

CHAPTER 6- THE TUTANKHAMEN CASE

Discovering Tutankhamen

Following World War I, in 1921, Crabitès was promoted to the presidency of a division of the Cairo tribunal.¹ It was as the president of one of the tribunal's civil sections that Crabitès became intimately acquainted with the litigation for the sequestration rights to the Pharaoh Tutankhamen's artifacts. He presided over the suit brought before him by Howard Carter and the Egyptian government; his association with the Tutankhamen case gained him a measure of fame.² The case came before the Mixed Courts because it involved litigants from a foreign state, and Crabitès presided over the case as the president of Cairo's Court of First Instance

British archaeologist Howard Carter, along with Egyptologist George Herbert, better known as Lord Carnarvon, discovered the tomb of the Pharaoh Tutankhamen on 4 November 1922, in the Valley of the Kings, located at Luxor, Egypt. Tutankhamen was only a minor pharaoh, occupying the throne just nine years until his death at eighteen. The son-in-law of Akenaton, Tutankhamen was only nine years old when he became pharaoh. He ruled Egypt from 1333 to 1323 B.C., during the 18th Dynasty and New Kingdom, founded by Ahmose. This was a peaceful period in ancient Egyptian history, after the death of Akenaton. The Egyptians had expelled the Hyksos, restored government, and the economy recovered. The young pharaoh reestablished order following the reign of his father-in-law, Akenaton, when he reinstated worship of the Egyptian God Amon. The find was most significant because his tomb was intact, almost untouched by grave robbers.

Crabitès was one of the first to hear of the discovery of Tutankhamen. He learned of the news while breakfasting with British General McEwing. General McEwing intercepted the communiqué from Carter to Lord Carnarvon, describing

¹ Crabitès, "Israel out of Egypt," 38.

² This chapter will rely primarily on *the Times of London*, for it had monopoly rights to report from the excavation at Luxor. The remaining newspaper sources were collected from the British Library in London, such as the *Egyptian Gazette*, and from *La Bibliotheque Nationale* in Paris, like *Le Journal du Caire* and *Le Temps*.

his lucky strike. Interested in assisting one of his journalist friends, Crabitès relayed the information, but a British newspaper had already publicized the expedition's discovery.³

Conflict over the *Times of London* Monopoly at Luxor

Lord Carnarvon appointed the *Times of London* to serve as the official correspondent for the archaeological expedition. The *Times of London* aided Lord Carnarvon and Howard Carter by assuming the burden of recording the daily events. The *Times of London* had a press monopoly to cover the excavation of the tomb of Tutankhamen. The local press took exception to this favoritism. They protested limited admission to the dig and expressed their displeasure in print. Journalists could only visit the tomb one fixed day per week. The Egyptian Press Bureau declared that it had no right to interfere in such an agreement between the archaeologists and the *Times of London*.

The Egyptian government supported Lord Carnarvon's right to distribute information of his own accord. Lord Carnarvon had the Egyptian government's concession to the Valley of the Kings and with it the prerogative to restrict access to his work. This issue erupted when the Antiquities Department sought to publish the official guidebook to the Egyptian Museum with the information supplied by Howard Carter in his regular technical reports to the Antiquities Department, in accordance with their license. Carter objected to this action, stating that this treatment by the Egyptian government relegated him to the status of a paid servant collaborating to write their guide books.

The press was especially critical of the relationship between the *Times of London* and Lord Carnarvon. The *Egyptian Gazette* asserted that while Lord Carnarvon and Howard Carter were private individuals and allowed to express their opinions as such, they were, however, not entitled to the possession of the Tutankhamen antiquities, for they belonged to humanity.⁴ The *Egyptian Gazette*

³ Newspaper Clipping: Mss. 73-85, Scrapbooks 1919-1939, Crabitès Collection, University of New Orleans, New Orleans, LA.

⁴ *Egyptian Gazette*, 22 January 1923. *Le Temps*, 23 January 1923.

believed that the Egyptian government would never knowingly tolerate such a journalistic monopoly.⁵

The Arabic press had a significant advantage over the local British and French press, as it had primary access to Lord Carnarvon's special news service.⁶ Arabic papers had the ear of the Egyptian government; thus they were able to influence the government's perspective of the excavation and subsequent trial for the sequestration rights to the dead pharaohs' artifacts.

Those close to the expedition endorsed Lord Carnarvon and the *Times of London*. Dr. Jean Capart, Secretary of the *Musée Royal du Cinquantenaire de Bruxelles*, published an op-ed piece in the *Times of London* defending the decision by Lord Carnarvon to restrict press entry to the site to only the *Times of London*. He claimed that Lord Carnarvon had the privilege of removing all impediments to the successful examination and recovery of Tutankhamen's artifacts. According to the agreement between the famed Egyptologist and the Antiquities Service, his only requirement was their regular inspections, which had no bearing upon whom he chose to publish a record of the dig. In fact, Dr. Capart believed that not only was Lord Carnarvon not guilty of hindering the press, rather he actually promoted the scientific record of the discovery. For Dr. Capart, the same could not be said of many previous discoveries, including the excavation of the tomb of Sen Nedjem, the tomb of the architect Kha, and the house of the artist Thotmes, all of which left posterity with few details. He concluded that science would suffer should Lord Carnarvon carry out his expedition based upon the will of public opinion,

Let us leave Lord Carnarvon to continue in peace his wonderful discovery. Let us leave Mr. Howard Carter and his assistants in peace to execute the task of preserving for us all these wonders, and let us respect their choice of the manner in which they wish to communicate to the public the result of their discoveries.⁷

⁵ *Egyptian Gazette*, 22 January 1923.

⁶ *Ibid.*

⁷ *Times of London*, 14 March 1923.

Sir John Grenfell Maxwell championed Lord Carnarvon as well, shielding him from relentless attacks in both the English and foreign press. Sir John Grenfell Maxwell served as a lieutenant-general in Egypt during World War I, where he repelled a *Senussi* attack in 1916 and was transferred to Ireland thereafter. Shortly after his appointment to commander-in-chief, military governor of Ireland, he brutally crushed the nationalist Easter rebellion that same year, for which he gained the name “Bloody Maxwell.” In an editorial for the *Times of London*, Sir John remonstrated the journalists involved in this smear campaign,

According to reports sent home, Lord Carnarvon (in conjunction with *The Times*) is not only acting in a manner derogatory to his position and to archaeology, but is prostituting science to commercialism. Further, he is defying and disobeying the orders of the Egyptian Government and attempting to seduce the British Inspector here from the path of honour.⁸

Sir John clarified Lord Carnarvon’s reasoning for entering such an agreement with the *Times of London*. He maintained that Lord Carnarvon’s privacy had endured the weight of correspondents infiltrating his private residence and social clubs to secure an interview. To relieve this tedious responsibility, Lord Carter decided it was best to circulate an account of the happenings at the tomb through one media agency. Sir John concluded, “What we outsiders cannot understand is that any British journalists worthy of the name could use the anti-British vernacular Press to instigate attacks on Lord Carnarvon, who, after all, has done more for Egyptology than any other private individual.”⁹

Rumors abounded throughout Egypt regarding the remuneration which Lord Carnarvon and Mr. Carter received for their arrangement with the *Times of London*. Competitors of the *Times of London* in Egypt intimated that the *Times of London* had bribed the famed archaeologists for the exclusive rights to the tomb. To this accusation, the *Times of London* professed that the only money the executors of Lord Carnarvon derived from the paper were totally devoted to

⁸ *Times of London*, 20 March 1923.

⁹ *Ibid.*

maintaining their work at the tomb and solely intended to promote their scientific research.¹⁰

Excavating the Tomb of Tutankhamen

Early progress at the tomb was remarkably slow. Lord Carnarvon and Howard Carter took painstaking care to preserve the recovered artifacts. The archaeologists planned to work on one room at a time, beginning with the ante-chamber, followed by the second chamber and finally the throne room where Tutankhamen's sarcophagus lay. Arthur Merton, the official *Times of London* correspondent to the excavation described the process as such,

The work of removal is being carried out with the tenderest [sic] care. Each article is strapped on a special tray constructed in the form of a stretcher, and carried by two or more labourers, who carefully climb the ascent from the tomb to the road, and then proceed up the hill for some two hundred yards to the empty tomb of Seti II, where the articles are deposited for treatment before packing. The whole of the way Mr. Howard Carter walks by the side of the tray, watching every moment, and from time to time himself steadying the load.¹¹

Once in Seti II's workshop, the archaeologists set about preserving the objects.

By February of 1923, Howard Carter and Lord Carnarvon had fully opened the tomb, revealing Tutankhamen and his treasures. The announcement created a sensation that reverberated across the Mediterranean and Atlantic. Tourists flocked to the Valley of the Kings with hopes of glimpsing the tomb of the boy pharaoh. They congregated in the valley to observe this historic discovery and to visit the dig site. The *Egyptian Gazette* reported,

The publicity so far given to Lord Carnarvon's discoveries is, from all accounts, drawing a large number of additional tourists to Egypt this season, while it is reported that several thousands have already booked

¹⁰ *Times of London*, 27 November 1923.

