libel action against me can go ahead. I am prepared to go into any Court to test the claim. It was directed by Senator Hopeton Caven", he said.

He said too that evidence had been found that people were paid and were still being paid".

This article was reprinted in the Jamaican Weekly Gleaner N. A. of December 24, 1974 (Ex. 19). Five other articles appeared in the Daily Gleaner between the 17th and 24th December, 1974 referring to the attack on Dr. Munroe but in none of these were specific reference made to the plaintiff as an accessory to that attack.

The plaintiff alleged that the publications of and concerning him outlined above greatly injured him in his character, credit and reputation and more particularly in the way of his calling and office as a Trade Union Officer and has brought him into public scandal, odium and contempt and he claimed damages for libel and slander. The defendant manfully resisted the claim and boldly put in a plea of justification. He said that the words spoken by him were true in fact and in substance. That defence was put in on the 30th April, 1975. It was persisted in up to the morning of trial. When Mr. Muirhead rose to address the court as to which party should begin, having regard to the pleadings, Mr. Daley sought and obtained permission to inform the court that the defendant wished to withdraw the defence of justification. It is well that I should set out the reasons which Mr. Daley gave as impelling the defendant to take such a course. He said, "the defence wishes to withdraw the defence of justification. Action arises out of and has its origin in an attack on the defendant on December 6, 1974, in which he was very seriously injured and which was the subject of widespread commentary

in the press and civic organisations. Following this there was a meeting of the U. A. W. U. on December 15, 1974. The statements which are the subject of this action were made and were publicized by one newspaper. No one was ever charged arising out of the very vicious attack made on the defendant. At the time that the statement was made on December 15, 1974, it was based on statements from witnesses which were signed and which were, after thorough examination of the witnesses, believed to be reliable, correct and true. These witnesses are not available to be called at this trial and therefore of necessity the defendant is therefore making this application to "withdraw this defence". It was his view that the matter should proceed to assessment of damages.

In the statement of withdrawal no reason whatsoever was given for the non-availability of the defendant's "witnesses" and there was no hint of repentance therein on the part of the defendant.

After some little argument, I entertained a motion for judgment by Mr. Muirhead, entered judgment for the plaintiff and proceeded to assessment.

On the issue of damages the plaintiff gave evidence. He is 51 years of age and since 1949 has been associated with the T. U. C. At first he was a volunteer, but in 1950 he was made a full-time organiser. He rose to the position of Conciliation Officer in 1953; was elected to the executive of the Union in 1954 and in 1958 was elected to the exalted position of General Secretary, a position which he has the honour to hold to this day. The T. U. C. now has a financial membership of approximately 15,000 persons and a non-paying membership of approximately 10,000. Mr. Caven said that he is very well known inside Jamaica and equally well in his sphere of activities on the International Scene. He has been to Denmark on a 3 month UNESCO fellowship. He has been to the U.S.A. on a travel grant from the American Institute of Free Labour Development. He has represented the T. U. C. at the Caribbean Congress in Barbados, and since 1972 he has been a workers' delegate as well as adviser to the Minister of Labour to the International Labour Organization Convention in Geneva.

In the political sphere he is a member of the Senate of Jamaica, nominated by the Prime Minister. He was first nominated in 1972 and was re-nominated in 1976. He is a long time member of the Executive of the P. N. F. He represented Jamaica at the Commonwealth Parliamentary Association meeting in London in 1973 and again in Mauritius in 1976. As a public spirited person he served as a Regional Director of Janal, as a member of the Labour Advisory Council advising the Minister of Labour and ⁱⁿ more recent times he has served as a Director of National Housing Trust, and as a Director of National Hotels and Properties Ltd. He summed up his career by saying that his two abiding interests are trade unionism and politics.

Three trade unions represent the 1,000 portworkers in the port of Kingston, with the B. I. T. U. and U. P. W. U. as majority unions. In 1974 the T. U. C. had less than 100 members. In that year there arose a dispute between the "Blue Book" portworkers and their employers which led to a stoppage of work. These workers were demanding payment to them of interest on their superannuation contributions. The T. U. C. and its General Secretary felt that this claim was unjustified and consequently, at a meeting at the Ministry of Labour the plaintiff agreed to instruct the port-workers to resume their duties. This agreement received wide over-night publicity. When on the following day the plaintiff attempted to address the port-workers, he was heckled and criticized and told that he was misleading the workers as they, the workers, had been told by the Doctor at the University (the defendant) that they were entitled to the interest payment that they were demanding. At this meeting the workers turned their backs on the plaintiff and those of like mind who sought to address them. Sometime after the break up of this meeting the defendant came down from the University to the Waterfront, ^{and} was savagely attacked and severely injured by a crowd of people as he sought to address the port-workers.

