THE BARDLAUGH TRAIL.

THE CHARGE AGAINST MMR. CHAS. BRADLAUGH AND MRS. ANNIE BESANT.

TUESDAY.

This morning at 11 o’clock, Mr. Chas Bradlaugh, publisher and Mr. Annie Besant, who is described as a journalist, appeared on remand at the Guildhall Police Court, sitting for the occasion in the Court of Common Pleas, before Mr. Alderman Figgins, charged with the publication of an obscene book, entitled “Fruits of Philosophy, an essay on the population question, by Mr. Chas Knowlton, M.D., on the 24th ult. The court was crowded; and amongst those present were several females, some of them members of Mr. Bradlaugh’s family. It will be remembered that the case came on on the 5th inst; when formal evidence only was taken, and the adjournment was granted to enable Mr. Bradlaugh and Mrs. Besant to obtain evidence. Mr. Douglas Straight and Mr. Meade appeared for the prosecution, whilst Mr. Bradlaugh himself defended.

Mr. Straight in opening the proceedings, said he had been instructed by the city solicitor to conduct the case, and to see that it was put in such shape as would justify the committal of Mr. Bradlaugh and Mrs. Besant for trial. The case was one of considerable public importance while on the one hand no one would doubt the desirability of, in the fullest possible sense, allowing the discussion of all topics relating to political and social matters, at the same time it was desirable to guard such discussion from degenerating into obscenity. He did not wish to introduce any acrimony or bitterness of feeling into the present controversy, an as to merits of the case, it was beyond all question that the publication of an obscene book was illegal; but the contention of the defence was that, while the book might contain matter of an obscene character, the object with which that work was published was an advantageous character to the community, and consequently that the person who published it was purged from any effect the criminal law might be supposed to have him.

Mr. Bradlaugh said they would go much farther than that; it would be that book was not an obscene work, and that it was published for a good purpose.

Mr. Straight said he should contend that the book was an obscene one. The learned counsel went onto refer to the proceedings in the Divorce Court, showing that although it was desirable that certain facts should be made public, still full details could not be published without offending against the law. The object of the book, which was the subject of the present prosecution, and as to the authorship of which there could be no doubt, directed itself in many portions to a very important social question, and no one could doubt that many arguments made use of in the earlier part of the book were very important, and of a very interesting character. It had been a matter of grave consideration to political economists as to how, if the population went on increasing at the pace at which it had been proceeding during the passage of time in past years, the supply could be made to meet the demand. It had been feared that starvation or crime or prostitution were the natural outcomes of such an overstocking of the face of the earth with population. That no doubt was a very important economic question and the book was directed in part to its consideration, but it went further. The learned counsel here proceeding to mention the other matters the book dealt with, which are not fit for repetition here.

Alderman Figgins suggested that whilst these subjects were being discussed it would be becoming in females to withdraw.

Mr. Bradlaugh stated that the ladies in court would have to be called as witnesses --- his daughters were present, and would be called to give evidence as women of their view of matter.

Mr. Straight said he had no doubt that the females in court had become with the distinct intention of giving evidence, therefore he could not take any exception of their presence, and would not question the propriety of their remaining if they thought proper to do so. The learned counsel continued to remark upon these which he contended were indecent parts of the works.

Mr. Alderman Figgins, after a brief pause, during which he consulted with several other magistrates on the bench, said he was sorry to flud, after the observations he had made, that females still remained in court. If they continued present he should not allow any extracts from the book to be read.

The Magistrates’ Clerk said Mr. Straight could point out the passages in the book he objected to.

This course was adopted, the females remaining in their seats in the jury-box.

Mr. Straight continued that the observation he was going to make was that however good the intentions of the person publishing such a book might be, his good intention could not control the sale of it when the price was so low as sixpence. Assuming that a great number of copies were sold, as he believed had been the case, the moment the pamphlet passed out of the hands of the person publishing it, he lost control over it, and it might pass into the hands of young women and lads, and children, or of the unscrupulous, who might circulate it broadcast in boys’ schools and girls’ schools for purpose of their own. He ventured to submit that the proceedings could not be permitted by law, as the case of the Queen v. Hickling showed. In that case the Lord Chief Justice had said that immunity in such cases must be in the mode of publication. The learned counsel concluded by carefully pointing out the passages in the book to which he objected.

The evidence given on the 5th was then read over. Detective Outram admitted having received a letter from Mr. Bradlaugh on the 9th inst., stating that the sale of the book was suspended in Stonecutter-street until after the present trail.

James Kynaston, Detective Officer of the City Police, examined, stated that he was present at the trail of Charles Watts in the Central Criminal Court on 18th February. He saw Mr. Bradlaugh there; the case involved the sale of a book which was virtually the same as that now in question. Mr. Watts pleaded guilty, and of the indictment by Mr. Bradlaugh the learned Recorder, who tried the case admitted that he had not read the book.