¹¹ *Times of London*, 5 January 1923.

their berths for next season, Tutankhamen's tomb being the special attraction.¹²

The *Times of London* put to rest any gossip that the site had been closed to visitors. In fact, the *Times of London* correspondent proclaimed that Howard Carter himself was guiding tourists when he was not too busy, "Lord Carnarvon and Mr. Carter have always shown such consideration for tourists' interests."¹³ This only served to encourage greater numbers of tourists to visit the location. The *Times of London* defended Mr. Carter's work at the tomb of Tutankhamen to their detractors, "Unquestionably Mr. Howard Carter and his assistants have done remarkably good work in effecting the removals, especially when one considers all the difficulties with which they have had to contend."¹⁴

Those lucky enough to witness the early stages of the expedition found the tomb somewhat disappointing. It was not nearly as grand as the more illustrious pharaohs like Seti I. What was so magnificent about Tutankhamen's tomb was not the grandeur of the site but the artifacts archaeologists found in it. Unlike so many other pharaohs' tombs that were plundered by grave robbers, Tutankhamen's tomb almost entirely intact. The relics recovered from the tomb were undisturbed from the time when the grave was sealed. By the end of January 1923, the dig had progressed into the king's burial chamber. Carnarvon and Carter removed all artifacts from the tomb of Tutankhamen to that of Seti II, where they consolidated, organized and repaired the objects:

In the tomb of Seti II, now the workshop of Mr. Mace of the Metropolitan Museum; and Mr. Lucas, late Director of the Government Analytical Laboratory, the restoration and preservation work is proceeding at the highest speed consistent with the proper care of the objects.¹⁵

On 23 January, M. Pierre Lacau, Director General of the Antiquities Department, took the first step towards what would become an acrimonious relationship between the archaeologists and the Antiquities Department by

¹² *Egyptian Gazette*, 22 January 1923.

¹³ *Times of London*, 13 January 1923.

¹⁴ *Times of London*, 20 January 1923.

¹⁵ *Egyptian Gazette*, 6 February 1923.

closing the tomb of Tutankhamen to visitors. M. Pierre Lacau explained his decision,

It is essential that the removal of objects in the new tomb be carried out as methodically and quickly as possible. The public will readily understand that it is impossible to work seriously under the eyes of visitors. From today entrance to the tomb is strictly forbidden. Only archaeologists who are able to usefully to assist the excavators will be admitted.¹⁶

M. Pierre Lacau was a Frenchman who had previously worked under M. Maspero, the former director general of antiquities. He had a close association with the Egyptian Museum and the Tutankhamen case. He helped write the 1900 catalogue of the Egyptian Museum. In the past, M. Pierre Lacau had been accused of not possessing the necessary qualifications to be the director general. As an archaeologist, he specialized in the Ptolemaic Greek period, not the pharaonic one. His detractors criticized him of poorly administering the Egyptian Museum. They believed that he was more concerned with garnering the good graces of Egyptians than caring for the museum. During the Tutankhamen case, the British complained that Lacau had an anti-British bias by displaying favoritism towards the Egyptians.¹⁷

The Curse of Tutankhamen

After years of digging in the Egyptian desert, Carter and Lord Carnarvon finally achieved a measure of notoriety. They sought to reap the windfall of a discovery of such momentous proportions. Shortly after uncovering the tomb, a heated debate ensued in Egypt regarding the rights of the archeologists and those of the Egyptian government relative to the objects. The European press naturally promoted the claims of the excavators over those of the Egyptian government. The *Egyptian Gazette* presented Carnarvon and Carter as archaeologists who had sacrificed their time and money, often to no avail; and to deny them any just reward for their efforts would stifle their productive energies. Rumors circulated throughout Egypt regarding the fate of Tutankhamen's

¹⁶ *Times of London*, 24 January 1923.

¹⁷ Public Record Office Document J436/235/16. "Personalities in Egypt." From Mr. Yencken in Cairo. 5 February 1934.

artifacts. The *Egyptian Gazette* lent a measure of credence to such hearsay: “The Department of Antiquities proposed to bring in a Bill by which no antiquities discovered were to be allowed to leave Egypt.”¹⁸ The *Egyptian Gazette* argued, “Such a step would almost certainly, put a stop at once to any further work done by any of those now excavating, and I can hardly believe that it is likely to be taken.”¹⁹ British newspapers like the *Egyptian Gazette* did not aspire to great levels of journalistic objectivity. They believed that the Egyptian government would come to their senses and settle with Lord Carnarvon prior to passing any future laws barring the removal of ancient relics from Egypt. In December of 1922, the Egyptian government issued their definitive statement concerning the sequestration rights to Tutankhamen’s artifacts. The government stated that while it had been common practice to divide treasures equally between the excavators and the government, the tomb of Tutankhamen deserved special consideration since they were of such unprecedented value.²⁰

The local press made much out of the apparent “Curse of Tutankhamen.” Many of the newspapers in Egypt encouraged stories involving suspected ill fortune to expand their readership. One of the earliest such incidents occurred when the *Egyptian Gazette* reported an episode of misfortune for the archaeologists in which Howard Carter seems to have lost his pet canary to a cobra at the tomb,

There is a story current here that on the night before Mr. Howard Carter opened up the actual entrance into the Tomb, a cobra attacked and killed a pet canary he had had with him during the excavations. From the fact that the cobra was sacred to the ancient Egyptians, superstitious people may suppose that the spirit of Tutankhamen took the form of a cobra and attacked the property of the invader of his privacy.²¹

Within two months of opening the tomb of Tutankhamen, Lord Carnarvon fell ill. He retired to Aswan to recuperate his health after a heady period of excavation in

¹⁸ *Egyptian Gazette*, 6 February 1923.

¹⁹ *Ibid.*

²⁰ *Egyptian Gazette*, 16 February 1923.

²¹ *Egyptian Gazette*, 6 February 1923.

which he and Howard Carter not only uncovered the outer chamber but exposed the inner chamber as well. A mosquito gorged with streptococcus bit Lord Carnarvon while he was resting at Aswan on 16 February 1923. By the middle of March his condition had deteriorated to such an extent that doctors called for his wife and son. While under the best medical supervision in Egypt, Lord Carnarvon developed lobar pneumonia. George Edward Stanhope Herbert, fifth Earl of Carnarvon, died a week later in the morning hours of 5 April 1923, of erysipelas, blood poisoning, and pneumonia.²²

Uncovering Tutankhamen

One month later, most of the artifacts from the tomb, some six hundred in number, made their way North on the Nile River via tug and barge to Cairo, where they were stored in the Egyptian Museum. Most of the objects, however, were too fragile and had not been preserved or sufficiently secured to place them on display. Fortunately, some of the relics responded so well to Carter's preservation techniques that they were able to exhibit them in display cases, including the King's throne and the "mannequin."²³

Carter quitted the excavation site, as the weather posed too difficult a hardship to continue in the hot, dry Egyptian summer. He retired to England for a brief respite. Work would not restart again until the fall. Back home, Carter delivered lectures on his recent work in the Valley of the Kings, including an address to the Egypt Exploration Society in London. In his talks, Carter said that archaeology can not be measured in the material worth or value bequeathed to posterity, but the intellectual knowledge gained from studying past cultures. He concluded that modernity had actually stifled the creativity which can be found by uncovering such archaeological discoveries as the tomb of Tutankhamen.²⁴ An accomplished artist, Carter described Tutankhamen-era art, "Egyptian art embodies refinement in every way- it embodies love of simplicity, patience in

²² *Le Temps*, 7 April 1923. *Egyptian Gazette*, 7 April 1923.

²³ *Times of London*, 23 May 1923.

²⁴ *Times of London*, 22 September 1923.

execution, and it never descends to an unideal copy of Nature. This fact is manifested by the material in the tomb of Tutankhamen.”²⁵

The excavation of the tomb of Tutankhamen restarted on 22 October 1923. Before any work could begin on the actual tomb, gangs of Egyptian workers had to uncover the tomb from beneath a mountain of dirt. Before leaving on his summer vacation, Carter had dumped seventeen hundred tons of earth on to tomb to protect it from grave robbers.²⁶ Carter sought to remove the tomb’s sepulchral shrines so as to access the sarcophagus by summer. This time, Carter had the added benefit of electricity. The archaeologists bathed the ancient tomb with electric light, which better enabled them to accomplish their tasks. As they broke through the wall separating the outer chambers from the inner chambers, they were rewarded with the greatest of Egyptological artifacts, including several shrines and two gold-gilded chariots. Carter called in reinforcements for help dismantling the sepulchral chamber.²⁷

On 3 January 1924, Carter opened the doors to the last shrine in the hall, revealing the large stone sarcophagus of the Pharaoh Tutankhamen. Carter had a strong suspicion that this would be the case, so he invited Chief Inspector of Antiquities Engelbach, as well as E.S. Harkness, Chairman of the Committee of Trustees, and A.M. Lythgoe, Curator of the Egyptian Department of the New York Metropolitan Museum of Art, and Mr. Winlock, Director of the Egyptian Expedition of the same museum, to witness the event. The *Times of London* reported the remarkable moment when Carter unsealed the shrine,

All watched with tense excitement. The bolts of the last doors were drawn aside, the doors swung slowly open, and there, filling the entire area within the fourth shrine, and effectually barring all further progress, stood an enormous sarcophagus of crystalline sandstone, intact, with the lid still firmly in place. At the corners, modeled in the highest relief, were figures of the four protective goddesses, Isis, Nephthys, Neith, and Selk, not standing free like the exquisite figures round the shrine in the store

²⁵ Ibid.

