**“FRUITS OF PHILOSOPHY,”**

**TRIAL OF MR. BRADLAUGH AND MRS, BESANT**

The trial of Mr. Charles Bradlaugh and Mrs. Annie Besant, on a charge of publishing an obscene book called “Fruits of Philosophy,” was commenced in the Queen’s Bench Division of the High Court of Justice yesterday, before Lord Chief Justice Cockburn and a jury. The Solicitor General (Sir Hardinge Giffard), Mr. Douglass Straight, and Mr. Mead appeared for the Crown Mr. Bradlaugh conducted his own case and that of Mrs. Besant.

Before the jury were sworn, Mr. Bradlaugh said he wished to address the court, with a view to showing that the indictment should be quashed on the ground that – The Lord Chief Justice: I cannot bear that now, as I am sitting at *nisi prius*, - Mr. Bradlaugh that quoted that the 13th and 14th Viet, which enacted that “ Any indictment for any apparent defect on the face of the indictment should be taken by demurrer or motion to quash it before the jury were sworn and not otherwise.” – The Lord Chief Justice: Surely that contemplates took it that that would be the meaning of the statute. The pleadings were in the Crown Office, and the demurrer should have been made there. - Mr. Bradlaugh: I do not intend to demur, but I do intend to move to quash the indictment, - The Lord Chief Justice: I will reserve that power if it is competent for me to do so.

Mrs. Besant asked to have the court reserved for her, and this was granted. Both defendants were unrepresented by counsel.

The Solicitor-General (with whom were Mr. Douglas Straight and Mr. Mead) then proceeded to open the case. He said the defendants were indicted for having published an obscene libel, calculated to destroy the character of individuals and corrupt public morals. Mr. Watts had published nine years ago a book called “The Fruits of Philosophy, or the Private Companion of Young Married Couples;” and this was in fact a new edition of the same book. The defendants had written to the police telling them that they were going to sell a book as an “Essay on Population.” The question was whether the book was obscene.

The Lord Chief Justice, - Is that quite so?

Supposing it not to be an obscene book – that the language of it cannot be characterised as obscene – but that its effect would be to vitiate public morals, although it is perfectly free from objection, still in point of law the person publishing may be liable. It may not be obscene or prurient or open to objection in that respect, and yet the persons charged may be guilty.

The Solicitor-General. – Precisely so. I would quote the case of the Queen v. Hicklin, 3rd law reports, Queen’s Bench, which was a publication of Protestant society who had taken a strong view about Roman Catholic priests in the confession, and were showing that this was a wicked and immoral book. That book was not fascinating or intended to excite the passions.Just the contrary. The nature of the defendant’s book was this. The writer contends that it is an improper thing to check any animal gratification of the animal instinct and commerce between the sexes produced an over-crowded population; and the writer contends that, to care that evil, and for the purpose of enabling persons to gratify their passions, it is lawful to discriminate among the people a minute description of the physical means whereby population may be checked, that the commerce of the sexes may be permitted to continue, and that by various means, which he minutely describes, the birth of children may averted.

The Lord Chief Justice. – You must prove that the work is obscene either by inflaming the passions or recommending some course of conduct inconsistent with public morals.

The Solicitor-General. – The subject is revolting in whenever specific form you put it. And it would be unfair to the defendants to select any particular part of the book, for the one part of the book would not give the key to the whole publication. In order adequately to deal with this subject, the whole should be read.

Mr. Bradlaugh – want the Solicitor-General to point out the words on which he relies, because I shall show by quotations from the works of standard authors that they are not obscene.

The Lord Chief Justice – I shall ask the jury to look at the whole scope of the work, and say whether the work was really conveying scientific information useful for the people to know, or whether it was intended to produce immoral results.

Mr. Bradlaugh, - I shall be satisfied to have the pages specified, so that I can identify the parts I have to answer.

The Solicitor-General then specified a particular passage which he considered obscene, and said that any one who circulated such filth must justify it by some principle of law. He submitted that it was an obscene book, and the mode of publication was such that it was not justified; and it was calculated to deprave the minds of young persons into whose hands it came, and was therefore the subject of an indictment. The Solicitor-General called two police-officers to prove publication, and then said that that was his case.

Mrs. Besant then proceeded to address the jury. She said the jury must think that because they had such legal talent arrayed against them they must be two great criminals; but the trusted to the goodness of her cause; and if they should bring in a verdict of guilty, it would be against the evidence, and it would certainly have a most unfortunate effect upon the public outside. Her clients were amongst the poor, who found their wages decreasing and their families increasing. Their object in publishing the book was to render their burdens lighter by the knowledge therein contained. Little one were growing up half-starved and in ignorance, which meant crime and an increase of pauperism. She energetically denied that the book was obscene, or its details indecent in any way.

