THE BRADLAUGH CASE

WESTMINISTER, Monday. To-day the Indictment for misdemeanor against Charles Bradlaugh and Annie Besant, charging them with publishing an alleged obscene book named the “Fruits of Philosophy," was commenced in the Queen’s Bench division. Of the High Court of Justice, before the Lord Chief Justice and a special jury. The precincts of the court were crowded to excess. Mr. Bradlaugh and Mrs. Besant sat together at a table on the floor of the court. When the jury were about to be sworn Mr. Bradlaugh rose and stated that he had a motion to quash the indictment on the ground The Lord Chief Justice (interrupting) : I cannot hear that now ; I am sitting at Nisi Pries. Mr. Bradlaugh then quoted the 13th and 14th Vie., which enacted that any indictment for any apparent defect in the face of the indictment should be taken by demurrer or motion to quash it, but the jury should be sworn and not afterwards. The Lord Chief Justice: Surely that contemplates a motion in Banco. The Solicitor General, who appeared for the Corporation of London to prosecute, said I take it that that would be the incurring of the statute; the pleadings were in the Crown Office and he should have demurred 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 claimed the same in her own behalf, which was granted by the court. The Solicitor General (with him Mr. Douglas Straight and Mr. Mead) Appeared for the prosecution, and Mr. Bradlaugh and Mrs. Besant were undefended. The Lord Chief Justice said he had looked through the book, and it would be necessary to put the jury in possession not only of the substance but of the actual words used. A copy of the book was then handed to each of the jurymen. The Solicitor General then proceeded to say that the defendants were indicted for publishing an obscene libel calculated to corrupt and destroy public morals. The only question would be whether this was an obscene book. The Lord Chief Justice: It may not be obscene or prurient, or open to objection in that respect; yet. If it corrupts some great principle of morals. May it not be properly the object of this indictment ? —The Solicitor-General: Precisely so. The Queen v. Hicklin decided by this court, was a case in which some Protestant association published a book on “Confession in the Roman Catholic Church" to show that such practices had an immoral tendency, and there it was held that the good motive would not avoid the indictment. —The Solicitor-General said this book was published 40 years ago as a companion to Married couples, and now it was published under the guise of philosophy as an essay on population. The, defence was that population might involve something like national interest, and its discussion elicit truth—The Lord Chief-Justice remarked that the Queen v. Hieklin, was very much like the case to which Lord Redesdale replied the other day in the House of Lards. Chief Justice: You must prove that the book was obscene, either inflaming the passions or recommending some course of conduct inconsistent with public, morals. I —The Solicitor-General concluded his speech, and then formal evidence was given of the publication. The book was also put in as evidence, although Mr. Bradlaugh objected. desiring that specific quotations should be made and that was the point on which he took objection to the indictment. This closed the ease for the prosecution. Mrs. Besant then began her address, denying in energetic language that the book was indecent or obscene in any way. Mrs. Besant said if they brought in a verdict of guilty, it would certainly be against the weight of evidence. Her clients were the poor, who would he reduced to poverty and the children to ignorance, pauperism, and crime, if this book was not allowed to be circulated. She would not eater into the physiological details to prove that great standard writer. Had urged the same, because this subject would be taken up by Mr. Bradlaugh but she denied that the book was indecent or obscene. The same physiological questions were dealt with in books sold at the public bookstalls, but at a price which poor people. Her clients could not buy. Her motives were pure, and she quote from legal authorities to show that intent was the very essence of the charge. She contended that if the knowledge was useful and necessary, that it ought to be put within the reach of all.

WESTMINSTER, Tuesday. , The hearing of the indictment for misdemeanour against Mrs. Besant and Mr. Bradlaugh, for publishing an alleged obscene book named “The Fruits of Philosophy" was resumed this morning in the Queen's Bench Division of the High Court of Justice, before the Lord Chief Justice and a special jury.