²⁶ *Times of London*, 23 October 1923.

²⁷ *Times of London*, 28 December 1923.

chamber, but cut in the stone of the sarcophagus itself, with their arms and wings outstretched along its sides; while the entablature comprised a frieze of inscriptions giving the cartouches of King Tutankhamen, thus confirming that this was his tomb, and that within the sarcophagus reposed his mortal remains.²⁸

They now had a much better understanding of the funerary customs of the Egyptian Kings. Based on paintings in the sepulchral chamber, Carter surmised, King 'Aye' is represented before the Osiride King Tutankhamen, one is constrained to conclude that its true interpretation is that Aye was no less than co-Regent with Tutankhamen, and that in this 18th Dynasty branch of the Amenhotep and El Amarna families we are really dealing with a series of co-regencies and not with successive separate reigns.²⁹

Carter and his associates discerned that the fine craftsmanship of the artisans who built the shrines, artifacts, and the sarcophagus, was in vain, as those charged with actually delivering the artifacts were hasty and negligent. Carter recognized that these men placed some pieces out of proper position, leaving the shrine untrue. They either put the pieces out of order, or did not bother to correct their mistakes, instead they decided to often force them into place rather than take the time to properly fit all the objects.³⁰

Carter carefully removed the lid to the stone sarcophagus on 12 February 1924, revealing the burial coffin of the Pharaoh Tutankhamen. Carter employed differential pulleys to help lift the heavy granite lid of the sarcophagus. What the archaeologists found underneath perplexed them, for instead of viewing the coffin, they found it had been wrapped in a protective shroud.³¹ The *Times of London* reported the unveiling, "Beneath the shrouds lay the gigantic gilded coffin, in the form of a KING's body: his face of gold, with crystal eyes, a life-like

²⁸ *Times of London*, 5 January 1924.

²⁹ *Times of London*, 7 January 1924.

³⁰ *Times of London*, 15 January 1924.

³¹ *Le Temps*, 13 February 1924. *Times of London*, 13 February 1924.

portrait; the signs of kingship on his brow; the flail and the sceptre of kingship in his crossed hands.”³²

Disagreements between the Egyptian Government and Howard Carter

The discovery of the tomb of Tutankhamen and subsequent excavation prompted many disputes between Howard Carter and the Egyptian government. For instance, the Egyptian government insisted that the pharaoh’s treasures should remain in the care of Egyptian curators; ordinary Egyptians thought Tutankhamen’s treasures should be used to pay off the staggering national debt. Howard Carter endeavored to perform scientific research on the artifacts. Goals for all parties involved differed and much bickering ensued.

Archaeology was a time-consuming endeavor, often requiring months or years to reach the objects after initially detecting the tomb. It took seventeen months after first uncovering of the tomb before Howard Carter arrived at Tutankhamen’s sarcophagus. He carefully raised the lid of the sarcophagus in February 1924. Carter was the first person to see the pharaoh in 3,247 years.

The *Egyptian Gazette* described the first glimpse of the boy pharaoh,

The beauty of the sarcophagus far exceeds our expectations. It is in every respect a casket fit to contain the mortal remains of a king. Of yellow crystalline sandstone, curiously rose-tinted, it is in a state of perfect preservation, and of even more superb workmanship than the view through the shrine doors had led us to anticipate. It is far superior to that of King Aye, Tutankhamen’s immediate successor, and is probably the finest specimen of its kind the world possesses.³³

Carter soon realized that the lid to the sarcophagus was not yellow crystalline sandstone, as they had originally believed it to be, but granite. It had cracked during the initial sealing process, some 3,000 years ago, making it very difficult to remove the lid without harming the structure of the sepulcher.³⁴ Tomb workers were already having trouble maneuvering in such close, cramped quarters. Another week passed before Carter could extricate the lid. Journalists described

³² *Times of London*, 13 February 1924.

³³ *Egyptian Gazette*, 6 February 1924.

³⁴ *Egyptian Gazette*, 7 February 1924.

the scene in the Valley of the Kings where such notables as Professor Breasted, M. Foucart, M. Pierre Lacau, Theodore Davis and Muhammed Pasha Zaghloul had gathered,

The coffin shows the king wearing the golden cobra sign of Lower Egypt on the left side of his forehead and on the right side the golden vulture sign of Upper Egypt and, as it happens, each is on the right side in relation to the geographical position of the two parts of the country, for the king lies with his head to the West. The arms are folded, engaging in the coffin, but the hands are free, the left one holding a wonderful solid gold scourge, or flail, the right a crook staff of gold, inlaid with semi-precious stones, these two articles constituting the insignia of Osiris, sovereign of the Other World. The face and eyes were inlaid with black and white crystal and the upper part of the body – down to the point of the folded arms – is of heavy sheet gold, laid on wood, the rest of the coffin being covered with heavy gold leaf.³⁵

Carter had invited many visitors to the excavation site, even though prior agreements with the Egyptian government stipulated that only those persons associated with the dig could be present. Carter had asked Sa'ad Zaghloul, Under-Secretary of State to the Ministry of Public Works, if he would grant entrance to the English and American wives of his assistants. Zaghloul rejected the archaeologists's demands. Carter insisted that these ladies gain admittance into the tomb. He requested they join their husbands, whereupon they were barred entry by Egyptian authorities. Insulted, Carter secured the excavation site and threatened to halt his work on the tomb. Zaghloul responded by stationing an armed guard at the tomb to forbid entrance to all, including Carter and his team. Carter proceeded to Luxor, where he publicized a notice in the local hotels, stating, "The Ministry of Public Works has put so much obstruction in the way of my work at the Tomb of Tutankhamen that it is impossible to continue it. In these conditions, my collaborators and I refuse to go on with the task of

³⁵ *Egyptian Gazette*, 14 February 1924. *Le Journal du Caire*, 5 February 1924.

dealing with the objects requiring treatment there.”³⁶ Many of the archaeologists who had been known to associate with Carter sympathized with him and suspended their work in protest.³⁷

It appears that this incident was only the culmination of series of disagreements between Carter and the Antiquities Department. Earlier, there had been a misunderstanding over the rights to publish information relevant to the discovery. *Le Temps* believed that Carter’s decision to shut down the tomb primarily stemmed from the conflict between the Egyptian government and the *Times of London* monopoly in the Valley of the Kings; however, it also recognized that the barring of Carter’s female guests was a secondary point of contention.³⁸ On 13 February 1924, Carter posted the following notice in local hotels:

Owing to impossible restrictions and discourtesies on the part of the Public Works Department and its Antiquity Service, all my collaborators, in protest, have refused to work any further upon the scientific investigations of the discovery of the tomb of Tutankhamen. I, therefore, am obliged to make known to the public that immediately after the Press view of the tomb this morning between 10 a.m. and noon, the tomb will be closed and no further work carried out.³⁹

Most important for Carter was unimpeded access to the tomb and its artifacts, so he could examine and take notes on all of the objects free from government interference.

Negotiations with the Egyptian government collapsed during discussions over the government’s concession to the expedition. Carter expressed his displeasure with the authorities, “This was only the culminating point of a series of acts of unwarrantable interference on the part of the government since work was resumed in October, which, in their cumulative effect, have tended to render

³⁶ *Le Journal du Caire*, 14 February 1924. *Le Journal du Caire*, 15 February 1924. *Egyptian Gazette*, 15 February 1924.

³⁷ *Ibid.*

³⁸ *Le Temps*, 16 February 1924.

³⁹ *Times of London*, 14 February 1924.

scientific work at the tomb increasingly difficult.”⁴⁰ The *Times of London* recorded Carter’s criticism of the Antiquities Department,

The exclusive right of your Department to the tomb does not commence until I have had sufficient time to examine the tomb and take such notes as I judge necessary. As you are doubtless aware, I so far have had time to examine but a small part of the contents of the tomb, and the opportunity to examine and make notes on the rest is a fundamental right, which I will not give up.⁴¹

The pro-British press in Egypt naturally supported Carter’s claims against the Egyptian government. The *Egyptian Gazette* concluded that the real issue for Carter was not the question over sequestration rights but the Egyptian government’s constant interference to the detriment of science and history.⁴² The *Egyptian Gazette* argued that the Egyptian government had previously transferred the license at the death of Lord Carnarvon to his wife Almina, which required the government to be responsible for protecting the archaeologists from any unnecessary interruptions; however, the Ministry of Public Works had only managed to hinder Carter and his team.⁴³

Le Journal du Caire, was not so sympathetic to Carter. The pro-French newspaper described the famed archaeologist as “obstinate” and “incomprehensible.”⁴⁴ *Le Journal du Caire* criticized Carter for pretending that he was a victim being persecuted by so-called tyrants.⁴⁵

It was difficult for pro-British journalists to determine the motivation behind such a policy, for it only jeopardized the condition of the pharaoh’s artifacts. In the estimation of these journalists, the Egyptian government had wronged Howard Carter. For example, the *Times of London* actively promoted the claims of Carter, publishing his contentions against the Egyptian government while ignoring their rebuttals.

⁴⁰ *New York Times*, 3 March 1924.

⁴¹ *Times of London*, 14 February 1924.