Mr. Bradlaugh then addressed the Court at considerable length, and at the onset he referred to what he characterized as monstrous statements which had been made against him in the papers since the 15th inst,; one statement in particular he protested against, which appeared in a very widely circulated journal, via., that if the pamphlet did not come within the Act dealing with obscene literature it ought to be made to do so. He contrasted such declarations as those with the moderate tone assumed by the Counsel for the prosecution. Referring to the learned Counsel's obser­vations, he maintained that that gentleman would have to make out much more than that pamphlet was indecent and unbecoming before the Bench would be entitled to put him in peril of an adverse verdict at the hands of the jury. Mr. Bradlaugh directed the attention of the Bench to the defini­tion of the word obscene, as given by Lord Campbell, in the House of Lords. His Lordship had stated that the Act of Parliament was intended to apply exclusively to those things which would shock well-regulated minds, and that the word obscene was only applicable to that which was put forward with the simple purpose of corrupting the morals of youth. The pamphlet published with regard to the Confes­sional was one of two works which came under the Act, and it was decided in the case of the Queen v. Hickling there could have been no other object than that of corrupting the morals of the people. The present case, however, was not on all fours with that of Hickling, for there was nothing in the pamphlet which ought to have any such tendency as was covered by the definition of Lord Campbell. Mr. Bradlaugh then referred to a book published by Messrs. Churchill, which was very similar to the present pamphlet, and in which the author, Dr. Acton, stated that he brought forward his book for parents, guardians, and young people. As to the question of price, he contended that the object he had in view during the greater part of his life was the amelioration of the condition of the poor, and as the lower classes suffered more from the evils which the Malthusian theory was in­tended to obviate than the rich, the price of the pamphlet had been intentionally fixed at a low figure. He reminded the Bench that in the case of obscene literature the prices fixed were always high. Turning to the accusation which had been brought against him that ho was only about

the present controversy for the purpose of obtaining notoriety he gave a flat denial to such statements, and said that a proof of the soundness of his intentions was to be found in the numerous letters he had received from the poor since the present prosecution had been on foot, declaring the benefit they had derived from the suggestions contained in the pamphlet. He also stated that part of the programme of the paper which he had edited for many years was the Malthusian theory, and he had only been following out his original object in publishing the pamphlet. Mr. Bradlaugh proceeded to quote from John Stuart Mill, to show this pamphlet was taken out of the scope of such a prosecution as the present, and front Chervasse's "Advice to a Wife," and another work called "Hints to Mothers," Professor Fawcett's "Manual of Political Economy," Mrs. Fawcett's book of the same name, Dr. Acton's work, " Disorders of the Reproductive Organs," and many other books, in proof of his intention that his pamphlet, by comparison, was not obscene. Some discussion arose as to the admissibility of evidence on this subject, in the course of which Mr. Bradlaugh said he should insist upon going through all the facts which were in his favour; he should fight the case to the end, through every Court the law permitted him to fight it, and if he were not allowed to call in evidence all the medical men who had to do with the publication of works of this nature, he should be obliged to occupy eight or nine hours with his speech.

Mr. Alderman Figgins said the case was not one which he should attempt to decide himself, as the construction to be placed on the indictment and on the statutes was a diffi­cult matter. Therefore as the case would have to go to another tribunal', the question was whether it was worthwhile to go more fully into the details. He wanted to present to them before they committed him for trial all the evidence that could be taken in his behalf. He had spent 100l. in books within the past few days, and had to draw at­tention to over 100 works, which had been published broad­cast, and most of which contained far more coarse language than that of the pamphlet.

Mr. Straight said that on the principle that two blacks would never make a white, the works referred to would have no bearing on the case at present.

After a 20 minutes adjournment for luncheon, Mr. Bradlaugh resumed his comparisons between the Knowlton. Pamphlets, and works published by J. C. Dalton and Wm. Carpenter, Dr. Grayley Hewitt and many others contend­ing that the language in the pamphlet was more refined than that in the other books. He pointed out that Messrs. Churchill, who had published many works of the description, had publically advertised the special reference to the book,

Mr. Straight objected to any reference to the adver­tisement, although admitting that Mr. Bradlaugh was entitled to show his book, not obscene as compared with others works, the sale of which was not objected to.

Some discussion ensued to the revelancy of the adver­tisement, at the end of which Mr. Bradlaugh conceded the point.

At four o'clock Mr. Alderman Figgins asked whether a sufficient number of books had not been referred to.