The plaintiff said that his union had lost ground on the port since 1974 although since then it has raised its membership by

300 per cent islandwide. The defendants' union never gained a foothold on the docks, notwithstanding that he made his best endeavours to organize the apparently dis-satisfied workers. Mr. Caven, swore that he was greatly hampered in the conduct of his day to day affairs after Dr. Munroe's dastardly accusations, especially on the docks and this accounted somewhat for his Union's loss of membership amongst port-workers.

According to the plaintiff when he went to the Ministry of Labour on one occasion, during the currency of the December 1974 dispute, to represent the interests of the port-workers members of the T. U. C., the port-workers present manifested extreme hostility towards him. They were boisterous and threatening. They were abusive. The then Director of Industrial Relations saved the day by escorting him from the meeting through a side door. The Police were summoned, and then there was the plaintiff's undignified exit through a back door to his car. The angry mob had been cheated of their prey. The police offered him protection and escorted the plaintiff towards his home.

Such was the general hostility of the populace towards him that the plaintiff complained to the local Superintendent of police who provided special patrols in the area where he lived. His coming and going on the street were not without incident. People who recognised him were wont to shout "Caven Murderer" - "Caven shane". During this period his essays forth from his home were timorous and apprehensive.

In the early days after December 15, 1974 the plaintiff said he lived a wretched life. If he went to any social gathering he would be cold-shouldered by former friends and associates and in extreme cases he was treated almost as a "leper". At home too all was not well. He received several abusive and threatening telephone calls. So there he was without peace on the streets and forced to change his life style and to depute his juniors to fulfil his duties and obligations on the port and elsewhere. The most violent incident occurring at that time was ^{the} unprecedented bomb attack on the T. U. C.

office but mercifully the detonation of the bomb was at night when the office was deserted.

The harassment and embarrassment of the plaintiff included his having to satisfy by explanation and reasoning the questions of interested persons whenever he ventured to go from home, that the accusation made by the defendant was baseless. According to the plaintiff there were areas of the Corporate Area into which he would not be so intrepid as to venture due to the nature and content of the threats directed towards him. Enquiries were made of him, said the plaintiff, as far afield as the U. S. A. and in the U. K. and as recently as in 1977 when he visited Washington, a group of Jamaican students studying at Howard University taxed him with the accusation. His painstaking reply took hours of his time and even then he is left to wonder how many of his hearers believed him. In addition to all this, the plaintiff is the representative of the Jamaica Progressive League (JPL) in the Executive of the P. N. P. The JPL draws its membership from the major cities of the U.S.A. and the plaintiff has had to endeavour to satisfy them on an ungoing basis that he is not guilty as charged.

Two other matters were raised by the plaintiff in his evidence. The first was that the defendant's discreption of the T.U.C. as:

" One of the capitalist political unions affiliated to the government of Jamaica "

was totally untrue. He said that the whole history of the T.U.C. and of its leaders over the years demonstrates that it is a socialist oriented union,. It is totally independent of the government and for a number of years now has not been affiliated to the P. N. P. or any other political party. The plaintiff contended that the effect of the defendant's description of the T. U. C., as a capitalist political union affiliated to the government was calculated to destroy the confidence of the workers in the plaintiff's leadership of that union; to bring the plaintiff into ridicule, hatred and contempt, and to create the impression that the T. U. C. ^{has} a bias towards

government.

The second matter was the allegation that the plaintiff's health has been adversely affected by the publication. He describes himself as psychosomatic and for some years he has suffered from asthma. Prior to 1974 he had consulted at least three reputable physicians for his ailment but he was showing marked improvement, "growing out of the illness", by December, 1974. Since then, he says he has had frequent recurrent attacks of asthma and now has to carry with him a ventolin inhaler. He stated that on occasions he has been confined to bed with this condition and at other times he has had to be hospitalized. Dr. Irwine was called by the plaintiff. He treated the plaintiff for asthma in 1971 and again in April, 1975. He saw him again in May 1975, February 1976, July 1976, November 1976 and September 1977 for asthma. The doctor was of opinion that with this particular the plaintiff asthma could have been caused by a combination of an acute respiratory infection or an emotional strain or by either condition. He could not state with any precision that a publication of a slander and libel in December 1974 could be causally connected with the plaintiff's asthmatic attack four months later, but he did say that if in April, 1975 the plaintiff was in fact emotionally disturbed by reason of the libel and slander this could be a factor to trigger off the asthmatic attack. The doctor made no clinical finding that in April 1975 the plaintiff was so emotionally disturbed.

