

Opening Speech for Defence.

H. D. Mundell

To publish a Koran as a true Koran, he continued, and get people to buy it when it is not a true Koran is to publish vicious creeds and rob people of their money. There is no more than fair comment in that. Daud Shah translated the Koran from the English translation of Mohamed Ali into Tamil and not from the Arabic.

His Lordship:—A man would see that he was buying a Koran written in Tamil language.

Mr. Mundell:—My Lord, I suppose 90 per cent of Mohammadans, at any rate, of Indian Mohammadans, are almost illiterate and could not distinguish between what was a true copy of the Koran and what was not. They would not know of any improper constructions placed on any of the verses. The Koran is the most perfect of all the scriptures and is supposed to be without mistake. If a man is palmed off with a copy that is erroneous I submit that the language used here is not at all too strong.

To spread doctrines which are not in accordance with the orthodox Islamic faith is, I submit, spreading vile calumny within the meaning of this article. It was admitted by the true Muslims that the Qadianis and the Ahmadiyahs by their books spread their doctrines all over the world.

His Lordship:—You can scarcely call that vile calumny.

Mr. Mundell:—Yes, My Lord, because it misrepresents his religion, which is the only true religion.

Paragraph 15 only applies to Daud Shah.

Paragraph 18 can only apply to Daud Shah who is the only person who has ever posed as a Guru and adviser to the public.

Paragraph 19 is a religious quotation. (The interpreter states it is impossible to give a rational translation).

Paragraph 21 is a statement of fact.

Paragraph 22 is as to the beliefs and the Court is entitled to draw inferences from acts and words as to a man's beliefs. This paragraph contains a statement that the Plaintiffs belong to the Qadiani sect which is outside the pale of Islam.

Paragraphs 23, 24, 25 and 26 do not refer to the plaintiffs and would be known by all Mussalmans in Singapore not to refer to them.

His Lordship:—This is too strong a comment on persons spreading false doctrines in connection with Muslim religion under the cloak of that religion.

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Mr. Mundell:—I submit that if I establish that Qadianis are outside the pale of Islam and that the plaintiffs can by their acts be fairly judged to be Qadianis this is no more than a fair comment.

His Lordship:—Are the Qadiani sects Kafirs or not?

Mr. Mundell:—In 1917 they were recognised in Indian Courts as people who entertained a pronounced dissent upon several important matters from the orthodox Mohameddans. The only thing to be drawn from the cases which have been referred to by my learned friend Mr. Campbell, I submit, is that there has not been opportunity for the Muslim world to form a definite opinion as to whether the Ahmediyyas or Qadianis are Kaffirs or not. It is clear that in India in 1917 and 1922 the matter was raised and on the evidence given in certain cases it was decided that they were Mohamedans. These decisions are not binding. The Muslims in the Straits Settlements are entitled to just as much recognition as a separate entity as the Muslims in India. It is a question of fact to be decided on evidence. I shall adduce evidence and I am calling the four Imams of Singapore with the exception of the oldest who is too ill to attend the Court. They will give evidence that Mirza Ghulam Ahmad, the founder of the Ahmadia sect, perverted the meaning of the Koran and that he claimed that his own words were as divine as those of the Koran and that he preached that those who did not believe in him were not Muslims. I submit that here and in Java the sect has a large number of adherents. The question is whether they are Mohamedans. My Lord, I shall seek to prove from Mirza's own teachings that in addition to the points of difference, referred to in Madras Law Reports, Mirza preached that those who did not believe in him were not Muslims.

I propose to put in four booklets called "The Ahmediyya Movement" by Muhammad Ali, the translator of the Koran. Your Lordship will observe on pages 3 and 5, 29 and 31 of Volume II (5b) Mirza's claims to be the Promised Messiah. I tender a book containing collections from the teachings of Ahmad in his own words.

At the time of Christ, when there were the Jews and the Gentiles, the person who believed in Christ was a Christian and ceased to be a Jew. When Muhammad came, the person who recognised Muhammad as the prophet of God, whoever they were before, provided that they adopted

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the unity of God, were Muhammadans. They could recognise Jesus as a prophet and all the other prophets. Then there came a new man, Mirza, who claimed to be the Messiah.

His Lordship:—Mirza said that Muhammad prophesied 'I should appear and here I am.'

Mr. Mundell:—No, My Lord, he goes further and says that the Jewish books prophesied that the Messiah would appear, and here I am. It is an attempt to combine four religions into one religion, the Jewish, Christians, Muhammadans and Hindus—"I am the Messiah promised to all of them." Christ appeared as the Messiah of the Jews: The Christians accepted, but the Jews would not. I submit this as an analogy to the case of the Muslims and the Ahmediyas.

The Court adjourned.

Second Day—Wednesday, 27th January, 1926.

When the hearing was resumed this morning, Mr. Mundell continued his address. Mr. Mundell:—My Lord, I shall be obliged to take up a considerable amount of time of this Court although I do not suggest that this case is not of great importance between the parties. The chief importance of the case from the view of the defendant is the question as to whether the Qadianis or Ahmadies are Kafirs (infidels) or not. It is so important, My Lord, that I do not propose to omit any evidence that is available to me.

I refer Your Lordship to the Indian Case, which my learned friend Mr. Campbell cited in regard to one of differences between Ahmadies and non-Ahmadies, which reads as follows:—

"While both sides accept that Muhammad was the seal of prophets, they differ as to its interpretation. Ahmadies say that it means that no new prophet can arise except as a follower of Muhammad and bearing his seal, and not that no new prophet can arise at all, as the Non-Ahmadies hold. Ahmadies admit into the list of prophets before Muhammad world-teachers such as Zoraster, Budha, Krishna and Ramachandra and this, they say, is according to the Quran but non-Ahmadies refuse to acknowledge them as prophets. Of course, the Ahmadies hold that Ahmad was himself a prophet of God but unlike the earlier prophets, he got his prophethood

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through Muhammad who was made a prophet-maker by God." Apparently, the difference between the Ahmadies and Qadianis was that the Ahmadies hold that Mirza although a prophet, was not a prophet of the same nature as Muhammad, whereas, as I understand the matter, Mirza Ghulam Ahmad was in every sense a prophet equally as Jesus Christ and Muhammad.