Mr. Bradlaugh said that would be the case if his Worship intended to dismiss the case (Laughter). If, however, the case was to be sent for trial, he would have to exhaust his comparisons.

Mr. Alderman Figgins said Mr. Bradlaugh was right, and he (the Alderman) would sit as long as might be necessary to hear the whole case.

Mr. Bradlaugh said there was not a line in the pamphlet which was not to be found in those works published by thousands to which he intended to refer. There was a great deal of prejudice against him and the view he entertained, and he did not think the Bench would be inclined to agree with him until he had gone through his references, and had used all his arguments.

Mr. Straight asked for an adjournment.

Mr. Bradlaugh asked that the adjournment might be of a few days to enable him to give the prosecution a list of his references; he wanted to go fully into the matter because he did not wish the Court above to tell him that he had not used his privileges; he would do his best to present the case just as he should do if the Chief Justice were trying him.

The Clerk asked Mr. Bradlaugh during the adjournment to find out all the authorities which would entitle him to bring medical and other evidence before the court to show that his hook was no more than others on the same subject.

In reply to Mr. Alderman Figgins, Mr. Straight said he should of course permit Mr. Bradlaugh and the other defen­dant to leave on their own recognizances.

Mr. Bradlaugh in response to the Clerk, said if committed for trial, Mrs. Besant would make her statement, When the statutory question was put, the defence was a joint one, Mrs. Besant having left in his hands the legal conduct of the case. He did not think the case could be finished in less than two days. The case was then adjourned until Thursday.

THURSDAY.

THE DEFENDANT'S COMMITTED FOE TRIAL.

The hearing of the charge against Mr. Bradlaugh and Mrs. Besant of publishing an obscene book was resumed at the Guildhall on Thursday, before Mr. Alderman Figgins. Sir Robert Carden and Sir Thomas Dakin were also on the Bench. The Court was crowded, but there were no ladles present.

Mr. Douglas Straight and Mr. F. Mead appeared for the prosecution. Mr. Bradlaugh defended himself Mr. Besant.

Mr. Straight said it might be impossible for him to be present to-day when the question of the admissibility of the evidence which Mr. Bradlaugh proposed to call would be raised, and he hoped the Court would allow it to be disposed of at once.

Mr. Bradlaugh said as he and Mrs. Besant had determined to abridge the case as far as possible, understanding that it would go to another place; he would now call some of the witnesses, so that they could be formally objected to, and he would finish his evidence after he had concluded his speech.

Dr. Robert Drysdale was then called, and, in answer to Mr. Bradlaugh, said he was the author of several medical works, and had been in practice for many years. He had read the pamphlet—the subject of the present charge—twenty years ago.

Mr. Bradlaugh—As a medical man, what is your opinion of that work?

Mr. Straight objected to the question. He said that Mr. Bradlaugh had informed him that he proposed to apply to have the case taken to the Queen's Bench Division, and they had arranged that the question should be put, and that he should object to it formally. The ground of his objec­tion was that it asked the witness to decide a question which the magistrate had to decide now, and the jury afterwards. Any witness to whom a similar question was put would be objected to on the same ground.

Mr. Bradlaugh said in “Taylor on Evidence” (second edition, page 1106), there was a case in which skilled witnesses had been allowed to give their opinions. If it had been a prosecution for so unskillfully using a medical instrument as to produce death, and thereby involving manslaughter, it would be perfectly competent to call skilled witnesses to show whether the instrument had been properly used. He submitted, although there was not a perfect analogy between the two cases, that there was analogy enough to cover this contention.

Mr. Straight admitted that it was competent for a medical man to express an opinion as to different forms of insanity, but it was not competent for him to give an option of the state of mind of a person t the time of the doing of an unlawful act. On the authority of the very book Mr. Bradlaugh had quoted (page 1278) he contended that the Court must reject the evidence.

Mr. Alderman Figgins decided that he could not receive simple opinions, and this decision would apply to all witnesses of the same class.