The Solicitor-General then proceeded to deal with the portion of the book “Fruits of Philosophy,” He said he must include as objectionable the whole of chapter three, page 44, up to the end of the book.

The Lord Chief Justice said the case seemed to be in a nutshell.

Mr. Bradlaugh asked that Mrs. Besant’s defence should be taken first.

Mrs. Besant said it would not be strange if she was found overweighted by the amount of legal ability the prosecution had brought against her. When they found that the weight of the Solicitor-General’s learning was not sufficient unless backed by that of other learned gentlemen, they must suppose that she and her co-defendant were very great criminals indeed. She had not been impertinent enough to come before them without carefully studying the nature of the case now brought before them. She was not defending herself in this; but her clients were scattered through the length and breadth of the land. They were amongst the poor, whom she knew well. She found them in the fathers, daily finding their means insufficient for increasing families; and she found them in the mothers, worn down with child-bearing and worn out with incessant family cares with insufficient means; and she had as her clients the children who would grow up in wretchedness, in vice, and pauperism. She had clients who were sending kindly words of encouragement, and pleading with her to persist in the object she had in view. She had nothing to gain by publishing the book; she had everything to lose; and it was no alight thing that a woman should place herself under the imputation of circulating an indecent book, and corrupting the young. The case of her co-defendant and herself was practically the same, but still they thought it a pity that both should not go over the whole of the case leaving the purely physiological detail as a matter of fitness and good taste to be dealt with by Mr. Bradlaugh. She declaimed that there would be any indelicacy on her part in dealing with these details; but she took the course she was taking simply as a matter of good taste, inasmuch as she utterly disclaimed that the book was in any sense indelicate. The book had been published at sixpence, to allow poor women to purchase. While rich women were able to obtain them at the railway bookstalls at a higher price, and well within their means. She had been charged with inciting to child murder and with seeking to promote promiscuous intercourse, of seeking to break up family life; but she ventured to say that the jury would disabuse their minds of all that they had heard on these points. The jury must blame the prosecution for having given importance to the pamphlet. They were not the defendants who had supplied the hawkers with the book; they had sent the hawkers away, and they only once advertised the book. Factitious copies had been sold wholesale by drunken and abusive hawkers, but that was not a case against her co-defendant and herself; but if the book was not obscene could any amount of circulation be complained of? She now came to the question of the indictment. She held that there could be no taking part of the work; they must take it as a whole. They must find the work was an obscene book, and that it was intended to be so. It was like the difference between murder and manslaughter – they must find the intent to be bad. The Solicitor-General said the intent was good; if that were so, it however, that the intent was not of essential importance; but she submitted that the intent was everything; and she utterly denied that the publisher of the book ever contemplated the possibility of an injury to morality. Every medical book might be read with a bad purpose; but here, she said, the knowledge conveyed was useful and necessary, and if useful and necessary, then it was well it should be circulated. If they branded the book as obscene, then they would brand as obscene the works of those medical men in whose hands they placed the health of their wives, their sisters, and their daughters at their most critical periods. She entreated the jury to give their earnest, patient attention to the case, considering its important beating on herself. She had taken this upon her, however, with the full consciousness that she was right, and whatever the verdict of the jury might be, she would not consider herself guilty; and, taking upon herself all responsibility for every line in the book, she challenged the verdict of the jury on the principle she affirmed. She might almost assert that no book should be construed as obscene which did not incite to the commission of sale which the law laid down as obscene. She held that an obscene book was one calculated to corrupt the morals of youth and offend the decency of well-regulated minds. In dealing with the word obscene in any wider fashion, they would find themselves making a law which would cause great difficultyin the time to come. With regard to the allegation of coarseness, Mrs. Besant was about to submit a copy of Tristram Shandy for perusal of the jury with a view to show the truth of certain standard English authors up.

The Solicitor-General objected to this class of evidence being received.

The court here adjourned to lunched after the adjournment,

His Lordship sustained the objection.

