

UK news

Medieval law has had its day

Medieval blasphemy laws are set for repeal after a long history of provoking outrage among free thinkers

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Mon 18 Oct 2004 02.22 BST

The last man to have been sent to prison for blasphemy in Britain was John William Gott who was jailed in 1921 after ridiculing Christ for entering Jerusalem "like a circus clown astride the backs of two donkeys".

Mr Justice Argyll sentenced Gott, a man in his 60s, to nine months hard labour and told him that any person of strong religious feelings who read his secularist pamphlet would instinctively want to give him a thrashing.

He was jailed under a common law offence which has its origins in medieval courts. Blackstone's Criminal Practice defines it as "the publication of matter which vilifies or is contemptuous of or which denies the truth of the Christian religion or the Bible or the Book of Common Prayer". The blasphemy has to be couched in indecent, scurrilous or offensive terms likely to shock and outrage the general body of Christian believers and it carries a maximum life sentence.

Gott died shortly after finishing his sentence and even 80 years ago the case sparked an outcry. The public wanted to know how such a medieval statute could still be used while legal protection for a "sober reasoned attack" on Christianity had existed since the middle of the 19th century.

That defence was confirmed in the 1880s during the attempted prosecution for blasphemy of Charles Bradlaugh, the freethinker and atheist MP for Northampton, who founded the National Secular Society.

Even though Gott's case was more than 80 years ago the offences of blasphemy and blasphemous libel have never been far from public debate in Britain.

Mary Whitehouse, the moral crusader of 1970s Britain, was particularly keen to revive their use. She first tried to invoke the blasphemy law when Alf Garnett posed the question "wot abaht yer virgin berf, then?" in a 1972 episode of the BBC television comedy, *Till Death Do Us Part*.

But Mrs Whitehouse did not succeed until she mounted her infamous private prosecution of the editor of *Gay News* for blasphemous libel in 1976 after he published James Kirkup's poem, *The Love That Dares Speak Its Name*. Denis Lemon was given a nine month suspended sentence and a £500 fine for publishing the "most scurrilous profanity" which portrayed the sexual love of a Roman centurion for the body of Christ on the cross. The sentence was upheld on appeal in a judgment in which Lord Scarman argued that the blasphemy law should be updated to cover all religions.

Mrs Whitehouse threatened a rerun of the *Gay News* trial when Martin Scorsese's film, *The Last Temptation of Christ*, was released in Britain in 1988. The British Board of Film Classification received more than 1,870 letters demanding that it be banned because of its depiction of sexual fantasies involving Mary Magdalene. The BBFC director, James Ferman, managed to defuse the impending crisis by the politically smart move of inviting 28 bishops, deacons and priests to actually see a preview of the film in his Soho Square viewing room. Ferman had no desire to be seen as the censor who banned a film made by America's then most prestigious living director.

The clergy didn't like the film but they didn't think it was blasphemous and, more importantly, were prepared to say so publicly. The result was that when it was finally released it was to little public fuss.

It was against this background that some figures in the Muslim community soon afterwards attempted to mount a prosecution for blasphemous libel against Salman Rushdie for his book, *The Satanic Verses*. The attempt failed when the appeal court said it was not prepared to extend the blasphemy law's protection afforded the established church to other religions, including Islam.

The Law Commission had already recommended the abolition of the blasphemy laws in 1985. The appeal court judges said that since the only mental element in the offence is the intention to publish the words complained of, there would be a serious risk that the words might, unknown to the author, scandalise and outrage some sect or religion. It was to be the standard Home Office response to all those who wanted to extend the blasphemy law to other religions - that it was impossible to define in law the difference between a religion which deserves protection and a cult or a sect which does not.

But the refusal to allow the blasphemy law to be used to prosecute Rushdie did not mean it had fallen into total disuse. In 1996 the European court of human rights upheld the use of this ancient blasphemy law to justify a ban on an erotic video, *Visions of Ecstasy*, about a 16th century nun.

The case to scrap the blasphemy laws received a boost in 1997 when the report from the Runnymede Trust's commission on British Muslims which first studied the extent of Islamophobia recommended a new offence of incitement to religious hatred should be created rather than extending the blasphemy law to all religions.

The need to protect people from possible public order offences rather than religions from criticism was a distinction which was not lost on the home secretary, David Blunkett. Within months of becoming home secretary in 2001 he made clear what he thought: "This provision has not been used for a very long time. It's my own view that there will come a time when it will be appropriate for the blasphemy law to find its place in history."

- Alan Travis is the author of *Bound and Gagged*, a secret history of obscenity in Britain, published by Profile Books at £7.99

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