Your Lordship will find on pages 4, 8 & 12 of Volume I of the Ahmadiyya Movement which purports to be an account of the life of the founder. On page 21 he repeated the claim that he was a prophet like Muhammad. The last declaration by Mirza in 1892 was that he was not a prophet, but his claim to have been a prophet, I submit, must have been made later. In the declaration of 1892 he was referring to the use of the word "Mahdi" and goes further and uses word "Rasool" which is a word for a prophet.

Mr. Mundell then read out from pages 30 & 33 the charge brought by Dr. Clark of the Church Missionary Society, Arimitsar, of murdering a young man the prosecution of which failed. Mr. Mundell again referred to another proceeding in which Mirza was sued for a thousand rupees which he had offered to any Christian who would come forward and prove that Jesus Christ had shown more signs than he had done. Only the acts of God, the book stated, could save him when he thus had all earthly forces against him. He wrote to Her Majesty the Queen suggesting that she should accept Islam and himself as the Messiah.

The gist of Volume III is that Mirza made a number of prophecies which were fulfilled, vide pages 19 and 20.

At this stage Mr. Mundell put in a pamphlet called "**The Ahmadiyya Movement. What It stands for. Misunderstandings Removed**" by Maulana Muhammad Ali, the head of the Ahmadiyya Movement Lahore.

I shall refer Your Lordship, said Mr. Mundell, to the translation of the Quran made by Maulana Muhammad Ali. My instructions are that this translation is an improper translation with omissions.

Reading from the 'Ahmadiyya Movement' above referred to, Mr. Mundell proceeded that the writer of that pamphlet says that the Ahmadiyyas are called Kaffirs by fanatical Mullahs, but they believe in everything that a man is required to believe to be a true Muslim. The Ahmadiyya Movement stands for the most liberal interpretation of Islam. Dealing with various grounds upon

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which Ahmadiyyies are declared to be Kaffirs, the author stated that one ground was that they believed that Jesus Christ died a natural death; but that was stated by the Quran. I shall produce evidence on that point and also on the question of divine revelation which the author stated was another ground for Ahmadiyyas being declared Kaffirs. I submit, My Lord, that I have not got to prove that the Sunnat Jama'at have pronounced them to be Kaffirs.

A true Muslim must subscribe to the unity of God and to the fact that Muhammad is the prophet and also must believe in the five fundamentals, that is, Quran, Prayer, Fasting, Zakat (poor rate), and Haj (pilgrimage).

At this stage Mr. Mundell put in the Quran translated by Sale and one by Rodwell with a view to comparing with the translation by Maulana Muhammad Ali.

Mr. Mundell:—I refer Your Lordship to page 11 of Muhammad Ali's translation in which he translates "I am Allah, the best Knower." In Rodwell page 338 there are Arabic letters found in all copies of the Quran. At the head of the 29 Chapters Muhammad Ali has not put in the words the letters stand for but a translation of the words they stand for. Mr. Mundell referring to the Sale's Preliminary Discourse said "My submission is that Muhammad Ali has no right to translate these letters and if this translation is accepted there will be no mystery in the future translation. Dr. Muhammad Abdul Hakim Khan also disagrees with Muhammad Ali on the notes of his translation on page 10."

Page 775 Muhammad Ali translates in the same way, also pages 139, 789, 801 & 807.

Page 159 v. 54 of Rodwell Page 391; Sale's page 43 'Exalt you in my presence' is quite different from other translations, 'Take you up unto me.'

Page 241 of Muhammed Ali v. 157 of Rodwell page 427 and Sale page 78.

Page 285 v. 117 of Muhammad Ali page 199 of Rodwell and at the foot of page 98 of Sale.

Page 899 v. 42 of Muhammad Ali who translates 'Allah takes the souls etc.' whereas Rodwell on page 2 and Sale on page 380 says 'God taketh into himself.' These words Muhammad Ali omits.

Muhammed Ali on page 331 v. 20 translates 'evil inclinations' as 'nakedness.' Rodwell page 295 Sale page 117.

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His Lordship:—How could I decide whether this translation is correct or not? Muhammad Ali himself says in a note to the translation that those words are conjectural and that these letters are abbreviations.

What is Jihad?

Mr. Mundell:—I submit, My Lord, that Muhammad Ali's translation left no room for doubt that **Jihad** does not mean **fight**. Until the coming of Mirza all Muslims thought that '**Jihad**' meant nothing else but a 'holy war.' Mirza was the first man to give these other meanings to the word. It was written of him that Mirza came and removed two beliefs—(1) that Jesus was alive (2) and that Islam was to be propagated by the promised Mahdi by means of the sword. The orthodox Muslims still hold that this is true.

His Lordship:—I think that Mirza's arguments seem to be strong.

Mr. Mundell further proceeded with comparing the three translations.

Page 99 v. 218 of Muhammad Ali "Surely those who believe and those who fled (their home) and strove hard in the way of Allah.....". Rodwell page 361 "They who fight in the causes of God etc." and Sale Page 25.

Page 414 v. 73 of Mohammad Ali and Rodwell page 478 and Sale 157.

Page 556 v. 110 of Muhammad Ali, Rodwell page 206 and Sale page 225.

Page 1093 v. 9 of Muhammad Ali, where he says "Strive hard" Rodwell page 465 and Sale page 457.

