**THE BRADLAUGH CASE**

Mr. Charles Bradlaugh and Mrs. Annie Besant, who were found guilty on the 21st instant of publishing an obscene book entitled the “Fruits of Philosophy,” came upon Thursday for judgment before the Lord Chief Justice and Mr. Justice Mellor, sitting in banco in the Queen’s Bench Division of the High Court of Justice, and also to argue the point reserved by the court on the first day of the trial when Mr. Bradlaugh, before the jury were sworn, moved to quash the indictment.

The Solicitor-General formally moved for judgment.

The Lord Chief Justice, after conferring with the master of the court, said that the postea or record of the conviction could not be made up.

The Solicitor-General said he understood there was some difficulty of that kind, but he thought it was owing to the fault of some of the Crown office officials.

The Lord Chief Justice complained of the carelessness exhibited by the prosecution in not applying for the postea.

The Solicitor-General said he was told by a learned brother that the postea was made up by the association whether applied for or not.

The Lord Chief Justice (addressing Mr. Bradlaugh). I beg your pardon; you did state the grounds very distinctly that the Solicitor-General had not set out the parts of the work upon which he relied. The question that went to the jury was whether the whole of the book was an offence against the law.

Mr. Bradlaugh –I understood your Lordship to say that I was putting my arguments before you at the wrong time.

The Lord Chief Justice – Not at all ; I declined to quash the indictment, that was all.

Mr. Bradlaugh said so far as he could remember he did not give his reasons fully. His Lordship had suggested the sitting at Nisi Prius. He could not hear the point at all, and had state that he would reserve it.

The Lord Chief Justice –So far I have reserved it. If you can show that the indictment was a bad one it is open for you to do so.

Mr. Bradlaugh – Then I move to quash the indictment, and for an arrest of judgment, on the ground that if the work as an obscene libel, according to the finding of the jury, the words showing the obscenity ought to have been expressly specified in the indictment, but they are not so given. The indictment does not tell us what we are called upon to answer.

The Lord Chief Justice – You are called on to answer for the whole book.

Mr. Bradlaugh –At present I do not know what it is that makes the book criminal. Is it either that the checks to population advocated in the book are immoral or that the language in which they are put, and the details are obscene?

The Lord Chief Justice –Checks certainly. Suppose the book is liable to the twofold objection that the details are obscene, together with the practices it advocates.

Mr. Bradlaugh –I ask for a new trial on the ground that the advocacy of checks to population does not constitute a libel according to common law, because this is the first case of its kind.

The Lord Chief Justice – The difficulty is this. There are checks that are moral and others that are immoral. That point the jury has decided in the case of the present book. It is an offence to publish anything contrary to public morals. It may be judge made law, but it is settled law. You cannot publish a thing that is contrary to public morals.

After some further argument, in the course of which Mr. Bradlaugh quoted certain cases on which he relied as precedent,

Mrs. Besant said she moved, as her co-defendant had done, to quash the indictment on the ground put forward to the Lord Chief Justice, that the whole of the book was in the indictment, and that therefore the whole of the book must be taken to be obscene.

The Lord Chief Justice –No; I did not put it that way. I did not put it that the whole book was obscene, but the book, as a whole, was obscene; there is a great difference between the two.

Mrs. Besant said his lordship had drawn the distinction that it would be the checks advocated that made the obscenity of the book. She would put it to their lordships that the jury did not draw that distinction, and that, therefore, the defendants had no way of knowing which part of the book was obscene.

The Lord Chief Justice –The jury condemned the whole of the book.

Mrs. Besant –Therefore, my lord, if I publish another pamphlet leaving out the checks, I do not know whether it will be condemned. In the future we should find it very hard to know what our offence is. Is it that of publishing such a book as this containing these checks to population?

The Lord Chief Justice – Exactly. It seemed to me that was what I called the gist of the enquiry. I agreed that the language of the book was not open to objection, and that if it had appeared as a medical work it would have been perfectly proper. Having gone through the preliminary matters, when we came to the checks it seemed to me to be a matter for the jury to say whether it was immoral to advocate such checks, whatever the object of the defendants was. That was the issue which went to the jury, and they decided against you.

Mrs. Besant argued that the jury ought not, without grave consideration, to be permitted to lay down the law by such a special verdict as that they had given. She moved to enter judgment for the defendants on the ground that the verdict was a special one, which amounted to a verdict of “not guilty;” that the form of words selected were contradictory and utterly against the weight of evidence, and that when the verdict was brought in finally, it was brought in by misdirection.

His Lordship, on many occasions during Mrs. Besant’s address, reminded her that her view of the law was wrong, and said that if a person did an unlawful act he must abide by it, whatever his motive. The jury had found that the book was obscene, and it was the duty of every good citizen not 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 be no new trial on any of the grounds alleged.

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

After consultation with Mr. Justice Mellor, his Lordship said had the defendants announced in court that having acted in error, as the jury found they did, and that they were ready to submit to the law, the court was prepared to have allowed them to go at liberty on their own recognisances; but, instead of this, they had since the verdict set the law at defiance by continuing the publication. The offence now assumed a very grave character, and the sentence was, that they be each imprisoned for six months, and pay a fine of £200, and enter into recognisances in £500 to be of good behavior for two years.

On the application of the defendants execution was stayed to enable them to appeal, they undertaking to cease the publication of the work.