The plaintiff was thoroughly and efficiently cross-examined by Mr. Fairclough for the defendant in an effect to mitigate damages. No pecuniary loss was pleaded by the plaintiff and he said in evidence that he had suffered none. The T. U. C., he said, had not progressed as at fast a rate as he had contemplated but the fact is that it has trebled its financial membership since 1974 and in the process has gathered two prestigious plants under its representational umbrella. The plaintiff has retained all the nominated and elected offices which he held in 1974 and his position has been enhanced by his appointment to additional directorships since that time. In his own Union his subordinates have remained respectful and obedient towards him.

I entirely agree with Mr. Muirhead's description of the plaintiff "as a distinguished citizen of Jamaica". The plaintiff has been around long enough and has moved in sufficiently exalted circles to deserve that appellation. On what principles then should the assessment of damages for the grossly defamatory attack on the plaintiff, proceed? The slander consisted of the words spoken in the defendant's address to the Congress. It was well received by the audience which applauded fervently. As to the libel, the plaintiff relied on statements found in the authoritative work of Gatley on Libel and Slander, 7th edition. The plaintiff's attorney confined himself to citations from this work and in so far as the defendant's attorney addressed me on the law he followed a similar course.

At paragraph 267, relying upon the authority of Speigh v. Gosnay (1891) 60 L.J. Q.B. p. 232, the learned author states that the original publisher is, however, liable in three cases (stated in Speigh v. Gosnay): viz

- (i) Where he authorized or intended the person to whom he published the words to repeat or republish them so some third person;
- (ii) Where the repetition or republication of the words to a third party was the natural and probable result of the original publication.
- (iii) (Not relevant)

From the context in which the defendant spoke it is clear beyond a peradventure that he intended the press to publish his accusation. He went out ^{of} the way to specifically advert to the presence of the press and to invite the reporters present to take the news to those who wished to hear but could not be present.

A criminal assault had been made upon Dr. Munroe and, as I have been at pains to set out, the matter was of the greatest public moment. Top level police investigations were mounted with up to then no positive results. Any declaration by Dr. Munroe, in the octave of his assault, of the identify of the person who had organized the attack upon him would attract as its natural and probable consequence repetition by the press to the world at large. I hold that under heads (i) and (ii) above, the defendant is liable for the publication in the Daily Gleaner and in the Jamaican Weekly Gleaner (N. A.) of the

libel complained of in the statement of claim.

I have already alluded to the fact that the plaintiff did not allege or prove any financial loss: A plaintiff's cause of action is complete if he proves that a libel has been published of and concerning him. An action for slander will lie without proof of special damage if the words impute a crime for which the plaintiff can be made to suffer imprisonment or where the words are calculated to disparage him in his office profession or calling (See paragraph 143 of Gatley)

In this case the defendant admitted that the words imputed to the plaintiff a criminal offence punishable by imprisonment . It appears to me that the words are also calculated to disparage him in his office, profession or calling as a trade union Executive in that only a dishonourable, morally bankrupt trade union leader, would mount a vicious physical attack upon another trade union leader in order to maintain his present personal stance, or to retain representational rights which are being challenged or to enhance his Unions position at the expense of a rival union. The wide-spread condemnation of the attack on the defendant is evidence of the opprobrium which right thinking members of the society attached to those who perpetrated the dastardly deed. That the plaintiff's Union has been able to weather the storm is either a reflection on the phlegmatic nature of the society in which we live or an indication of the dynamism of the man and of his Union. I need not decide which. I have come to the conclusion based on the evidence and the pleadings that the plaintiff is entitled to damages on heads (1) and (3) as set out in paragraph 143 of Gatley, Libel and Slander supra.

Mr. Muirhead did address me on the question of exemplary damages. He adverted to the fact that had the defendant succeeded in organising the port-workers in the U. A. W. U., that union would stand to gain one dollar per week per member, amounting to a possible \$1,000 per week. The plaintiff speculated that a majority union on the port could hope to entice certain ancillary workers away from

former union allegiances and so further enrich itself. To entitle him to exemplary damages it is not sufficient for the plaintiff to show that the defendant calculated the pecuniary benefit which would accrue to him or his union by the publication of the libel. The plaintiff must prove that he himself has or would suffer by such conduct if he is to receive exemplary damages (Gatley, para 1361).

On this aspect of the case there is another hurdle in the path of the plaintiff. He did not make a claim in his pleadings for exemplary damages, nor did he set out the grounds on which he was making such a claim. The defendant could not, by taking thought, have come to court prepared to meet the plaintiffs request for exemplary damages. I am of the view, that in the interest of justice, a pleading ought not to be permitted to seek damages which are in the nature of a penalty without giving the defendant advance notice of such a claim so that the defendant may come into court prepared to answer that claim. In any event, in my view, the plaintiff has not made out a case for exemplary damages and he has failed utterly to show that the tortious act was done with the calculated motive that the chances of economic advantage to the defendant outweighed the possible damages that he could be called upon to pay.