Page 339 v. 54 of Muhammad Ali "firm in power", Rodwell page 299 "mounted the throne" and Sale page 121 "ascended his throne".

Page 432 v. 3 of Muhammad Ali "firm in power" Rodwell page 275 and Sale page 166.

Page 498 v. 2 Muhammad Ali, Rodwell page 333 and Sale page 600.

Page 625 v. 5 Muhammad Ali, Rodwell page 94 and Sale page 355.

Page 722 v. 59 of Muhammad Ali, Rodwell and three more passages on pages 722, 608, 1043 of Muhammad Ali, Rodwell pages 16, 190 and 407—Sale Pages 300, and 436.

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Page 887 v. 44 of Muhammad Ali, Rodwell page 127 and Sale 375.

On page 472 an Arabic word is missing from the text.

Mr. Campbell:—It has been supplied in the 2nd edition and I shall prove that.

Mr. Mundell:—I shall prove that so far as Muhammad Ali's translation of the Quran goes it tends to prove the doctrines which the orthodox Muslims say are false doctrines.

The rules of Anjuman-i-Islam were put in.

Mr. Mundell:—I shall prove to Your Lordship that the plaintiffs are connected with the Ahmadiya Movement and the "Muslim," the organ of the Association, will show that the plaintiffs as well as Bashir Ahmad Mallal were the members of Anjuman-i-Islam from its inception in 1922. Mr. H. G. Sarwar was also a member and Khwaja Kamal-ud-Din, the head of Ahmediya Movement at Woking, was the Director of the Anjuman-i-Islam. "The Muslim" of May and June 1923 shows on its cover the advertisement of the "Light" which is the publication of the Ahmadiyahs of Lahore.

His Lordship:—Then many papers at home would be horrified at the suggestion that they are responsible for anything they advertise.

Mr. Mundell put in the July number 1923 of 'The Muslim,' and before he could conclude his address the hearing was adjourned till Tuesday the 2nd February, the next available date.

The Court Adjourned.

Third Day—Tuesday, 2nd February, 1926.

Mr. Mundell tendered a book in which the alleged tenets of the Qadiani sect are set forth and stated that the man who wrote it was a Qadiani.

Mr. Campbell:—I object to its going in.

Mr. Mundell:—It is a treatise commonly offered for sale and therefore admissible under sections 49 and 60 of the Evidence Ordinance. I will prove it later.

Mr. Mundell:—I would refer Your Lordship to the August number of "the Muslim," page 131, wherein the name of the 2nd Plaintiff was mentioned as one of the management committee. On page 223 in the same number M. Malim the 1st plaintiff signed the report.

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Page 146 True Muslims are true Christians

Pages 149 and 150.

March Number of 1924, page 53, page 55.

The question now arises as to whether the Anjuman of Singapore was connected with the Ahmediyya movement and in the April number of 1924 on page 63 a notice appeared in "The Muslim." 'The Muslim has nothing to do with the Ahmediyya Movement'; page 74 and page 76.

Mr. Mundell:—I seek to put in a newspaper report of a meeting of Muslims held at the Memorial Hall last July 13th reported in the Free Press on the 14th.

Mr. Campbell:—I object to this document being put in.

His Lordship:—How is this document relevant to the issue?

Mr. Mundell:—It affects the plaintiffs, My Lord, in that they were connected with "The Muslim" and "The Muslim," Oct. number of 1925 (page 2), commented upon this meeting and reproduced on pages 7 and 8 comments on the meeting which had been published in "The Light of Lahore" which is the Ahmediyyan publication. It shows the position of the Anjuman-i-Islam to whom "The Muslim" belongs, with reference to the Ahmediyya Movement.

"The Muslim" on page 3, October number of 1925, commenting on the meeting said that one of the fourteen points brought forward by the Mullahs at that meeting had tickled them immensely with regard to the meaning of the word "Lord." If the Mullahs' meaning is correct, the paper remarks, "Then all the lords in England, Lord Reading, Lord Balfour, etc., are Gods" The "Light of Lahore," in its comments, likens the position of Islam to that of Julius Caesar and remarks that Islam would be right in saying with Caesar "Et Tu Mullah." The paper stated that the meeting was a clear indication of the gross mentality which pervaded it. It appeared to have been held for the sole purpose of throwing aspersions upon those worthy sons of Islam. None of the fourteen points which have been drawn up against them relates to the fundamentals of Islam, and the majority are such as a child would laugh at.

Mr. Campbell:—I admit that the Plaintiffs agree with opinions expressed by "The Muslim" and the policy of the Anjuman-i-Islam.

Mr. Mundell:—Inasmuch as the Ahmediyyas teach that Mirza was a messenger of Allah they necessarily

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teach that a Muslim not accepting Mirza is a Kafir or infidel. All followers of Mirza are Qadianis, because Mirza came from Qadian, and his followers took their name from that. I believe the plaintiffs would admit that.

Mr. Campbell:—My clients deny this.

Mr. Mundell:—It was the same as the followers of Christ being called Nazarenes because Christ came from Nazarene.

I produce a pamphlet prepared by Khwaja Kamal-ud-Din showing what are the principles of Mohammedanism. This is marked 18. In this book all followers of Mirza are referred to as Qadianis on page 24

And also see Ahmediyya Movement—The Qadianis believe Mirza was a prophet, on page 2 volume 4. All followers of Mirza are apostates according to the Sunnat Jama'at i.e. the four sects of orthodox Muslims. Pages 124, 127, 131-135, 144-5.

It is admitted here that there have been fatwahs in India generally declaring Mirza to be Kafir and that Ahmediyyas ought only to pray behind an Imam who admits such fatwahs to be given in error.

With reference to pages 15 and 53 in the "Call of Islam" by Moulvi Mohammed Ali, which I am putting in, the statement 'our doctrines are the same as those of the Sunnat Jama'at,' is false.