The Solicitor-General Mr. Douglas Straight, and Mr. F. Mead appeared for the Corporation of London to prosecute; the defendants conducted their own defence. Mrs. Besant resumed her address to the jury. She had talked yesterday on the cheeks to population on the rule laid down by Malthus, and she had divided them into two classes, one class being the checks by death, and those prudential birth-restricting methods which she was there to advocate. She proposed to take up her argument step by step, and to overthrow the contention of the Solicitor-General, that the whole of the philosophy of this book was only a cloak to cover a malicious intention and bad effect. She had received a letter from Professor Bain, saying that this was one of the most critical trials in the history of our liberties. She quoted Malthus and Darwin to show that amongst savage nations the natural cheeks to population were starvation, war famine, and disease. in the middle ages for a thousand years the population had only doable but under our civilisation the population was increasing at a tremendous rate, and unless the cheeks which she advocated were, applied the results would be appalling. Mrs. Benet proposed to call two clergymen of the Church of England the Rev. Mr. Horsley, who was for some time in Shoreditch, and was now in a living at Clerken-well, who would speak from his personal knowledge of the evils of over-population, as would also the Rev. Stuart Headlam, who was now labouring in Bethnal-green. There would be more immorality caused by a large increase amongst the poor than if the physiological knowledge were acted upon that she had desiderated. The jury might find them mistaken in their views; but was not the proper way to meet error to bring truth to bear, and get someone else to devise better remedies, and not to brand them as criminal when they were trying to grapple with immorality? If such books could have been. Circulated amongst the poor there would not have been the increase of population with all the evils which followed from it. Whatever the result of the trial. And they might have to suffer imprisonment, they were firmly convinced that their views would prevail, and bring happiness to many where misery now prevailed. Mrs. Besant quoted Darwin, denying that prudential cheeks were necessary. As he argued that the present increase would lead to the production of a gifted race.

The Lord Chief Justice: I think it is very well worthy of Mr. Darwin's consideration whether the results were not two-fold, and that while out of this struggle and competition there may come from the smaller number a slightly more highly. Gifted race, upon the masses the effect must be deteriorating.

Mrs. Besant: That is the point which I desire to put. I think that Mr. Darwin, in studying the natural kingdom, without man, has left that out of consideration, and I shall show that the prudential checks that we argue for are exactly the effects which those have upon the natural constitution, and we say that people with diseased constitutions have no right to transmit those diseases to their children. Mrs. Besant went on to speak of the great evils which resulted from married women not knowing the natural laws of health in regard to childbearing, and said a great part of Dr. Knowton’s book, which was now before the Court, was occupied with instructions designed to remove the great evil instead of, as had been alleged, to promote immorality. She had dealt with the first chapter of the book, and she asked the jury to say whether, bearing in mind his lordship's ruling, there was shown any intention to promote immorality, or that the writer was using marriage as cover of something worse, and to cover an obscene in test ?

The Lord Chief Justice: Read by itself it might the introduction to the Malthusian doctrine.

Mrs. Besant: Quite so my Lord. -The Lord Chief Justice: The only way to lead to the opposite result is by seeing as to what conclusion it is intended to lead, and from the conclusion it may be argued that, although in form, and ostensibly and prima facile it is perfectly legimate, yet, from the conclusion it is intended to lead up to, a different construction may be given to it. What the is argument which I understood the Solicitor-General meant to use, and this is the only way in which the, first chapter can be dealt with. Judging of it by what it says the intention of the writer is perfectly legitimate.

There was applause when the speech was concluded. Mr. Bradlaugh then began to address the jury, and said he believed he should be able to show that not a line or even a word of the book could be fairly or properly held to be open to the change of obscenity.

Mr. Bradlaugh address was not concluded when the Court rose.