⁴² *Egyptian Gazette*, 16 February 1924.

⁴³ *Ibid.*

⁴⁴ *Le Journal du Caire*, 16 February 1924.

⁴⁵ *Ibid.*

Nationalism played a prominent role in the affair. The Egyptian government asserted its sovereignty by barring female visitors to the tomb. Egyptian nationalists perceived Carter and his associates as traditional European imperialists attempting to abscond these priceless artifacts of Egypt's distant past. Howard Carter and his defenders, on the other hand, resented any interference in their work. They resisted accountability to the Egyptian government.

During the archaeological strike, Howard Carter had retired to Gurna with the keys to the tomb, so not even the Egyptian government could safely enter the tomb. He wanted to continue working in the tomb, fearing his absence would result in damage to the artifacts. He demanded that the Egyptian government suspend their obstruction of the expedition. In a letter to M. Pierre Laccau, Carter insisted that this discovery did not belong to Egypt alone but to all of humanity. Considering the delicate nature of the objects, archaeologists Breasted, Gardiner, Lythgoe and Newberry wrote a letter to Laccau, explaining need for uninterrupted work to protect the relics,

Besides endangering the completeness of the security of the records; the unnecessary delays now being incurred are seriously obstructing and delaying the related enterprises of the co-operating staffs. Those are irretrievable, and totally unnecessary scientific losses of time and ability and of available funds by the organizations at present in this country to serve science, but in this particular case accomplishing a vast amount of costly work, accruing chiefly to the benefit of the Egyptian Government, without costing that Government a penny.⁴⁶

They concluded that the onus was Laccau's to better manage this delicate situation by removing the difficulties placed on the excavators by the Antiquities Department, which was symbolic of the Anglo-French competition in Egypt.

Egyptian nationalists hijacked the local press for their own personal motives. The anti-British press in Egypt took advantage of this unique opportunity with the conflict between Carter and the Egyptian government to

⁴⁶ *Egyptian Gazette*, 16 February 1924.

condemn the British. The Egyptian press sought to incite anti-British sentiment in Egypt, hoping to transform the issue over the rights to the tomb into one of Egyptian nationalism. The *Times of London* referenced this situation, “The extremist Press continues its attitude of opposition to Mr. Carter, and appears to prefer to regard the matter from the point of view of national dignity rather than its legal aspect or on its merits. It seems that it is blindly following the lead given by the Prime Minister, Zaghlul Pasha.”⁴⁷ As fervent as the British, or English-speaking press, was in their advocacy of Carter, the Egyptian and pro-French press were equally as opposed to the archaeologist.

Al-Balagh (The Informer) used the opinion of British MP MacDonald against Carter. It reported that MP MacDonald had reminded the British archaeologist that he was subject to the laws of Egypt. This was the very same paper that believed the Egyptian government must revoke its concession and undertake the remainder of the work on its own: “Egypt has suffered enough from this foreigner, who, under the nose of the Egyptian public and of a high official of the Government, closes the tomb of the Pharaoh as though it were the tomb of his own father.”⁴⁸

Al-Mahroussa (The Guardian) adopted a somewhat softer stance towards the famed archaeologist, thanking him for all that he had done, but it too maintained that the Egyptian government should embrace a stronger position regarding controlling rights to the tomb “so that Mr. Carter may know we have a real government.”⁴⁹

Al-Akhbar (The News) criticized the Egyptian government for reissuing the concession to Lady Almina upon the death of her husband Lord Carnarvon. It asserted that the Egyptian government could have avoided this terrible headache by simply doing the work itself, “so as to put an end to the tyranny of Mr. Carter and those like him.”⁵⁰

⁴⁷ *Times of London*, 20 February 1924.

⁴⁸ *Egyptian Gazette*, 18 February 1924.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

Al-Siyasa (The Politics), another local Egyptian paper, embraced the archaeologists and reproached the Ministry of Public Works. It was the sole Egyptian Arabic paper to patronize Carter. *Al-Siyasa* declared that the government should have avoided a confrontation over the visitation of workers' wives to the tomb,

The incident makes us laugh indeed, because the arrangements made in regard to it have been unworthy of these who made them. Why did the Minister of Public Works refuse Mr. Carter's demand to permit the wives of his collaborators to visit the Tomb several days before other people? It is not natural for the wives of the Ministers to hear the important news of the Ministry before they become known to the public? And even if it is natural would it not be an act of courtesy to agree to the ladies' visit. What patriotic interests and national dignity required the refusal of the request? To tell the truth, the Minister of Public Works was too strict where strictness was not required.⁵¹

Egyptian Prime Minister Sa'ad Zaghloul Pasha issued a statement to clarify the government's position in regards to Carter's nationality. He intended to assuage nationalist sentiment as well as placate foreign public opinion:

Not at any moment has our action been influenced by Mr. Carter's nationality. On the contrary, because of that nationality and our sincere desire that nothing should happen to trouble the friendly relations between the two countries, the Egyptian Government has never ceased to display much consideration and quite special sympathy for Mr. Carter, and I can assure you that if the concession-holder had been an Egyptian we would not have treated him with as much consideration.⁵²

Negotiations between the two parties moved to Cairo, and should those break down the only recourse would be to take the matter before the Mixed Courts. The minor dispute over the wives' attendance at the tomb was only a

⁵¹ *Egyptian Gazette*, 16 February 1924. This royal family was not comprised of native Egyptians but the descendants of Muhammad Ali, an Albanian mercenary working for the Ottomans to help suppress this once-rebellious province of the Ottoman Empire.

⁵² *Times of London*, 22 February 1924.

diversion from a broader conflict involving nationalism. In reality, the Egyptian government and Howard Carter were battling over control of the tomb and the artifacts therein. The Egyptian government believed it possessed sole authority over the tomb since it was located in Egypt. Carter and his team, however, considered it an infringement upon their rights, granted under licensure by the Egyptian government, to be under constant government surveillance and subject to harassment while conducting an excavation in the name of science.

In the midst of the controversy, the *Egyptian Gazette* reminded its readers that the granite lid to Tutankhamen's sarcophagus was still hanging precariously above the tomb and mummified remains of the late pharaoh. Should the ropes holding the lid in place give way under the strain, it would come crashing down and destroy the most valuable treasure of all.⁵³ The *Egyptian Gazette* alleged that the deadlock between the Egyptian government and Howard Carter had prompted the Egyptian government's decision to procure the services of other, more amicable, archaeologists. They asserted that the Egyptian government had already contacted other men within the archaeological community to enlist their services. These same reporters surmised that the Egyptian government only needed to remove the danger of the dangling lid, and then they could start training their own Egyptian archaeologists in Europe to manage the remainder of the excavation without the worry of Carter leaving for England with any of the artifacts.⁵⁴

On 14 February 1924, Carter traveled to the tomb to inspect the condition of the locks. There he encountered Habeeb Affandi, the local inspector for the Antiquities Department, who denied Carter access to the tomb. Habeeb Affandi explained that he was under orders from Cairo to forbid anyone from visiting the tomb. *Le Temps* explained that after careful deliberation, it had been M. Pierre Lacau's decision to place a guard at the tomb and effectively bar Carter's entry.⁵⁵ The *Egyptian Gazette* recalled that it was Carter, who after thirty years of hard

⁵³ *Egyptian Gazette*, 18 February 1924.

⁵⁴ *Ibid.*

⁵⁵ *Le Temps*, 17 February 1924.

work, finally realized his ambition of uncovering the lost tomb, and now he was prohibited from entering the tomb.

Howard Carter Takes the Egyptian Government to Court: Prelude to the Mixed Courts

At this point, it seems that the negotiations had broken down between the Egyptian government and Carter. Rumors in Egypt predicted that a settlement could only be accomplished within the Mixed Courts, and in the meantime the government would reopen the tomb to finish the job originally begun by Carter. The *Egyptian Gazette* predicted that the Egyptian government would be incapable of properly supervising the excavation, "It seems obvious that were such a course attempted Mr. Carter would immediately apply to the Courts for an injunction to restrain the Government, but, apart from that, the task would be an impossible one for the Government, which has not in its employ a single official competent to undertake the work."⁵⁶ After observing Carter's treatment at the hands of the Egyptians, the same paper concluded that all foreign archaeologists in Egypt would be loath to associate themselves with such a government action. Furthermore, Carter had the full support of the archaeological community in Egypt.

As tensions escalated, accusations ensued from both parties. The Egyptian government announced that Carter was at liberty to resume work so long as he severed his relationship with the *Times of London*.⁵⁷ Egypt considered his relationship with the *Times of London* not only was a detriment to local Egyptian papers, but that the two profited from the partnership because the paper had a monopoly on the expedition's information.

The *Times of London*, issued a clarification, stressing that Howard Carter and Lord Carnarvon had approached the paper to assume all reporting from the site in order take time off their hands. It declared that it gained no profit from the venture. The British paper maintained that had their paper not undertaken this responsibility, the archaeologists would have been burdened under the demands

⁵⁶ *Times of London*, 19 February 1924. *Egyptian Gazette*, 18 February 1924.