I am putting in a book "Modern Religious Movements in India" by Farquhar, wherein he states that in support of his claim that his mission was altogether like the mission of Christ, Mirza declared that the Indians under British rule were in much the same position as the Jews under the Romans and, from the religious point of view, that the corruptions in India to-day are in many respects like the corruptions of Palestine at the time of Christ. Referring to the Ahmediyya movement at Woking the author stated that naturally orthodox Muslims did not like to have Islam represented in England by such a heterodox group.

His Lordship:—The real question seems to me to be whether, because the plaintiffs differ in their religious views from the defendant, they should be called robbers and other things.

Mr. Mundell:—My position, My Lord, seems to be this: I will have to prove that Ahmediyyas or Qadianis have been declared Kafirs by the Sunnat Jama'at. I think I have to prove that the plaintiffs, by their words and

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teachings, come within the judgement as being Qadianis. As to the rest of the alleged libel, I submit that it is fair comment, but I do not submit that the article suggests that the comments should apply to the plaintiffs.

His Lordship:—What is the meaning of the quotations used in the alleged libel?

Mr. Mundell:—The quotations as to Kafirdom do not apply to the plaintiffs. The quotation as to robbing people of their money only applies to the Qadiani sectaries who are unmindful of their faith being brought to nought. There is a difference between calling a man a person who comes within the sect of Qadianis and a Qadiani sectary who, unmindful of his faith, does certain things. My position, My Lord, is rather difficult because it is open for counsel for the plaintiffs to ask for particulars on various points. No particulars have been asked for and the issues are not very clear. My submissions are these: Have the Sunnat Jama'at world given a decision that the Qadianis sects are Kafir? Have they given that decision on proper grounds? Do the plaintiffs and others, as judged by their words, acts, beliefs and publications, belong to the Qadianis, treating Qadianis in the widest sense as followers of Mirza?

If the issues can be defined it may perhaps limit to a great extent the evidence which I should seek to adduce. The issues never have been defined more than by the pleadings and I am afraid not to deal with any point because of the reputed importance of the case and the actual importance of the case to the Muslims of this Colony and elsewhere. If there is any way by which the case can be shortened I would be exceedingly pleased to do so but unless the issues can be defined I am afraid I shall have to go on.

His Lordship:—Mr. Campbell's position appears to be quite clear. He contends that the plaintiffs are not Kaffirs, and I suppose he said that, even supposing they are Kaffirs, what right has the defendant to call them thieves and liars?

Mr. Campbell:—I say that what has happened here is to take the document as a whole. It holds the plaintiffs up to their fellow-Mohammedans as infidels. The plaintiffs contend that the defendant has no right to call them infidels and he has no grounds for doing it. We say there is nothing in the defence of fair comment, but that the defendant simply holds plaintiffs up as the blackest type of

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infidels. He intends by that document to cause the plaintiffs to be held up to the scorn of every right-thinking Mohammedan in Singapore.

Mr. Mundell:—If that is the position I am afraid I must continue.

His Lordship:—Your position is that these people belong to the Qadianis or Ahmediyyas and that these sects have been denounced by orthodox Muslims as being Kaffirs; and that this statement as to being robbers and so on is only used of Kafirs generally.

Mr. Mundell:—I say those statements are confined to certain Kafirs who are unmindful of their faith and do certain acts. I have never alleged that the plaintiffs have done the acts complained of, but that the Qadiani sectaries, who, unmindful of their faith, have done them. I may add that it is one of the essentials of the law of libel that previous circumstances should be taken into consideration.

His Lordship:—Does the fact that there is a controversy going on authorise the defendant to impute bad motives to the plaintiffs?

Mr. Mundell:—I submit that, read in the light of the circumstances, those particular paragraphs of the alleged libel which have been referred to have a peculiar application to Daud Shah and that every one understands them to have that meaning.

His Lordship:—The names of the plaintiffs and Bashir Ahmad Mallal have been coupled with that of Daud Shah. How can I distinguish them, from Daud Shah? If reference has been made to the leader of the Qadiani sectaries it would be a different thing.

Mr. Mundell:—If Your Lordship holds that against the defendant I can only submit what I have already submitted, but I cannot allow the matter to stay here.

I will now outline the evidence to be admitted. First of all I seek to read extracts from "The Moslem World To-day" by Dr. John Mott (who was in Singapore a few days ago).

Mr. Campbell:—I object to reference being made to this work.

Mr. Mundell:—This closes my reference to documentary evidence. In connection with the facts I will seek to prove that when the Anjuman-i-Islam in Singapore

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was known to be in every sense a mission, which is a branch of the Ahmediyya Movement, a large number of its members seceded from it. I will seek to show further from Daud Shah's writings that although he may have stated that he is not an Ahmediyya, he edits a paper which purports to be a Tamil translation of the "Islamic Review," and that he and Khwajah Kamal-ud-Din are joint editors. I will seek to show also that his Quran is based on Mohammed Ali's Quran and copies its heterodox teachings. I will try to prove that the members of the Anjuman-i-Islam and its patron, Mr. Sarwar, were consulted about the question of Qadianis, and I will prove by a letter written by Mr. Sarwar that he suggested that the Anjuman should be reformed and that they should openly state that it has nothing to do with the Ahmediyya Movement, and that he himself would stop the sale by the Anjuman of the Ahmediyya books. Whatever may be his position and attitude at the present time Mr. Sarwar will no doubt explain his reasons for thinking such a course necessary at the time that letter was written. I will also show that although it was intended that a public meeting should be called for this purpose no such meeting was ever called. I submit that the inference to be drawn from that is that the Anjuman did not want to sever its connection with the Ahmediyya Movement. I will also seek to show that Bashir Ahmad Mallal, one of the persons mentioned in the alleged libel, has been the chief means of bringing into the Colony books which propagate the teachings of the Ahmediyya sect. I will also produce a photograph showing the plaintiffs with Daud Shah and others. I will also show that Daud Shah was challenged by three Maulvis to explain whether he is or is not a follower of Mirza, as the Maulvis alleged, and that he never answered the challenges, that not only is he a Qadiani but that he is reputed everywhere to be a Qadiani, and on that ground he was not received in Penang as he was in Singapore. I will prove a fatwah of the University of Cairo which was referred to at the public meeting in Singapore. Fatwahs have been issued against the Qadianis. The Imams of Singapore will prove that Qadianis is a general term by which followers of Mirza are known.