WESTMINSTER, Wednesday. The hearing of the charge for misdemenour, for publishing an alleged obscene book, against Mr. Bradlaugh and Mrs. Besant, was resumed in the Queen Bench Division today, by Mr. Bradlaugh containing his speech. He said he would submit to the Jury that the essay was an essay on population, that the question was one that could lawfully be discussed, and that over-population was the fruitful source of poverty, ignorance, crime, vice, and misery; and that, therefore the advocacy of prudential checks to population was not merely lawful, but highly moral The prudential checks were all birth-restraining checks, which were by delay of marriage or by restraint after marriage ; and that is last marriages and celibacy, or general abstinence after marriage, involved horrible diseases and crime, and perpetuated prostitution. The pamphlet advocated early marriages in order to prevent illicit intercourse; an when they remembered that Dr. Lankester had told them that there had been 16.000 murders of illegitimate children in one year in London, they must see that it was a great evil they had to deal with. Ile submitted that the advocacy of all checks to population was lawful except such as advocated the destruction of life. submitted that over-population was the cause of immorality; that that which hindered over-population was moral; and that that which hindered could ant corrupt and deprave that restraint of population after marriage necessitated giving to the poor and the ignorant information which would enable them to comprehend and utilize the proposition; and further that there was not a single word in the pamphlet which was not absolutely necessary for instructing the poor and ignorant. The pamphlet was chastely and carefully written. And pains takingly put, with the view of avoiding morbid excitement allurement or cuticement. Mr. Bradlaugh continued by dealing with the pamphlet he was charged with publishing. And he held that in fullness of descriptions and in detail there was nothing in the pamphlet which could be compared with what was contained in the book published by the English physician. he laid special stress upon the face that those very details were included in books use in the Science and Art classes under the direction of the Government. Mr. Bradlaugh read at great length passages from the various medical works. Comparing than, as he want on. with passages in the pamphlet, and urging that it contained in much more delicate language the same practiees.—The Lord Chief Justice said the argument of the Solicitor-General was to the effect that that which it was essential for medical men to know, it was not essential that the general public should know ; and that they might be used to corrupt the public mind if issued indiscriminately, and would, therefore, be liable to legal consequences. The argument was that it was not necessary to give those details to the community. And that if they were given the effect must be to corrupt the public mind. That was what he. Had to grapple with.

Mr. Brallaugh concluded his address to the jury, and. having called witness, the case for the defence was brought to a close, and the Court adjourned.

WESTMINESTER, Thursday—In the Court of Queen’s Bench Division. Held at Westminster today, before the Lord Chief Justice and a special jury, the hearing of this charge was resumed this morning; Mrs. Besant proceeded to sum up the Case for the defence. She argued that the language employed in the pamphlet was not at all beyond what was allowable in medical works, and, in fact, in fulness, of expression fell far short of what was found in ordinary books of that nature, and which were circulated in girl’s school. The question, in fact. Was narrowed down to this—whether the book was to be considered a medical work or not. She held that there could be no doubt of that, and that its language was most moderate, and calculated as little as anything possibly could be to deprave the mind, of those who read it? for there, it was argued, that an intention to deprave was shown at the cheap rate at which the book was sold she failed to see that inasmuch as there had been no Endeavour to cheek the sale, the cheapness of the book had anything to do with its morality or otherwise specially as they found that there was no restriction on the sale of high priced medical works. She could not hold it immoral to prevent what might be the death of a mother, especially when in one medical work abortion had been recommended as a remedy for that. That she considered a most immoral check. The Lord Chief Justice pat it that he agreed with the Solicitor-General in this—that even if the defendants had the best intention. in publishing the work, they were responsible if any harm was held to be done by it. Further, whatever was the law of the land, all persons in this country must abide by it, and it was not sufficient to say that because a law was a had law and inconsistent with perfect freedom of discussion, that it should be defied. No matter what the intention of publishing; this book might be, the question really was—what was the effect of the contents? Had the defendants to this instance published details which were inconsistent with decency. And calculated to incite to last and libidinous, desires? If anything was advocated in that book which was inconsistent with the morals of society, then the defendants. Would be guilty. If they did not think so the defendants were entitled to an acquittal; and it must not be forgotten that it was for the prosecution to make out their case. The Lord Chief Justice then went on to deal in detail with the case as presented his summing up being decidedly is favour of the defendants.

The jury after being absent an hour and a half. Returned, and, in answer to the Associate, said they were of opinion that the book was calculated to deprave public morals, but they entirely exonerated the defendants from any corrupt motive in publishing it.

The Lord Chief Justice said he must direct them upon that to find the verdict against the defendants, inasmuch as he had already ruled. If the book possessed the character they had given it, the publisher were responsible, whatever their motives might have been. Their exoneration from any corrupt intentions would be fully taken into consideration hereafter, but he must direct them that upon their finding a verdict of guilty mast be returned.

The jury returned a verdict of "Guilty" but exonerated the defendants from any bad intention.

His Lordship said the verdict was against the defendants, and ordered them to come up for judgment this day week.