⁵⁷ *Le Temps*, 20 February 1924.

of publication and would have lacked adequate time to conduct their own research. The *Times of London* insisted that it was no monopoly since all other newspapers had access to their first-hand accounts of the day's transactions, so they too could simultaneously publish their articles. It considered the Egyptian government's argument that local papers suffered a non *sequitur* because per arrangement with the paper and the Egyptian government, the native Egyptian press had access to the *Times of London's* service free of charge.⁵⁸

On 18 February 1924, the *Times of London* reported that the Ministry of Public Works was interested in resolving the dispute with Carter; however, should the negotiations falter it had no compunction in appropriating the tomb and continuing the work of its own volition.⁵⁹ The next day, Howard Carter filed suit in the Mixed Courts against the Egyptian government. Defending his legal action, Carter affirmed,

I have initiated proceedings in the Mixed Courts for the protection of the objects contained in the tomb. If the director of the Antiquities Department will express regret for having insulted the ladies who had been invited by the Countess of Carnarvon to visit the tomb on Wednesday, after the visit of journalists, and if he undertakes to make no opposition of such kind as might provoke an incident, I will open the tomb a second time for a period of ten days in conformity with the agreement of February 8, Article 8 of which has been contravened by you.⁶⁰

Weary from all the posturing, Carter filed suit against the Egyptian government in the Cairo branch of the Mixed Courts in order to be named as the sequestrator of the artifacts.

Both sides sought to save face by compelling the other side to express regret for their behavior and the embarrassment and humiliation they caused. The Ministry of Public Works defended their actions,

Considering that on February 13 Mr. Carter interrupted the execution of the programme of work agreed to by closing down the Tomb and publicly

⁵⁸ *New York Times*, 19 February 1924.

⁵⁹ *Times of London*, 19 February 1924.

⁶⁰ *Egyptian Gazette*, 21 February 1924.

declaring that further work was impossible, and, when on February 18 he was formally invited to resume work he declined, and proposed unjustifiable and unacceptable [sic] conditions . . . Therefore Mr. Carter's authority for excavation is declared to be cancelled, and the Director-General of Antiquities is ordered to reopen the Tomb and resume work.⁶¹

Back home in Britain, MP Ormsby Gore, stood before the House of Commons and suggested that the British government contact the American government to jointly protest the poor treatment of British and American archaeologists by the Egyptian Minister of Public Works. MP MacDonald obstructed this proposal because he believed that the British government should avoid such involvement at that time.⁶²

On 20 February, Egypt promptly dispatched guards to Luxor, effectively barring Carter admittance to the tomb. M. Pierre Lacau, Director General of Antiquities, also revoked Carter's excavation permit. He argued that Carter voluntarily abandoned work at the site and was averse to reopen it, in violation of Article 13 from their contract dating to 1915. Carter initiated a second lawsuit in the civil chamber of Cairo's Mixed Courts without delay, requesting admittance to the tomb. He wanted to work, but the executors to Lord Carnarvon's estate also sought ownership of half the artifacts discovered, in accordance with Article 11 of the same contract. In the same court proceeding, Carter demanded a writ prohibiting the Egyptian government from entering the tomb. He expressed apprehension that the Egyptians would do irreversible damage to the tomb and its contents.

That same day, the Egyptian government published a ministerial *arrêté*, canceling the concession to Lady Carnarvon. This action incensed Carter. He requested permission to return to the tomb for the sole purpose of securing the relics and protecting them from any damage, stating, "I should be given the opportunity of taking measures to protect the contents of the tomb and the

⁶¹ *Times of London*, 21 February 1924.

⁶² *Egyptian Gazette*, 20 February 1924.

laboratory during the suspension of work.”⁶³ The ministry issued a rejoinder, expressing their shock to learn that Carter had not secured the tomb and laboratory before quitting the site. It concerned the government that he refused to take the necessary precautions to safeguard the sarcophagus, although in the interest of safeguarding the artifacts for posterity, the government would grant Carter one last chance to protect the excavation site and adjacent laboratory.⁶⁴

Howard Carter found Egyptian governmental control a sticking point in the affair, regardless of how mild the Egyptian annoyance was in reality. He considered the government an obstacle impeding the completion his scientific research. Negotiations between the two parties related to the rights of ownership and the publication of scientific results. According to their contract, rights associated with the expedition were first determined according to usage and then to permit.

M. Pierre Lacau jumped at the opportunity to steal some of Carter’s press coverage. On 21 February 1924, he departed Cairo for Luxor. The director general of the Antiquities Department invited Carter join him at the tomb on the next day. Lacau declared that his intention for the trip was to guarantee the safety of the sarcophagus since Carter was unable to properly secure it before locking up the tomb. Indeed, the granite lid of the sarcophagus was hanging precariously by ropes. For this purpose, he invited Carter to aid him in the name of science. Carter refused to assist Lacau, declaring that it would be improper for him to participate in such a venture with court action beginning the following day. On 22 February 1924, without Carter present, Lacau had Egyptian workmen saw off the padlocks which Carter had placed on the tomb’s entrance and replaced them with his own locks. Lacau successfully entered the tomb and lowered the granite lid without damaging it.⁶⁵

Sa’ad Zaghloul Pasha, Egyptian Prime Minister, maintained that Egypt acted within its rights and conducted the affair in a friendly manner. To accusations of Egypt proceeding against Carter because he was British, Zaghloul

⁶³ *Egyptian Gazette*, 21 February 1924.

⁶⁴ *Le Temps*, 22 February 1924. *Egyptian Gazette*, 21 February 1924.

⁶⁵ *Le Temps*, 24 February 1924. *Times of London*, 23 February 1924.

responded that his government's treatment of Carter was no different than it would have been were he of any nationality. Zaghloul desired to maintain good relations with Britain, but he made it clear that it was imperative to defend Egypt's prerogative in this case, and that he was not acting in order to satisfy the will of the Egyptians. While Carter was initiating legal action in the Mixed Courts against the Egyptian government, Egypt was preparing to issue a new concession to Almina, the Countess of Carnarvon. Egypt believed that the concession had operated well under Lord Carnarvon but had deteriorated under Carter, and it granted the license to Lady Carnarvon rather than Carter. Almina, the Countess of Carnarvon, defended Carter's misfortune,

The discovery of the tomb has been dogged by bad luck and bad temper . . . Howard Carter stands before the archaeological world as a partly wronged, partly foolish figure. He has done all the hard work and done it well, but the government of Egypt handed him a rope and persuaded him to hang himself.⁶⁶

Tutankhamen on Trial: The Case for the Sequestration Rights to the Pharaoh Tutankhamen's Artifacts

The period between when Carter first filed suit and the initial hearing in the Mixed Courts was fraught with rumor. Silence from both Carter and government sources allowed many to speculate as to the outcome of the court case. The Egyptian government tried to put many of these rumors to rest. The Ministry of Public Works issued an official communiqué to help clarify many of the misunderstandings and misrepresentations swirling around Egypt. The Ministry of Public Works explained that it had reissued the concession to Lady Carnarvon following the death of her husband to maintain a level of consistency and continuity to the expedition and scientific research taking place in the Valley of the Kings. Carter took exception to the oversight and limits imposed by the Egyptian government, calling them unreasonable. Carter ignored the stipulations of his agreement with the government which implicitly forbade the entertainment of visitors at the site. Incensed by Egyptian demands, Carter had sealed the

⁶⁶ *New York Times*, 22 February 1924.

tomb without securing the sarcophagus and departed for Cairo. The Ministry of Public Works professed that it was uninterested in such petty disputes, for it was only concerned with the preservation of the artifacts. Carter demanded an apology from the Egyptian government for its treatment of his lady visitors, and the Egyptian government merely asked that Carter continue working on the invaluable relics. Unable to put aside their differences, Carter then filed suit against the Egyptian government in the Mixed Courts.⁶⁷

Summer was approaching, and Carter was distressed over the future condition of the objects in the tomb. The Mixed Courts adjourned during the hot summer months, and Carter hoped to properly preserve the treasures and close the tomb before summer arrived. Now that Carter had the proper mandate to bring the case before court, he and the trustees of Lord Carnarvon desired a quick resolution to the matter.

Legal proceedings began in Cairo on 23 February 1924. The writ served on Morcos Bey Hanna, Minister for Public Works, was submitted on behalf of Howard Carter and three executors of Lord Carnarvon's estate, including Sir John Grenfell Maxwell, Major General Sir Robert Huthcheson, and Arthur Fitz-Hardinge Berkeley Portman.⁶⁸ The writ maintained that both Lord Carnarvon and Howard Carter held the concession to excavate the Valley of the Kings. This license from the Egyptian government provided for the excavation of the valley and preservation of artifacts. Carter requested that the Mixed Courts designate him as the sequestrator of the tomb of Tutankhamen and the relics held within.⁶⁹

Howard Carter's case against the Egyptian government was first heard in the Civil Section of the Mixed Courts at Cairo on 23 February 1924. Judge Pierre Crabitès presided in the case as president of Cairo's Civil Section. F. M. Maxwell represented the plaintiffs. He was a British lawyer famous for his prior appearances in many prominent lawsuits in front of both the Mixed Courts and British military courts. Maxwell believed that it was in their best interest to establish the urgency of the situation and demanded that Carter be appointed

⁶⁷ *Egyptian Gazette*, 23 February 1924.