I would refer Your Lordship to the law in this connection.

Capital & Counties Bank v. George Henty & Sons,

7 A.C., 741 & 745,

Evidence for Defence.

Haji Mohd. Ibrahim

Truth:—Campbell v Spottiswoode 3 B & Smith pages 769 & 122 English Reports page 288. Comment must be fair arguments, must not be based on false facts.

McQuire v Western Morning News L.R. (1903) 2 K.B.D. page 100.

The Court adjourned.

Fourth Day—Wednesday, 3rd February, 1926.

As soon as His Lordship took his seat on the Bench, he addressed Mr. Mundell that it would be desirable if a settlement could be effected. His Lordship said that the case had already occupied a great deal of time and seemed likely to take a great deal more. Considering that harsh language had been used on both sides he thought it would be better for both parties concerned to come to a settlement.

Mr. Mundell said that he agreed with His Lordship and Mr. Campbell also consented. In the meantime His Lordship left the Bench for the parties to discuss the terms. After discussing the matter for almost an hour Counsel informed His Lordship that a settlement seemed quite impossible and Mr. Mundell proceeded with his case.

Haji Mohamed Ibrahim was the first witness examined by Mr. H. D. Mundell.

Mr. Mundell:—Where do you live and what are you?—I live at No. 102 Arab Street and I am a teacher in the Indian Muslim Association.

Are you learned in Arabic?—Yes.

Where did you get your education?—I got my education in Vellore School in India and from my father.

Is that a well-known school in India?—Yes.

Are you an Alim?—Yes, I was called 'Alim.'

Who conferred the title 'alim' on you?—The School conferred the title on me.

Do you remember Daud Shah coming to Singapore last year?—Yes.

Did anything unusual happen?—His visit occasioned a great stir amongst Mohammedans in Singapore. A number of pamphlets were issued about the visit.

Mr. Mundell at this stage handed to the witness the notices issued by the 1st and 2nd plaintiffs and asked him whether he had seen the notices. Witness:—Yes, I saw the notices and also saw the alleged libel.

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Mr. Mundell:—Did you see any other notices?—Yes, a number of other notices were also published.

Have you read the alleged libel?—Yes.

Read the first sentence.

Witness read:—‘He shall become a Kafir (infidel), who, without (proof of) any characteristic features of Kufir (infidelity), regards any Muslim as a Kafir.’

Mr. Mundell:—What is your authority for this?—This is a quotation from Fatwah Alingiri page 304. It is a collection of Mohammedan fatwahs or decrees.

Is this a Sunni Book?—Yes, it is.

Will you read the second sentence?

Witness read:—‘He shall become a Kafir who does not regard as a Kafir but is in harmony with one who without conviction in the Islamic Aquida (creed) keeps on confuting and distorting it.’

Mr. Mundell:—What is your authority for this?—It is a quotation from Fikeh Kabir.

Is that a Sunni book?—Yes, it is a recognised book on Mohammedanism.

On what page does it say so?—Page 203.

What is the next?—‘One who consents to another man’s saying or uttering infidel saying, himself becomes an infidel and anyone who objects to or perverts the doctrines of Islam becomes an infidel.’

On page 218 in the same book there is a passage:—‘If one consents to another becoming infidel, he also becomes an infidel.’

Will you explain the third sentence?—The 3rd sentence is a quotation from Radul Mukhtar. Vol. 11 page 139.

What does this book contain?—This book contains the rules of the Sunni sect by Mohammed Amin known as son of Abdul, and the quotation reads:—

‘It is necessary to get out of the company of those who behave contrary to Islamic practices. First they must be spoken to and if they do not listen, their company must be avoided even if they were relatives.’

What does the term Sunnat Jama’at mean?—The “Sunnat Jama’at world” means all those people who follow the traditions of Muhammad and his followers.

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Does it include "Shiahs"?—No, The Sunnat Jama'at contains four sects, namely, Hanafi, Malaki, Shafi and Humbali.

What does the Qadiani sect mean?—Qadian is the name of a place and 30 years ago a man named Mirza Ghulam Ahmad died at that place, who claimed to be the Messiah. All persons who believe in Mirza are Qadianis.

How do you know that Qadianis are Kafirs?—I have seen decrees issued by certain Ulemas of the Sunni sect condemning Qadianis as heretics.

Do you see the sentence, paragraph 5, 'he who adopts willingly or unwillingly what constitutes Kufr (infidelity) or the symbols thereof arising out of the Aqida (creed) and other Massalas (laws) ratified by the Quran, Hadis (traditions) and Ijma (the majority of Ulemas) shall become Kafir?—Yes, paras. 5 and 6 are quotations from Fatwah Alimgiri at page 303 and at page 307 of the same book: "One who treats dogmas with 'fun' becomes an infidel."

Witness continued to explain further with regard to what constitutes a Kafir:—

In Volume 3 page 301 Radul Mukhtar we find "One who delights in the saying of an infidel becomes an apostate (non-believer.)"

In Tawvek Wa Tawtatuyu page 503 'One who delights in infidel sayings becomes an infidel.' In the same book at page 358 'he who objects to the united statements of the imams (priests) becomes an infidel' and again 'The man who objects to the traditions made in conjunction with the teachings of the Koran becomes an infidel.'