Mrs. Besant then proceeded with her defence and stated that she had no wish to read Tristram Shandy; but she thought that the jury would recognise the point she had in view. She want on to say that in many of the books contained in English libraries they might find passages which might be said were calculated to vitiate. If that was considered penal, then they must prohibit missing of our greatest authors, and Shakespeare’s “Venus and Adenis” would come within the scope of the Society for the Suppression of Vice. She might remind the jury also that if they were going to take the effect of language into consideration they must consider that a medical book was not one calculated to arouse passion. They might do that by glowing descriptions such as they found in some of the grandest of our dramatics and physiologists but no man or woman would ever be affected in that way by mere dry physiological details. And they must remember this when giving their verdict; and they must not be carried away by prejudice because of other works of herself and co-defendant. She implored the jury to give their whole heart and mood to the consideration of the matter before them. Mrs. Besant then proceeded again to assert that the position she was taking was based upon what was stated by Lord Campbell, who had laid down the questions of this kind were to be settled by a jury, and it was because they wished to have the rectitude of their conduct confirmed she and her co-defendant had, at the earliest possible opportunity, challenged the verdict of a jury. She instanced opinions of Lord Chief Justice Eyre and others to above that whatever might be the opinions of the judges in such cases, the jury were the persons who were to decide, and not the judge. She put these cases before them in order that they might know what responsibility rested upon them. She had however, great confidence in the jury. If she gained the verdict of the jury, she did not care if she sold out another copy; all she wanted was to assert a principle – the right of discussion on social subjects – which was not acknowledged yet, and which would not was exist until after they had given their verdict. She wanted them to affirm that opinion honestly given, honestly expressed, and fairly published, should not be put down by oppression. She maintained that a publication of aneminent medical man should not be branded is obscene because they did not agree with it. If they did not agree with it, there was a right as well as a wrong way to meeting it. The discussion had done must from England, and it was most undesirable that the discussion of the secrets of nature and the work of science should be now stopped. If they gave a verdict of guilty, they would stop the spirit of inquiry, until once again they resumed a battle, for if their pamphlet was extinguished another wouldmust surely arise. Defendant then proceeded to deal with the way in which the prosecution had been conducted. They did not know up to the present moment who was prosecuting them at all. When they were first takes right against a prosecution instituted by the city of London. They found that was not the case, and then they tried to find out the real prosecutors. Then they found the name of one William Simonds, and they asked if it was true he was the prosecutor. He replied neither yes nor no. It was useless to pretend that a city detective had charge of such a prosecution as that. She pleaded against this hidden system of prosecution. The Crown was not hiding the money for this prosecution. Then who was? She asked them to show their utter disapproval of this. She did not know where the sudden virtuous indignation came from which dragged a pamphlet from its security of 40 years. The Vice Society had appeared on the scene. That society had employedspies and informers to try and bring honest book sellers into dispute. Mr. Colette, its secretary, now boasts that he prompted the solicitor. She would now, she said deal with the history of the book. The author, the late Dr. Melton, was medical man of high standing in Boston, where he was known as a man of blameless, almost ascetic life. No word of censure was ever brought against him for his own fashion of life, which was one of the great sympathy with the poor. Here, the, they had a scientific man writing in a scientific subject. In England the book was published partly by James Watson, who fought the battle of the newspaper press against the stamp duty; and do they think that he would have been guilty of selling obscene books? Would such a man as Austin Holyoake have published an obscene book? The book in fact, had been published and advertised in years, and had been published in the Strand after the trail of that prosecution. She and her co-defendant published the book because Charles Watts, with whom they had done business for many years, had pleaded guilty to a charge arising out of the sale of the book. He pleaded guilty to a charge of selling an obscene book; and that very fact was enough to induce the public to believe that the book was such as had been represented. To vindicate the character of the book and that of the dead who had done so much in the cause of liberty, they became publishers which they had never been, in order that they might issue the book and by their testimony show they did not believe Watson and the Holyoakes had circulated a book which was calculated to demoralize young people. There never had been any concealment about the book. The publisher’s name had always been on it whilst it had been published in England. Now for the pamphlet itself ---- and she would take the preface first. That had been made part of the accusation, but she could not see anything obscene, indecent or immodest in any way. They published Melton not because they agreed with him in everything, but because they considered the question was one for discussion. The question of a check in population was one which had created great discussion in France; and it was one in which it was very important a medical man should be allowed freely to express his opinion. In the last page of the preface they stated that they concurred in scientific checks on the population: and she put it that that was becoming a great social question, which was recognised by such men as Mill and Fawcett and Professor Bain: and she thought that if they could show that the increasing cursed pauperism was owing to the number of large families, they would believe that she and her co-defendant acted from the very best motives, and return a verdict accordingly. It had been imputed that in using the word marriage they had not intended the word in the ordinary sense. She denied that the intention of the book was to promote early marriage by pointing out how their evils were to be avoided and all their benefits maintained. She warmly disclaimed the imputation that the book advocated self-indulgence without restraint, and held that the whole tenour of the book, considered apart from the passage quoted by the Solicitor-General was advocacy of restraint and not of intemperance. From beginning to ending, that was what Dr. Melton maintained. He was imparting physiological knowledge which must be conductive to health. Dr. Acton had published a book on a similar subject in England, and he had declared that he was writing for the benefit of the public, and he had never been prosecuted, thought he went into details which Dr. Melton had never dealt with. Mrs. Besant then proceeded to deal with the details of the book.

She had not concluded her address when the court adjourned.