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

sequestrator so he could resume the excavation.⁷⁰ Mr. Rosetti was the advocate on behalf of the Egyptian government as part of the legal team for the Department of Public Works. Mr. Rosetti, on the other hand, attempted to prove that there was no need for such action.⁷¹

Egyptians packed the courtroom on the first day of the trial, and most of them were university students. Throughout the proceedings, Judge Crabitès had to exercise his gavel in order to gain a measure of silence in the courtroom. Most of the Egyptians attended the trial to demonstrate against Howard Carter and F.M. Maxwell. Judge Crabitès had to frequently admonish the crowd gathered in the Mixed Courts' largest courtroom for their inappropriate behavior. The *Egyptian Gazette* described the scene at the courtroom as something reminiscent of a performance at the Royal Opera House. Students protested outside of the court, showing their support for the Egyptian government. Judge Crabitès had to request a police detachment to ensure an uninterrupted trial. Certainly, Crabitès aggravated the already tense situation by creating a disturbance himself by visiting the tomb.⁷² Egyptian nationalists called for him to recuse himself. Crabitès should have recused himself, for he was a friend of Carter and was intimately acquainted with this excavation.

The *Egyptian Gazette* naturally promoted Carter's cause. When describing events in the courtroom, the *Egyptian Gazette* portrayed Mr. Rosetti as stentorian and garish, both pleading and thunderous: "Maitre Rosetti, appearing for the Government, raised his voice to something approaching a scream."⁷³ On the other hand, the *Egyptian Gazette* contrasted Mr. Rosetti's demeanor with that of Mr. Maxwell, counsel for Carter and the three executors to Lord Carnarvon's estate: "Mr. Maxwell, cool and collected, addressed the Court in a subdued and confidential tone, as though what he had to say were for the presiding judge's special ear alone."⁷⁴

⁷⁰ Thomas Hoving, *Tutankhamun: The Untold Story*. (New York: Simon and Shuster, 1978), 302.

⁷¹ Ibid.

⁷² Newspaper clipping, Mss. 73-85, Scrapbooks 1919-1939, Crabitès Collection, University of New Orleans, New Orleans, LA. *Le Journal du Caire*, 25 February 1924.

⁷³ *Egyptian Gazette*, 25 February 1924.

⁷⁴ Ibid.

Mr. Rosetti, counsel representing the Egyptian government, commenced by arguing that Carter had no right to bring the case to court because he was not included in the contract. The license existed between the Lady Carnarvon and the Egyptian government. The Egyptian government had no formal relationship with Carter. Mr. Rosetti maintained that Carter had no evidence of authorization to speak for the Countess of Carnarvon in court. The executors to the Carnarvon estate were scattered throughout the world, so Carter brought the case forward on their behalf. Mr. Maxwell contended that Carter was the fully empowered agent of Lady Carnarvon and capable of making decisions regarding her estate.⁷⁵ Lady Carnarvon had cabled Howard Carter, saying, "Take proceedings in my name."⁷⁶ Mr. Rosetti argued that the Mixed Courts did not have jurisdiction over administrative measures such as concessions. Mr. Rosetti said that Carter had lost his right to dig when he abandoned the site and compromised the objects.⁷⁷ Judge Crabitès adjourned court, providing the attorneys representing Carter time to prepare a rejoinder to Egypt's accusations.⁷⁸

Carter withdrew his case against the Egyptian government on 29 February 1924. In early March, both parties consented to external arbitration in lieu of a lengthy civil trial. Carter lacked confidence that the legal proceedings could be brought before the court without the executors present, so he instituted a new action, including Sir John Maxwell and Almina, the Countess of Carnarvon as litigants. Sir John Maxwell and Lady Carnarvon were the executors of the estate of Lord Carnarvon. Carter then persuaded an American archaeologist, Dr. James Breasted, to act as a third party referee in the ongoing negotiations between the Egyptian government and the Carter trustees. Although praised by both parties, Professor Breasted was doubtful that the case could be settled early.

During the midst of the trial for the sequestration rights to the Pharaoh Tutankhamen's artifacts, M. Pierre Lacau staged the official opening of

⁷⁵ Ibid.

⁷⁶ *Egyptian Gazette*, 10 March 1924.

⁷⁷ *Le Journal du Caire*, 12 March 1924.

⁷⁸ *Le Journal du Caire*, 27 February 1924. *New York Times*, 24 February 1924.

Tutankhamen's tomb. The Egyptian government invited hundreds to attend the ceremony on 5 March 1924, including eminent Egyptologists, senior officials, diplomats, and other notables. The Egyptians intended the opening ceremony to be a largely ceremonial function, but it quickly metamorphosed into a nationalist demonstration. Supporters of Zaghoul Pasha, numbering in the thousands, lined the route to cheer their hero, awaiting his arrival at Luxor. Students spread out along the road from Cairo to Luxor just for a glimpse of their own champion, student MP Hassan Yassin. British newspapers denounced the spectacle as a political maneuver undertaken by the Egyptian government with no relevance to the preservation of the artifacts.⁷⁹ Judge Crabitès thought that the fiasco surrounding the reopening endangered the tomb and its contents.⁸⁰

On 7 March 1924, the *Egyptian Gazette* published an opinion piece railing against the Egyptian government's conduct during the Tutankhamen affair. All along, the Egyptians had intimated that they merely sought to safeguard the tomb for the sake of posterity. The *Egyptian Gazette* challenged this notion, for were it sincere, then why had the Egyptian government compromised the objects in the tomb by admitting visitors: "In fact, it is difficult to avoid the conclusion that in this miserable affair they are behaving in a willfully hostile and provocative manner."⁸¹ This article declared that what the government was really interested in was the promotion of hostility and animosity between Egyptians and the British. A root cause of the enmity between the two groups was the failure of Egyptians to cope with foreigners scavenging for their native treasures. The *Egyptian Gazette* denounced Egyptians for disregarding the hard work of foreigners who discovered their national monuments.⁸²

Back in court, Mr. Maxwell disputed that Carter was a paid servant, as Mr. Rosetti had portrayed him, for he never received a salary from Lord Carnarvon, rather he paid for his work in the desert out of pocket. Mr. Maxwell declared that Howard Carter had no partiality towards the final destination of said artifacts. For

⁷⁹ *Le Journal du Caire*, 7 March 1924. *Egyptian Gazette*, 8 March 1924.

⁸⁰ Hoving, *Tutankhamen*, 302.

⁸¹ *Egyptian Gazette*, 7 March 1924.

⁸² *Ibid.*

Carter, his only concern was to secure, protect and scientifically record the objects located within the tomb. In reality, Carter was interested in the question of ownership of the objects; however, Maxwell convinced him to repudiate all entitlements to ownership so as to enhance his case for sequestration rights. Furthermore, Morcos Bey Hanna had intimated that he would be inclined to renew the concession provided that Carter signed over all claims to the relics.⁸³ Mr. Maxwell held that the Egyptian government's argument regarding the possession of the tomb's contents should be applied to the executors of Lord Carnarvon's estate and was not relevant to Carter. Prior arrangements stipulated that the executors could claim up to half the contents of the tomb, but they were only interested in duplicates.⁸⁴

On 10 March 1924, Mr. Rosetti, insisted that Mr. Maxwell lacked the requisite authority to appear before the court on behalf of the litigants, as he had not proved his authority to the other party, namely the Ministry of Public Works. Mr. Maxwell replied that he was a member of the Mixed Bar in good standing, so he should be able to present himself to the court. Mr. Rosetti countered by asserting that Mr. Carter had no grounds to bring this action before the court since no concession had ever been granted by the Egyptian government to Mr. Carter. Lord Carnarvon had renounced his entitlement to a share of the artifacts; therefore, no rights could descend to his wife and executors. This concession had been based upon a similar license awarded to Mr. Theodore Davis, who had also abandoned his claim to the contents of the tomb.⁸⁵ Mr. Davis had uncovered a number of tombs and subsequently made satisfactory arrangements with the Egyptian government concerning the distribution of the objects.⁸⁶

Mr. Maxwell issued a rejoinder to rebut Mr. Rosetti's contentions. Mr. Maxwell stated that there should be, in fact, two separate claims, one for Mr. Carter and one for the executors of Lord Carnarvon's estate. Mr. Carter's assertion rested on the notion that he had no interest in securing the possession

⁸³ Hoving, *Tutankhamun*, 303.

⁸⁴ *Egyptian Gazette*, 10 March 1924.

⁸⁵ *Ibid.*

⁸⁶ *Egyptian Gazette*, 11 March 1924.

of the artifacts found within the tomb. Instead, his mission concerned the scientific work in the tomb. Mr. Maxwell professed that the concession granted to Lord Carnarvon provided for the unhindered work at the tomb, and Mr. Carter was Lord Carnarvon's associate and chief archaeologist. The Egyptian government's license specifically named Mr. Carter as Lord Carnarvon's representative.

