**FRUITS OF PHILOSOPHY**

**TRIAL OF MR. C. 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 on Monday, before Lord Chief Justice Cookburn and a jury.

The Solicitor-General (Sir Hardinge Giffard), Mr. Douglas 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 of showing that the indictment should be quenched on the ground that –

The Lord Chief Justice : I cannot hear that now as I am sitting at nisi prius.

Mr. Bradlaugh then quoted the 18th and 14th Vic., which enacts that “Any indictment for any apparent defect in 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 a motion in bauco.

The Solicitor-General said he 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 point if it is competent for me to do so.

Mrs. Besant asked to have the point reserved for her, and this was granted.

The Solicitor-General 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 some 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 this 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 characterized as obscene, but that its effect would be to vitiate public morals, although it is perfectly free from objections, 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, “Third Law Reports, Queen’s Bench,” which was a publication of a Protestant Society, who had taken a strong view about Roman Catholic priests and 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 defendants’ book was this. The writer contends that it is an improper thing to check any criminal gratification of which human nature may be susceptible; that the gratification of the animal instinct and commerce between the sexes produced an over crowded population ; and the writer contends that to cure that evil, and for the purpose of enabling persons to gratify their passions, it is lawful to disseminate 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 be 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 whatever 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 : I 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 certified, 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 everyone 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 then called two police officers to prove publication, and then said that that was his case.

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

Mrs. Besant said it would not be strange if she was found over weighted 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, who 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 slight thing that a woman should place herself under the imputation of circulating an indecent book, and corrupting the young. The cases of her co-defendant and herself were practically the same, but still they thought it better that both should not go over the whole of the case, leaving the purely physiological details, as a matter of fitness and good taste, to be dealt with by Mr. Bradlaugh. She disclaimed that there would be any indelicacy on her part in dealing with those details, but she took the course she was taking simply as a matter of good taste, in as much as she utterly disclaimed that the book was in any sense indelicate. The book had been published at 6d., to allow poor women to purchase what rich woman were able to obtain at the railway bookstalls at a higher price, and well within their means. She had been charged with inciting to child murder, with seeking to promote promiscuous intercourse, with 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 book. 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. Fictition 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 they were wrong in taking part of the book; they must take it as a whole. They must find the book was an obscene book, or that it was intended to be so. It was like the difference between murder and manslaughter – they first found the intent to be bad. The Solicitor-General said if the intent was good, if that were so, it was his duty to drop the prosecution. She utterly denied that the publication of the book ever contemplated the possibility of an injury to morality. She should 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 judged that no book should be construed as obscene which did not incite to the commission of acts which the law laid down as obscene. For this 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 difficulty in the time to come. With regard to the allegation of coarseness, Mrs. Besant was about to submit a copy of “Tristram Shandy” for the perusal of the jury, with a view to show the tone of certain standard English authors, when

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

His lordship sustained the objection.

The court here adjourned to luncheon. After the adjournment

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 recognize the point she had in view. She went 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 public morals. If that were to be considered final, then they must prohibit many of our greatest authors – and Shakespeare’s “Venus and Adonis” might come 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 passions. They might do that by glowing descriptions, such as they found in some of the grandest of our dramatists and physiologists ; but neither men nor women would ever be effected in that way by mere dry physiological details. And they must remember this when giving their verdict and not be carried away by prejudice because of other works of herself and her co-defendant. She implored the jury to give their whole hearts and minds 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 that 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 Byre and others to show that whatever might be the opinions of the judges in such cases the jury were the …….. 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 ………… verdict of the jury, she did not care if gained another copy. All she wanted was she sold principle – the right of discussion on to assert a principle which was not acknowledged yet, several subjects did not exist until after they had and which would not exist until after they had given their verdict. She wanted them to affirm that opinions honestly given, honestly expressed, and fairly published should not be put down by oppression. She maintained that a publication of an eminent medical …….. should not be branded as obscene because they did not agree with it; as 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 of meeting it. These discussions had done much for every land, and it was most undesirable that the discussion of the records of nature and the works of science should now stopped. If they gave a verdict of guilty, they would stop the spirit of inquiry, until once again they resumed the battle, for if their pamphlet was distinguished another would most 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 ……… into custody they understood that they were fight 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 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 finding 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 forty years. The Vice Society had appeared on the scene. That society had employed epics and informer to try and bring honest, booksellers into disrepute, and Mr. Colette, its secretary, was now boasting that he prompted the solicitor. She would now, she went on to say, deal with the history of the book. The author, the late Dr. Melton, was a medical man of high standing in Boston, where he was known as a man of ……… almost ascetic – life. No word of censure was ever brought against him for his own fashion of life, which was one of great sympathy with the poor. Here, then, they had a scientific man, writing on a scientific subject. In England the book was published first by James Watson, who fought the battle of the newspaper press against the stamp duty, and did they think that he would have been guilty of selling obscene books? Would such a man as Holyoake have published an obscene book. The book in fact, had been published and advertised for seven years, and had been published in the Strand up to the time of the prosecution. She and her co-defendant published the book because Mr. 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 of the dead who had done so much in the cause of liberty, they became the publishers, which they had merely been, in order that they might issue the book and by their testimony show they did not believe Watson and Holyoake 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 on 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. On 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 recognized by such men as Mill and Fawcett and Professor Bain; and she thought that if they could show that the increasing cursed pauperism were 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 she 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 tenure of the book, considered apart from the passages quoted by the Solicitor-General, was advocacy of restraint and not of intemperance. From beginning to end that was what Dr. Melton maintained. He was imparting physiological knowledge, which must be conducive 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, though he went into details which Dr. Melton had never dealt with. Mrs. Besant then proceeded to deal with the details of the book, and she had not concluded her address when the court adjourned.