Mr. Mundell:—Is paragraph 7 a religious quotation?

—Yes. Paragraph 7 is in Radul Mukhtar Volume III, page 324. 'If a real infidel does not exhibit his infidelity he becomes a Zindik, and one who contradicts the traditions of Sunnat Jama'at is a Zindik.' Similarly on pages 324-5 'One who does not mind himself becoming an infidel and goes about preaching to the uneducated mob and preaches in the language to the ignorant is a Zindik (inveterate infidel). Zindik is one who puts in fine language his contention against the rules of religion making people believe his false statements to be true.'

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Page 324, 'The Zindik does not get pardon for his sins; other Kafirs get pardon if they repent.'

Page 317. 'All Mohammedans get pardon for sins except those who mock at the prophets; they will not be pardoned.' 'Those who doubt the punishment of those who mock at the prophet become infidel.'

Page 318. 'Those who mock at the messengers of God or their Message, these people shall become infidels, they shall not receive pardon of their sins and shall be put to death.'

Mr. Mundell:—Where do you find paragraph 10?—In **Fikeh Kabir** at page 297 where it says, 'Whoever slights the Ulemas becomes infidel. Whoever abuses or makes fun at the Ulemas or anyone who expounds religion becomes an infidel.'

On page 213. 'Whoever gets angry with an Alim without just cause becomes an infidel.'

Mr. Mundell:—What is the authority for paragraph 12?—"Only those are Maulvis who are able to give the meaning of the Quran and traditions and those who are well versed in the law."

- Is paragraph 14 also a religious quotation?—Yes, it is from **Fikeh Kabir** on page 228:—"If a Mohammedan puts on the garb of an infidel he becomes an infidel," i.e. anyone who follows the traditions of an infidel.

Is it forbidden to translate the Quran?—Yes, in *I'nact-el-Talwin*, a collection of religious laws, a recognised Sunni book, on page 67, I find "I have seen a question—Is it forbidden to write the Quran in any other language but Arabic. The answer is—It is forbidden by Sunnat Jama'at." The person who gave the answer was a Maulvi of the Shaffi sect.

Can you remember the date?—No, I cannot give the date of the answer.

What is your authority for paragraph 19?—The authority for this paragraph is on page 356 of exhibit 25 "If Muslims unite it is a good thing: if they are divided it is bad. My followers will not unite in bad things, if the persons commit what is forbidden that is bad."

Mr. Mundell produced to witness the notice published by the defendants.

Mr. Mundell:—Do you know by whom this notice was published?—I know this notice was published by the

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defendants. I also know that the plaintiffs published their notices.

What kind of notices did the plaintiffs issue?—The plaintiffs' notices supported Daud Shah. If Daud Shah was a Kaffir, they also would become Kaffirs but would obtain remission of their sins if they repent.

Do you know the Quran translated by Daud Shah? —Yes, Daud Shah published a translation of the Quran in Tamil.

Have you read it?—No, I saw part of it here.

What doctrines does it teach?—It promulgates doctrines contrary to the Sunnat Jama'at.

How does it differ from the doctrines of Sunnat Jama'at?—It gives an interpretation of the initials at the beginning of the chapters. The Sunnat Jama'at says God only knows the meaning of the letters but Daud Shah says that mean "God knows much." He has followed Mchamed Ali's interpretation.

Does this translation of the Quran propagate the doctrines of the Qadianis?—No.

Do you see anything in it to show that Daud Shah belongs to the Qadianis?—I cannot see anything in it to show that Daud Shah belongs to the Qadianis.

What fault do you find with Daud Shah's translation of the Quran?—The only mistake he has made is in connection with the translation of the letters.

Will you read verses 5 & 6 of Chapter 1 on page 20, "Guide us on the right path, in the path of those to whom alone thou hast shown favour?" What does this verse denote?—The verse denotes the gift of grace to man.

Is it right to say that it refers to other creatures than man?—No.

Have you read the commentary of this translation? —No, I have not, but I have read the translation only.

Do you say that the translation is objectionable?—The translation is unobjectionable except for the translation of the letters, but I do not know if the commentary would show Daud Shah is a Qadiani.

What then is your reason for saying that Daud Shah is outside the pale of Sunnat Jama'at and a Qadiani? —My reason is that he gave a wrong translation to the letters.

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Have you attended any of Daud Shah's lectures?
—No.

Or read any of his books besides the Quran?—No other books except the Quran.

Do you think that a mistranslation of these letters is sufficient for calling a man a Qadiani?—Yes, as no other Mohammedans of the Sunnat Jama'at have translated these letters.

Have you seen any fatwah about the Qadianis in Singapore?—Yes, it was given by Syed Abdullah bin Abdul Gafoor, an Indian. I saw a printed copy. Here it is.

Where did you get it from?—From India.

Where is the original of this fatwah?—When a fatwah is pronounced the original is kept by the man who issues it.

Where does the author of this fatwah live?—Syed Abdullah lives in Jeddah.

Where was the book printed?—In Jeddah.

What other fatwahs have you?—I have three fatwahs altogether, the second is by Mohammed Ander.

Who is Mohammed Ander?—He is a Maulvi in a religious school in India, Darul-Ulum Deoband.

Have you a printed copy of it?—Yes.

What is the third?—The third fatwah is issued by Mohammed Shafi.

Who is he?—He is also a teacher in the same school.

What does the school teach—does it teach religion? —It is an Arabic school. It teaches Arabic, Urdu and Parsee and also Mohammedanism.

Do you know the authors personally?—No. I know the authors of them by repute. Syed Abdullah is an authority on Islam and so are the other two.