The executors maintained that their right to the objects in the tomb of Tutankhamen should remain distinct and separate from that of Carter's. According to Mr. Maxwell, a provision from the Antiquities Ordinance supported the claim of the executors, stipulating that should a tomb be found, the discoverers were entitled to half of the artifacts, or half of their value.⁸⁷ Mr. Maxwell contended that this proviso in the ordinance provided a measure of security for the excavators against an unruly Antiquities Service averse to working with the archaeologist, especially considering that M. Pierre Lacau made such proclamations as, "The Government decides, it does not discuss."⁸⁸ Mr. Carter's counsel disagreed that the license was no longer relevant, as it was converted into a contract once they discovered the tomb. Counsel rebutted that if that were the case, Mr. Carter could complete the project according to his own whim and say, "When I please I will begin the work again and when I please I will finish it."⁸⁹

After adjourning for the weekend, the trial began on Monday 12 March 1924, with fireworks. Mr. Maxwell opened by requesting that Mr. Rosetti withdraw his objection to Mr. Maxwell's counsel to Mr. Carter, which Mr. Rosetti refused to do. Mr. Maxwell replied, "May I then call upon General Sir John Maxwell to tell the court that he is my client?"⁹⁰ This statement shocked everybody in the courtroom and especially surprised Counsel. Until then, General Sir John Grenfell Maxwell had been silently sitting next to Mr. Maxwell. He had only just arrived in Cairo one hour before from California. He rose from

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ *Egyptian Gazette*, 12 March 1924.

⁹⁰ *Egyptian Gazette*, 11 March 1924.

his seat and approached the bench and announced that Mr. Maxwell was acting in his service and that he, General Maxwell, had been vested with the power of attorney from the other executors of Lord Carnarvon's estate. This bombshell caught Mr. Rosetti unawares, for just the previous day in court he had alleged that in his opinion neither Almina Countess of Carnarvon nor any of the executors would come before the Court to endorse the court case.⁹¹ Judge Crabitès remarked to General Maxwell, "If I may put aside my official role for one moment, I should like to say that I am glad to see you in such excellent health, Sir John."⁹² In light of General Maxwell's sudden appearance in court, Judge Crabitès attempted to refresh Mr. Rosetti's memory, in which he had said in the previous day's testimony that the presence of an executor constituted "*le meilleur mandate*."⁹³

During the day's trial, there was a contentious dispute between Mr. Rosetti and Mr. Maxwell in which Counsel reminded Mr. Maxwell of an earlier statement in which he had said that the contract could not override the law providing the concessionaire with half of all discovered objects. An adamant Maxwell denied such a remark. Mr. Rosetti assured the court, "I cannot claim to speak English perfectly, but at least I can say that I understand it thoroughly and I am certain that Mr. Maxwell said this."⁹⁴ Counsel referred to an article in the *Daily Mail* to prove his point that Lord Carnarvon never expected remuneration. Mr. Maxwell responded, "What is that newspaper?" Mr. Rosetti declared, "*The Daily Mail*." (Laughter by Mr. Maxwell). Judge Crabitès questioned Mr. Rosetti, "Who wrote the article?" Mr. Rosetti answered, "Mr. Weigall." Mr. Maxwell interrupted, "A gentleman who was excluded from the Tomb and went back and wrote an article against Mr. Carter." Mr. Rosetti replied, "He was excluded from the Tomb by Mr. Carter."⁹⁵ Judge Crabitès concluded that the newspaper was irrelevant to the case at hand and the Counsel should concentrate on judicial matters instead. Mr. Rosetti reasoned that Lady Carnarvon and the executors of Lord Carnarvon's

⁹¹ *Times of London*, 11 March 1924.

⁹² *Egyptian Gazette*, 12 March 1924.

⁹³ *Egyptian Gazette*, 11 March 1924.

⁹⁴ *Egyptian Gazette*, 12 March 1924.

⁹⁵ *Ibid.*

estate had no justification for half of the artifacts or their present value, for Lord Carnarvon had never asserted this prerogative. Mr. Rosetti insisted that Lord Carnarvon had renounced all claims to the artifacts; therefore, they could not logically descend to his executors. In the previous concessionaire, Mr. Davis, had also abandoned his rights to the objects.⁹⁶

Mr. Maxwell initiated surrebuttal by explaining that this conflict was one between the necessity of science and the dignity of the Egyptian government. For Carter, he only desired to perform scientific work at the tomb. Carter clarified his position as Lord Carnarvon's associate in the excavation, not his agent, so he was at liberty to perform work on the tomb. He was unconcerned with questions of ownership of the artifacts. Mr. Maxwell told Judge Crabitès that the concession stipulated that in case there was a find, then the concessionaire, or his associate, was entitled to possession of the objects until the completion of his scientific research. The second claim related to the executors to Lord Carnarvon's estate and their title to a portion of the objects. Mr. Maxwell argued that the Egyptian Antiquities Law specified that those who discover an antiquity are entitled to either half of the objects or half of their value. In the case of Mr. Davis, the previous licensee, the government had always reached an amicable resolution on the division of the artifacts.⁹⁷ As the representative of Sir John Maxwell and Lady Carnarvon, Mr. Maxwell acknowledged that they were uninterested in ownership of the artifacts, but only half their value.

While Mr. Maxwell was attempting to read aloud an extract from a book on the archaeological requirements of such an endeavor, Judge Crabitès interrupted,

Unfortunately (I say unfortunately on account of this case) I have for many years been a friend of Mr. Carter, and of many other archaeologists, and I know for myself much of the conditions under which archaeological work

⁹⁶ *Times of London*, 11 March 1924.

⁹⁷ *Ibid.*

is carried on: so that you may be able to spare yourself the trouble of reading those extracts.⁹⁸

When Mr. Maxwell tried to read a specific section of a book which he said had particular relevance to the case, Judge Crabitès questioned, “Whose book is that?” Mr. Maxwell replied, “Mr. Carter’s.” Judge Crabitès remonstrated Mr. Maxwell, “Would it not have been better policy to get a book written by somebody else?” Mr. Maxwell answered, “It might have been better policy, but this book was written long before the dispute, and puts certain points connected with excavation better than I can put them myself, so I propose to read certain passages.” Judge Crabitès admonished the attorney, “It is most unusual to quote a man as his own expert witness, but if you feel that is the way in which you should conduct your case, go ahead.” Mr. Maxwell read excerpts from Carter’s book emphasizing the necessity of taking complete notes of a find once it had been discovered. Judge Crabitès concluded, “I have been taken around excavations by Dr. Reisner, and have seen his records and I understand all about that.”⁹⁹

Mr. Maxwell declared that Carter’s work demonstrated the urgency of immediately recording the objects. This was a difficult task to accomplish as it was, even in the absence of constant interruption and harassment from the Antiquities Department. Mr. Maxwell complained, for example, that the antiquities had compelled Mr. Carter to respond to no less than 105 letters in the past winter alone. In addition to this, the government required that Mr. Carter admit representatives from the press to the tomb on numerous occasions. Mr. Maxwell pointed out that those members of the press who had been refused admittance by Mr. Carter had the misfortune of arriving at a time when he was busy with his work.¹⁰⁰

The Egyptian government had a long-standing dispute with Carter regarding the contract he signed with the *Times of London* to cover his archaeological expedition. Mr. Maxwell addressed this agreement, maintaining

⁹⁸ *Egyptian Gazette*, 12 March 1924.

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid.*

that there was nothing extraordinary about Carter's conduct because he could not report the daily events at the tomb. Under these exigencies, he hired the *Times of London* to give an account of the excavation. Mr. Maxwell referenced other instances of this practice, including Professor MacAllister, an archaeologist working in Palestine, who had a compact with the *Daily Telegraph* to cover his progress, as well as General Bruce, who also had an understanding with the *Times of London* to publish his ascent of Mt. Everest. Mr. Maxwell emphasized that these arrangements had not been made for monetary reward, but to relieve these men of an added burden. A stubborn man, Carter refused to permit the Egyptian government to dominate him and force him to rescind his contract with the *Times of London*. Instead of acquiescing, Carter had appointed Arthur Merton to handle this on his behalf, but allowing Merton such access inevitably caused much acrimony within the journalistic community.¹⁰¹ Merton happened to be a close friend of Crabitès.

Once he had concluded his argument, Judge Crabitès probed Mr. Maxwell, "There are one or two questions which I should like to ask. You say that Mr. Carter and your clients in general are entitled to remain in possession until the work is finished, in order that the necessary scientific work may be carried to completion. So the necessity of serving the interests of science is the primary object of your claim?" Mr. Maxwell replied, "Yes. A temporary interruption of the work is not of the greatest importance, but continual interruptions by Government visitors are very prejudicial." Judge Crabitès reminded Mr. Maxwell that Mr. Carter had departed the tomb first and that the Egyptian government had only subsequently closed the tomb later that same day but only after Mr. Carter had stopped work and quitted Luxor for Cairo. To Judge Crabitès, it appeared that Carter had left the tomb of his own accord. M. Pierre Lacau believed this to be his final statement on the matter. As a friend of Carter, Judge Crabitès declared that this was the greatest contention against the archaeologist and implored Mr. Maxwell to rebut this argument. Mr. Maxwell said

¹⁰¹ Ibid.

that Carter had halted work because the Egyptian government had harassed him to the point where he no longer wished to continue.¹⁰²

Judge Crabitès asked Mr. Maxwell, “Why did you not remain in possession of the tomb and come to me then? Now you are asking me to transfer possession.” Mr. Maxwell answered, “We were in possession of the Tomb, but the Egyptian Government went down like a bandit and broke into the Tomb.”¹⁰³ Referring to the Egyptian government as bandits, Mr. Maxwell inadvertently caused an uproar in the courtroom. Excitedly, Mr. Rossetti exclaimed, “I protest most vehemently against counsel calling the Egyptian Government a bandit.” Judge Crabitès agreed, “The terms do not strengthen your case, I think, Mr. Maxwell.” Mr. Maxwell considered his previous statement and said, “No. I withdraw it.”¹⁰⁴ Mr. Maxwell told the judge that Mr. Carter was unwilling to relinquish possession of the tomb to the government when he closed the tomb and locked it. Mr. Carter was neither abandoning the tomb nor his rights, but planned on resuming work once the Egyptian government assured him that he could work freely and without interference.

