

In the Court of Appeal

J.R. Scabbingham (Engineering) Ltd

- v -

C.L. Publications Ltd

The defendant CL Publications Ltd is the publishing and printing arm of the Communist Labour Party, a left-wing group. Between 1977 and 1989 the CLP weekly newspaper *Communist Worker*, which is published by the defendant, carried a cartoon strip entitled 'Red Reg'. On two occasions this strip contained references to a fictitious firm "Scabbingham's Engineers", on the first occasion as the employer in a long-running union recognition dispute, and on the second occasion as a major contributor to the funds of the (equally fictitious) "Grimeville Conservative Association". In 1991 the complete set of the cartoon strip was published by the defendant in book form as "The Collected Red Reg", and this book continued to be promoted and sold by the defendant until shortly before the commencement of the present proceedings, when it went out of print.

The plaintiff company was formed in 1992 to acquire the light engineering businesses of J. Scabrell Ltd. and R Bingham (Engineering) Ltd. Shortly after the formation of the new company and the associated changes to signs, trade-marks, etc., a shop floor humorist at the former J. Scabrell factory pinned up a photocopy of the relevant cartoons on a notice board. The plaintiff approached the defendant for withdrawal of the book, and, on failing to obtain satisfaction, commenced proceedings for damages and an injunction.

On a preliminary point of law, Lefty J at first instance held

- (1) that even if the statements in the cartoons could be taken as referring to the plaintiff, the plaintiff could not sue for defamatory statements made before it came into existence and merely repeated after it came into existence; and
- (2) that in any event even if the two cartoons were to be taken as implying that the plaintiff did not recognise trade unions and/ or was a contributor to the Conservative Party, these statements were not capable of being defamatory.

The plaintiff appeals against these holdings.

*This problem was written by Dr. Michael MacNair in 1996,
and was provided courtesy of Rory O'Connell of Lancaster University.*