Do they belong to Sunnat Jama'at?—Yes, they belong to Sunnat Jama'at and are Hanafis.

Are they in Singapore?—None of them are in Singapore.

When did you get these fatwahs?—I got these fatwahs from India after the trouble in Singapore.

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How did you get them?—I wrote to the school for them and they sent me all these.

Mr. Campbell:—I submit, my Lord, that these documents are not admissible, as there is no proof that they are copies of any original documents: secondly, it is not proved to be relevant being the opinion of a single Ulema.

The documents were not admitted.

Cross-examined.

Mr. Campbell:—When did you first see the alleged libel?—I cannot fix the date when I first saw the alleged libel.

How did you come to the knowledge of it?—A boy who was distributing the handbills gave me a copy.

Have you seen a draft of it?—I never saw one.

Have you had any communication with the defendant before the alleged libel was published?—No.

Did you know the defendant?—Yes.

Is he learned in Arabic?—No.

Is he acquainted with the religious works to which you have referred?—No.

Can you say it is likely to be his own production?—I cannot say it is likely to be his own production. It is a mixture of Tamil and Arabic.

Is the defendant sufficiently educated to have written it?—I cannot say.

When you read the alleged libel did you think there would be any result to the plaintiffs?—No.

Did you take it that they were called Kaffirs?—No, they were given good advice.

Do you know the plaintiffs?—Yes.

How long have you known them?—About two years.

Are they Mohammedans?—Yes.

What are the essentials of the religion?—1. The unity of God, 2. Belief in Mohammed as the last of the prophets, 3. Jesus Christ did not die but was taken up to Heaven.

Is the last an essential?—Yes, it is stated at the end of the 5th Chapter of the Quran vv. 116 and 117.

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The verses do not say so?—It is implied there and not stated in plain words.

Read them please, will you?—The words are, “I was a witness of them as long as I was among them, but when you protected me you were the watcher over them.”

Have you ever heard of the name of Sale as a translator of the Quran published in 1834?—No, never heard of him.

Do you know that a dispute had existed among Mohammedans for three centuries as to whether Christ did or did not die?—No. I do not know. The Sunnat Jama'at believe that he was taken to Heaven alive and would come back.

To be a Mohammedan is it necessary that you must be completely in accordance with the belief of Sunnat Jama'at?—Yes.

How many sects does the Sunnat Jama'at comprise?—Four sects.

I put it to you that there are five sects?—Yes, the fifth is the Qadiani sect.

Is there a sixth sect?—No.

Have you heard of Ibni Saud of the Wahabis?—Yes, I have.

What about the Wahabis?—There are 72 sects of Mohamedans of which the Wahabis are one.

Have you heard of Syed Amir Ali?—Yes.

Is he a learned man, and an authority?—Yes, he is a very learned man and an authority on Mohamedan law.

Are the Wahabis Kaffirs?—No, they are not Kaffirs, although they are outside the pale of Sunnat Jama'at. They do not differ as to fundamentals or essentials but only in minor points.

Do the Hanafis and the other three sects also differ in minor points?—Yes, they do.

How many sects are there in Mohammedanism?—The Mohameddians are divided into Sunnis and 72 other sects.

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What should a Mohammedan believe?—All must admit the Quran, Mohammed as the last of the prophets, belief in everlasting hell for infidels and unity of God.

Isn't it true that it is sufficient to be a Mohammedan to believe in one God and Muhammed as his prophet?—No, you must also believe in prayer, fasting, Haj (pilgrimage), a distribution of a proportion of your property to the poor, angels, day of Judgement and resurrection.

Any other things?—All other things are implied in these essentials.

Then any person who believe in them is a Mohammedan and to describe such a person as a Kaffir would be misdescription?—Yes, that is so.

Do you know Ibn Abbas?—Yes.

Is he not one of the most learned men of the Sunni Sect?—Yes, he is known to be one of the most learned men of the Sunni sect.

Does he suggest a meaning to the letters at the beginning of some chapters of the Quran?—Yes.

Will you see in Fatwah Alingiri that there is a definition of **faith**?—Yes, there is.

Will you show us where it is?—I cannot put my finger on it now.

Is not there a passage in the Quran saying what the apostle and his followers should believe?—Yes, there is.

Will you turn the pages and show us where it is?—I cannot say off-hand.

You say you are an Alim and yet cannot show us this passage?—An Alim can only interpret the Quran but cannot repeat it.

Re-Examined by Mr. Mundell:—

Mr. Mundell:—What do you think the notice indicated?—I think the notice gave good advice to the plaintiffs.

Is it customary for Mohammedans to give good advice to one another?—Yes, according to Islam, Mohammedans should give good advice to one another.

Do you find anything wrong in the notice?—No, with the exception of their names the whole notice is good advice.

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You have said that the plaintiffs are good Mohammedans, what do you mean?—Yes, they profess to be Mohammedans.

Do you know their beliefs?—I know that their beliefs are distorted by supporting the Qadianis; they have departed from the essentials of Islam.

Did they ever tell you personally what their beliefs are?—No, I formed my opinion from their pamphlets.

Are they still Mohammedans if they support Qadianis?—They are not.

In verse 117 of the Quran above referred to what does the word “Tawafah” mean?—The word “Tawafah” means sometimes “when you cause me to die” or “when you cause me to escape.”

What does the word mean here?—This refers to the escaping of the soul from the body.

When is the soul taken?—God takes the soul of a man at the end of his life, when his time has come.

Do you say that Wahabis are Kaffirs?—I still say that the Wahabis are not Kaffirs, although they are outside the pale of Sunnat Jama'at. They are one of the 72 sects.

Are the Qadianis within the Sunnat Jama'at or among the 72 sects?—The Qadianis are not within the Sunnat Jama'at or among the 72 sects.

If a Qadiani believes in the essentials of Islam which you have mentioned above and practises them, can he be a Kaffir?—No.