Mr. Bradlaugh then resumed his address. He said he would again draw attention to Carpenter’s “Human Physiology,” and on his trail he would call several boys and girls who had had that book given to them as a prize at school. He also referred to Kirk’s “Animal Philosophy,” and said he hoped after that he should hear no more of the argument about his pamphlet falling into the hands of boys and girls. Mr. Montagu Cookson, in the “Fortnightly Review,” had used similar arguments to some employed in the pamphlet. He had subpoenaed Messrs. W. H. Smith and Sons for the purpose of proving on the trail the publication of a book containing very gross anecdotes, and yet this book was sold at a low price on every bookstall. He then referred to passages in the work of Dr. Chavasse, and said if Knowlton’s descriptions were not chaste and delicate compared with those of Chavasse, he did not know the meaning of English words. There was another book entitled “Hints to Mothers,” published by Messrs. Longman which he would like the alderman to refer to. He contended that the common law never intended to bring such works within the meaning of those classed as “obscene.” Professor Fawcett divided checks to population in two classes viz, positive and preventive. The positive led to crime, wretchedness, misery, and famine, and in China they were accompanied by habits which he would not now refer to. The preventive checks were by delaying marriage, but let them look around the country and see whether those checks really operated. Looking at the number of miserable starvelings in all the great centres of population, was it a crime to go to those people who were bringing into the world children that could not live, and prevent them from further adding to their misery? He and his co-defendant combated this case in no spirit bravado. A medical journal published on Thursday used words of terrorism against witnesses, who were liable to be called, and described himself and Mrs. Besant in a manner that would not be approved of by that Court. He was arbitrator the other day in a wages dispute in the north of England, and he was compelled by a sense of a justice to reduce poor men’s wages 15 per cent. They submitted to his award; their wages had been already reduced 35 percent, and with rents increasing and taxation heavier, he could not tell those poor men and poor women how they were to prevent hungry children growing up to live lives of misery ---- if the law said to him, “Your mouth is closed,” what remedy was there for such an evil? (Applause). He thought the Court would do him the justice to say he had tried to compress his remarks into a narrow compass, and he would now ask, if the alderman intended to commit him, for an adjournment until one o’clock, to enable him to consult with Mrs. Besant as to a statement which she wished to draw up, and which would be added to the depositions.

Mrs. Besant said that her case and that of Mr. Bradlaugh were one, and that his defence and hers wore identical. She would not detain the Court with any complaint as to the treatment to which they had been subjected; while she felt that to be arrested, taken to a police-station, and subjected to a personal search, were indignities to which there was no real need to subject her. She was content to know that she would have the opportunity in a higher court of removing any passing slur which this harsh procedure might have temporarily cast upon her. She was even not without hopes that the grand jury might dismiss the indictment as contain­ing a charge which it would be impossible to substantiate, and which could never have been brought against them had the former publisher done his duty in defending the book that he had issued. The pamphlet for the publication of which they were indicted was written by Dr. Knowlton, a physician of high standing and position, residing in Boston, U.S.A., some fifty years ago. The pamphlet was widely circulated in America at the present time, and no one dreamt of prosecuting it. It was first published in England in 1834 by James Watson, who, although he was prosecuted for issuing political and religious works now freely circulated, was never charged with publishing obscene literature. The work was issued also by Messrs. Holyoake and Co., Farrah, Brooks, Austin, and Co., and finally Mr. Charles Watts. The latter was prosecuted for selling it in February last, and instead of defending the book he pleaded guilty, and was released on his own recognizances to come up for judgment when called upon. Mr. Bradlaugh and herself (Mrs. Besant) considered that by this surrender a question of great public importance was shelved, and they determined to issue the book, in order that the question of the legality or illegality of a cheap medical publication might be decided by a competent tribunal. They submitted that the pam­phlet cannot fairly be regarded as obscene. It was a medical work, and no medical work dealing simply with physiologi­cal details could fairly be construed as obscene. It stood on exactly the same ground as the works of Drs. Dalton, Gaiyly Hewitt, Marion Sims, W. B. Carpenter, etc. To pretend that all these works were alike obscene, and to sup­press them as such, would be to put a stop to all medical Investigation, and to brand as the authors of obscene litera­ture some of the greatest benefactors of mankind. The question as to the relative prices of Dr. Carpenter's and of Dr. Knowlton's works could not be seriously (proposed as entering into this case. If a book were obscene, a high price could not purify it, and ought not to put it above the law; if a book were not obscene, a low price could not bring it within the law. Dr. Knowlton's pamphlet was run close in price by popular medical books published by Messrs. Churchill, Smith, and Sons, and Longman; in fact, a cheap edition in paper covers was issued of Dr. Chavasse’s "Advice to a Wife," and if the information which it contained were published apart from literary paddlug it might be issued at exactly the same price as Dr. Knowlton’s. Yet that work contained some of the portions of Dr. Knowlton's which were stigmatised by the learned counsel for the prosecution as the most indictable parts of the pamphlet. She contended further that its price was an essential part of the value of this pamphlet. Medical knowledge was wanted by the people, and ought to be within their research. It was the earnest conviction of the defendants that the fact of over-population ought to be recog­nised, and that the difficulties arising from it ought to be fairly and honestly considered. They had made themselves acquainted with the misery which arose from this cause, and preferring the alternative set forth in the pamphlet to over­crowding, disease, and starvation, they had determined to spread such knowledge amongst the people as should make that alternative possible.

The defendants were then formally committed for trial, their own recognisances being accepted.