In this case damages are at large in the sense that I am not bound by any previous assessment as to quantum. I must however, take fully into consideration all the factors which have traditionally exercised the minds of judges and juries in arriving at proper awards. I must take into consideration the conduct of the plaintiff and especially how he issued the strong statement condemning the attack upon Dr. Mumroe. I must consider the plaintiff's standing as a leading trade-unionist in Jamaica, a member of one of the Houses of Parliament, a person with important contacts in England and the U.S.A. and stretching all over the Commonwealth. I must consider that this particular libel imputed to the plaintiff the commission of a criminal offence punishable by imprisonment and that it received the widest possible publication in Jamaica. Mr. Muirhead estimated that the readership of the Gleaner

is some five times greater than its actual circulation which would ensure that almost every person in Jamaica could become aware of the libel. Those who had read of the plaintiff's condemnatory statement of the attack in the Gleaner must have been disgusted at the man's hypocrisy when they became aware of the defendant's charge.

I must take into consideration the conduct of the defendant. He has steadfastly refused to tender any sort of apology to the plaintiff or to withdraw or retract the allegations. In his address to the Congress he dared the plaintiff to bring a libel action and arrogantly stated that he was unmasking the real culprit, "cost it what it will". Then the defendant put in a plea of justification, maintained it until the case was called upon for trial and only withdraw the plea in the most grudging terms viz, "due to the unavailability of his witnesses".

No amount of compensation can fully restore to the plaintiff the high esteem in which he was formerly held by the Jamaican man on the street. Some of the port-workers have drifted away from the T.U.C. and the plaintiff does not feel free to personally do representational work on the waterfront. Was it the motive of the defendant to destroy the plaintiff as ^a rational and reasonable reasonable trade union leader? When I posed that question to the defendant's attorney, his considered reply, was that "the attack on the plaintiff was in-temperate in the manner of its expression but I would not agree that it was designed or calculated to destroy the plaintiff as a trade union leader". There will be those, who having heard the defanatory accusation, believe it to be true and will forever scoff at the plaintiff and deny him the right to be called an upright, straight dealing trade union leader. The plaintiff suffered very considerable distress and his feelings were hurt to an extreme degree. In all the circumstances I am of the opinion that he is entitled to aggravated damages.

Mr. Muirhead referred me to the case of Bernstein

v. The Observer Ltd. and others decided by the Court of Appeal in England in 1976 where the Court upheld an award of £35,000. Lord Denning M. R. said in part:

" The award of £35,000 was a large sum as damages. But one had to remember Lord Bernstein's standing in the community, the reputation which he has built up over a long life and the outrage to his feelings which he might well have felt at what was said at the end of his life. The damages were well within the province which a jury could give".

Mr. Muirhead likened the plaintiff in this case to Lord Bernstein and submitted that he is entitled to a similar sum in damages. In Maxwell and others vs Forde St. John (1977) 22 W. I. R. 12, the Court of Appeal of Barbados upheld an award of \$35,000 in a case where the plaintiff, a barrister at law, a Queen's Counsel, and Leader of the Opposition, who was campaigning for re-election to the House of Assembly was defamed in his personal and professional capacity as well as his public image. The libels made imputations of unpatriotic behaviour, a desire to obtain financial gain and professional impropriety against the plaintiff Forde. The plaintiff in the instant case was accused of being accessory before the fact to the crime of wounding with intent either to kill or to cause grievous bodily harm. There are similarities between the Maxwell case and the present one except that it does seem that the imputations against Forde were more wide-ranging.

It is fair to conclude from the tenor of the accusation itself and from the surrounding circumstances that the plaintiff was being branded as a small time unscrupulous trade union leader who would use extreme violence to safeguard his union's minority position on the Kingston Waterfront or who would resort to extreme violence in defence of his opinion on a trade union matter whether that opinion was maintainable or not.

No evidence was led as to the means of Dr. Munroe. It was said that he is now a Senior Lecturer at the University, that he is the President of the U. A. W. U. and that he is reportedly the leader of a newly formed political party. Awards against newspapers in libel actions have traditionally been more generous than those against

individuals. I think that the figures contended for by Mr. Muirhead are out of line with economic reality in Jamaica but I also feel that the upward limit of twelve thousand dollars suggested by Mr. Fairclough to be wholly unrealistic. As a commonsense matter, and regarding as I do the libel and the slander to be gross indeed and in the light of the fact that there has been no apology, withdrawal or retraction of the defamatory statements, I award the plaintiff the sum of Twenty-five thousand dollars (\$25,000) as damages with costs to be taxed or agreed.

I. D. Rowe,
24th January, 1979.

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