Then why do you say that the Qadianis are Kaffirs?—Because the Qadianis act contrary to the essentials of Islam, e.g., Daud Shah says in his translation of the Quran that Hell is not everlasting.

Where does he say that?—On page 121.

What does he say?—He says the infidels will dwell in Hell for a long time, which means that the time must come to an end; that is a mistranslation.

When did you read that?—A month ago I read that.

The Court Adjourned.

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Fifth Day—Thursday, 4th February, 1926.

Re-examination of Haji Mohamed Ibrahim continued:

Is there any other discrepancy in the translation of Daud Shah?—Besides the mistranslation which makes Hell not everlasting there are other discrepancies.

Where are they, will you point them out?—On page 194 there is a translation “pay the poor rate.”

What should have been the proper translation?—The proper translation is “all persons must pay a tax on their property.”

What is the word he has translated?—He has translated Zakat as “poor rate” while it should mean “a tax or assessment on property.”

What does Zakat mean?—Zakat is 2½ per cent. on income and is divisible among the poor and destitute.

Would the word “Zakat” as translated convey the meaning to a Tamil reader?—No, it would not.

Any other mistake?—Yes, on page 239 there is the same mistake.

What is that?—The Tamil word which I have translated “poor rate” “Ealaivari” means money to be paid to any destitute person regardless of their religion.

MR. CAMPBELL WAS ALLOWED TO CROSS-EXAMINE ON THE LAST FRESH EVIDENCE.

Mr. Campbell:—Do you know if the Zakat means in the Quran other things besides tax?—I do not know.

Do you know that Zakat means religious service or purification?—I think there are other meanings to the word. It may mean religious service or purification. In the particular passage I referred to it means “tax” and not “purification.”

Do you know whether the Zakat is given in South India for the benefit of the poor?—No, I don't know.

Is it laid down in the Quran that no Mohammedan should assist the poor and the needy if they happen not to be Mohammedans?—No, it is not laid down in the Quran.

Is it laid down in the traditions?—No, nor is it laid down in the traditions. But it is stated in the Quran that 2½ per cent. shall be for Mohammedans.

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Look at chapter 9 verse 60. "Zakat shall be given to the poor and the needy, and the officials appointed over them, and those whose hearts are made to incline (to truth) and the (ransoming of) captives and those in debt and in the way of Allah etc."

Where does the verse say that you should not give Zakat to persons other than Mohammedans?—Yes, the Quran says that Zakat shall be given to the poor and needy and the religious people in freeing the slaves and debtors and in religious fights and on travelling.

His Lordship:—Is there a room for differences of opinion as to the meaning of passages in the Quran?—Yes, My Lord, the differences of opinion have divided Islam into sects.

His Lordship:—In what language did Mirza write his books?—In Urdu, My Lord.

His Lordship:—Do you know Urdu?—No, I do not understand Urdu.

His Lordship:—You have not read any of his books?—No, My Lord, I only came to know Mirza from the decrees of the Sunnat Jama'at.

Mr. Campbell:—Do you know the plaintiffs?—I know the plaintiffs in this case.

Are they good Mohammedans?—If they give up Mirza's sect, they are good Mohammedans, otherwise they are infidels.

Why did you say the plaintiffs are Qadianis?—They support Daud Shah: therefore they belong to that sect.

Why do you say that Daud Shah belongs to the Qadiani sect?—I say he belongs to that sect because not only has he made mistakes in the translation of the Quran, he edits a paper called Darul-Islam.

Have you read that paper?—Yes, I have.

Mahmood bin Haji Dawood examined by Mr. Mundell states:—I live in Singapore and am a land-owner and a Mohammedan of the Sunni persuasion and a Hanafi.

Mr. Mundell:—Do you remember when the Anjuman was formed in Singapore?—Yes, I was in India when it was formed between 1921—1922.

Who was its patron?—Mr. Sarwar.

Did you join that institution?—No, although Mr. Sarwar asked me to join but I refused several times.

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Why did you refuse?—I told him that the Anjuman had been formed by one Khwaja Kamal-ud-Din who was a follower of Mirza Ghulam Ahmad of Qadian.

When was that?—That was some time in 1921. I think, it may have been in 1922.

Where was Mr. Khwaja Kamal-ud-Din at that time?—He was on a visit to Singapore from Penang.

Where were you in May 1923?—I was in Singapore.

Was Mr. Sarwar with you when he came to live here?—Yes, he stayed with me for a few days.

Did he then ask you to join the Anjuman?—Yes, he asked me several times.

Did you comply with his request?—No, I again refused.

Will you tell His Lordship briefly what happened?—Then he wrote me a letter which I have destroyed, saying that he had called on me on his way to office but missed me. He stated that one Kavena Mohammed Hussain had promised to give \$300 towards the Anjuman and that his friends asked him why he did not bring me in. He said that he would see me that afternoon on his way home. He did so, he asked me to support the Anjuman. I still refused. Finally he saw me again at my house at Pasir Panjang and invited me again to join. I again refused. I said also that I did not agree with the Secretary of the Anjuman. I said that with regard to Mohamed Ali's translation of the Quran, it was discussed in the Moslem Association and mistakes have been found in it and that Bashir A. Mallal one of the persons mentioned in the alleged libel, the Secretary of the Anjuman, stated that no mistake had been made.

Did Mr. Sarwar go away to Europe shortly after that?—Yes.

When did he return?—He returned by s.s. Kallyan in December 1924.

Did you see the article in the "Muslim" about Mr. Sarwar in Hong Kong?—Yes.

When he returned, did you go to meet him?—Yes.

Will you tell His Lordship what happened after his return?—I had a conversation with him. We were very good friends at that time. Shortly after I saw a photo of him in the Saturday Post, praying behind the son of