All negotiations between both parties collapsed after that fateful day in the courtroom. Once Mr. Maxwell referred to the Egyptian government as rapacious bandits, they withdrew from arbitration. Mediation had been progressing steadily, with Egypt willing to offer Lady Carnarvon a new concession. It seemed as if that the efforts of Dr. Breasted would be worthwhile, at least, until Mr. Maxwell’s remarks. Outraged, the Egyptian delegation abandoned the discussions.¹⁰⁵ Crabitès had been disposed to ruling in favor of Carter and the trustees. He had hoped that Professor Breasted could reach an arrangement with Morcos Bey Hanna which would permit Carter and his associates to resume their operations. Now, he had to continue gradually and carefully to avoid inflaming nationalist sentiment.¹⁰⁶

¹⁰² Ibid.

¹⁰³ *Egyptian Gazette*, 12 March 1924.

¹⁰⁴ *Egyptian Gazette*, 12 March 1924.

¹⁰⁵ *New York Times*, 12 March 1924.

¹⁰⁶ Hoving, *Tutankhamun*, 307.

It was a truly unfortunate situation since both sides in the dispute were willing to come to terms. Dr. Breasted's skill maneuvered the parties to accept an amicable solution. The Egyptian government had been inclined to consent to the demands of the trustees concerning the first claim. In the interest of science, the Egyptian government had agreed to permit Carter to continue his scientific research at the tomb. The executors of Lord Carnarvon relinquished their entitlement to half the value of the property contained within the tomb; instead they surrendered possession of the artifacts to Egypt. Mr. Maxwell negotiated this compromise until his inappropriate remarks about the Egyptian ministers.

For his acerbic denunciation, the Egyptians demanded an apology from Mr. Maxwell. To make amends, Mr. Maxwell announced that Carter and the trustees of Lord Carnarvon's estate were disposed to relinquishing all of their rights. The trustees were willing to waive their rights afforded under the Antiquities Ordinance for the duplicates. Sir John Maxwell's motivation for this maneuver was to carry out the wishes of Lord Carnarvon, bequeathing the tomb's remains to science and humanity rather than fighting over ownership. Dr. Breasted even convinced Carter to craft his own statement renouncing his entitlement to the objects: "I, for myself, never have made, do not now make, and never intend to make any claim against the Egyptian Government nor against anyone else, to any of the objects found in the tomb of Tutankhamen."¹⁰⁷ The Egyptian government was loath to negotiate further after Mr. Maxwell's comment.

While the British press declined to defend Mr. Maxwell's behavior, it did highlight similar occurrences from Mr. Rosetti:

It is not as though the epithet had not at once been withdrawn by Mr. Maxwell, and not only by him, but by all his clients, who have expressed their regret for its having been used. Nor is it as though the language used by opposing counsel was always a model of courtesy- on the contrary, the counsel for the Ministry of Public Works is accused of having

¹⁰⁷ *Egyptian Gazette*, 13 March 1924.

on more than one occasion used expressions which could hardly be described as polite.¹⁰⁸

The *Egyptian Gazette* insisted that the real problem was the conflict between the necessity of science and maintaining the Egyptian government's dignity.¹⁰⁹

In the interest of quickly settling this case, Judge Crabitès privately met with Morcos Bey Hanna, whereupon he informed the minister of his intention to decide in favor of Carter. To avoid such a ruling, the judge urged Morcos Bey Hanna to return to the table. Morcos Bey Hanna told Judge Crabitès that he would mull it over. Judge Crabitès left their meeting with a feeling that the Egyptians had no desire to resolve the dispute.¹¹⁰

Judge Crabitès was distressed by the continued tourist visits to the tomb, especially considering the lack of security at the site. To defuse the situation, he sought the advice of Herbert Winlock, Associate Curator of Egyptology at the Metropolitan Museum of Art. Winlock counseled Judge Crabitès to compel Breasted to approach Morcos Bey Hanna with the goal of restarting negotiations. He wanted Breasted to find out just how intransigent the minister was towards mediation with Carter. Winlock also told Judge Crabitès to seek the help of American minister J. Merton Howell in order to promote Breasted's arbitration with Morcos Bey Hanna. Both Judge Crabitès and Winlock recognized Carter's obstinacy. He was out of control and a detriment to his own cause. The men tried to remove him from the discussions, and, at the same time, compel him to avoid making such incendiary comments as had been his proclivity.¹¹¹

Morcos Bey Hanna had his own problems. He was not in favor of accepting a negotiated settlement, yet he was incapable of locating any archaeologists willing to excavate in place of Carter. When the minister contacted the Metropolitan Museum of Art archaeologists, they refused his offer. His own employees in the Antiquities Department also rejected his proposal. M. Pierre Lacau and Rex Engelbach, his number two, were reluctant to accept the

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

¹¹⁰ Hoving, *Tutankhamun*, 307.

¹¹¹ Ibid., 307-8.

responsibility. Native Egyptian archaeologists readily confessed their inability to handle such a difficult task. Most importantly, Egyptian public opinion began to turn against Morcos Bey Hanna in favor of Carter, whom they now believed the only one capable of such an undertaking, especially in light of his rejection of ownership of all artifacts.¹¹²

During a discreet encounter, Morcos Bey Hanna promised Breasted and Howell that he would consent to allowing Carter to resume his work in the Valley of the Kings. He told the men to return in a couple days to sign the settlement. But rather than compromising, Morcos Bey Hanna filed an appeal against Judge Crabitès. Breasted and Howell gave the appearance of defeated men. Thinking that he had helped promote a just conclusion to the dispute, Judge Crabitès was infuriated. Winlock described him “in a state over the loss of prestige to the U.S.A.”¹¹³ Judge Crabitès tracked Howell down at his residence and berated the American minister for his ineptitude. The judge assailed Howell for submitting to such impertinent behavior. That night, Judge Crabitès composed a caustic letter to Howell, reproving him for bowing under Egyptian pressure to the detriment of American prestige in the region. He compelled Howell to send a stern message to the Egyptians so that “the new Egyptian Parliament would not labor under the false impression that having become independent, Egypt’s new Ministry could flout America with impunity.”¹¹⁴

Prior to agreeing to a settlement, the Egyptian government demanded that all parties renounce all claims to the artifacts before it would reissue the concession. The Carnarvon family had spent some £ 50,000 on the excavation and endeavored to recoup a measure of that considerable sum. Sir John Maxwell, speaking on behalf of the remainder of the executors, stated that they would be prepared to forsake all of their rights.¹¹⁵

All of Egypt was abuzz over the Luxor dispute when Judge Crabitès handed down his verdict in the case. In the case for the appointment of Carter

¹¹² Ibid., 308-9.

¹¹³ Ibid., 313-4.

¹¹⁴ Ibid., 314.

¹¹⁵ *Times of London*, 13 March 1924.

as the sequestrator for Tutankhamen's tomb, Judge Crabitès ruled on 12 March 1924, in favor of Howard Carter and the trustees of Lord Carnarvon on all points. It had apparently helped Carter's cause that he never made a claim for the possession of the artifacts.¹¹⁶ In rendering his decision, Judge Crabitès said that the judgment was one for all of mankind, not in opposition to Egypt or in favor of Howard Carter.¹¹⁷

Just a few days later the Egyptian government launched an appeal to the Mixed Courts' Court of Appeals at Alexandria. Judge Eeman presided over the case. The Egyptian government attacked Carter, Sir John Maxwell, and the Countess Carnarvon, labeling them as exploiters who commercialized their discovery. The government argued that the tomb was within the state's domain. Revocation of their license and taking control of the tomb were administrative actions, beyond of the jurisdiction of the Mixed Courts.¹¹⁸

The Court of Appeals adjourned in order to allow time for Procurator General M. van der Bosch, to compose a decision. When parties returned to court on 30 March, the procureur general explained that Egypt's protests concerning the legitimacy of Howard Carter's attorney did not apply to the case. Since Howard Carter and the trustees of Lord Carnarvon relinquished their claim to property within the tomb, there was no argument over the second claim in the case, possession of the objects; therefore, there was no cause to appoint a sequestrator for the tomb.¹¹⁹ Judge Eeman overturned Judge Crabitès's earlier conclusion in support of Howard Carter and the trustees of Lord Carnarvon and ruled in favor of the Egyptian government. He decided that the Mixed Courts lacked jurisdiction in the affair and said it was one for the Egyptian government to resolve.¹²⁰

¹¹⁶ *New York Times*, 13 March 1924.

¹¹⁷ Clive Hardy, "From Praline to Pyramid," *The Courier*, (15-17 September 1977): 12.

¹¹⁸ *New York Times*, 20 March 1924.

¹¹⁹ *New York Times*, 31 March 1924.

¹²⁰ Clive Hardy, "From Praline to Pyramid," 12.