THE BRADLAUGH-BESANT CASE.

SENTENCE ON THE DEFENDANTS

Mr. Charles Bradlaugh and Mrs. Besant were in attendance on Thursday morning in the Court of Queen’s Bench to receive judgment on the finding of the jury last week in the prosecution instituted against them for the publication of an obscene and indecent book, and to argue a point reserved by the court on the first day of the trial as to the formality of the indictment. The Solicitor-General, Mr. Straight and Mr. F. Mead appeared for the prosecution; the defendants conducted their cases in person. The judges on the bench were the Lord Chief Justice and Mr. Justice Mellor.

The Solicitor-General having formally moved for judgment.

The Lord Chief Justice, after some conversation, said he did not know whether it was the intention of the defendants to move for a new trial. – Mr. Bradlaugh: Yes, my lord. – Mr. Justice Mellor said he extended the time for moving until the day when judgment was to be given.

Mr. Bradlaugh said he proposed to move for a new trial, and to move to quash the indictment on the ground that it was bad on the face of it, and that it was unsustainable in point of law. He moved to quash the indictment and in arrest of judgment on the ground that the indictment was for an obscene libel, and that the words supposed to be criminal ought to be expressly specified in the indictment, and that they were not so specified. If the whole of the pamphlet were necessary to support the indictment against the defendants every word of the pamphlet ought to be set out in the indictment, and if parts of the book were relied upon to sustain the charge of obscenity then the parts should have been set out. He did not know whether the obscenity consisted in the advocacy of checks to the population, or in the language in which the checks was advocated. He asked for a new trial on the ground that the advocacy of checks did not constitute an offence within the common law. The question of checks was matter for discussion, and if a mistake had been made in the character of the checks advocated, it would not create a new offence for which the defendants should be punished.

Mrs. Besant said she moved, as her co-defendant had done, to quash the indictment on the very ground put forward by the Lord Chief Justice. That the whole book was supposed to be in the indictment, and therefore that the whole book must be taken to be obscene. She argued that the finding of the jury was really a verdict of not guilty, inasmuch as they acquitted the defendants of any corrupt intention. – His Lordship said that she was wrong in her law. If a person did an unlawful act, he must be abide by it, whatever his motive. The jury had found that the book was obscene, and it was not the duty of every good citizen to set himself above the law to do what he considered a good thing.

The Lord Chief Justice, in giving judgment, said the case was one peculiarly for the jury, and there should no new trial on any of the grounds alleged.

The Solicitor-General put in affidavits showing the sale of the work since the verdict.

After consulation with Mr. Justice Mellor.

The Lord Chief Justice pronounced judgment. And in doing so said the case was one of a peculiar character, and of very great importance. The defendants having been fairly and impartially trial, and found guilty by the jury of doing what was an offence against the law, if they were ready to submit to the law, and would do everything in their power to prevent the further circulation of a work which had been declared to be one corrupting public morals, the court would have been prepared to discharge them upon their own recognisance; but they could not help seeing that is what had been said and done pending the trial and since the verdict of the jury, the defendants had set the law of the land at defiance by continuing to publish the book. That which the verdict of the jury made an offence of a comparatively slight character had now become, by the action of the defendants, as matter of a very grave and serious character, and the sentence of the court would therefore be that they had imprisoned for six calendar months, paying a fine of £200 each, and further enter into their own recognisance in the sum of £500 for their good behavior for two years, which sum they would be liable to forfeit if they continued to publish the book. If they chose to set themselves above the law, they must expect to be dealt with accordingly. He was very sorry indeed that such should have been the result.

Mr. Bradlaugh. – Will your lordship entertain as application to stay execution until the after proceedings in the Court of Error?

The Lord Chief Justice – Certainly not; but (after a pause, and as the tipstaff was advising Mr. Bradlaugh) if you will pledge yourself there shall be no repetition of the publication until the Court of Error shall have decided, you can go under your own recognisance until the case is heard.

Mr. Bradlaugh said not only would he not continues publishing the book, but would do all in his power to stop its circulation.

The Lord Chief Justice, – I wish you had taken that position sooner.

Mrs. Besant having given a similar pledge, defendants were released on entering into their recognisance.

Printed and Published for the Proprietors, at 17 King William-Street, by BEN, BRYAN residing at Rose Bank, Duke’s Drew, Blackburn, June 30, 1877.