**THE BRADLAGUH CASE.**

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**THE SENTENCE.**

On Thursday Mr. Bradlaugh and Mrs. Besant came up for judgment for having published an obscene book. The Queen’s Bench Court was crowded. After the preliminary objection (that a poster had not been made out and therefore that the Solicitor-General was not entitled to pray judgment) had been arranged so that the instrument should be produced, Mr. Bradlaugh said he had four motions – one to quash the indictment, another for arrest of judgment, and for a new trial. The Lord Chief Justice (with whom was Mr. Justice Mellor), remarked that that was disposed of, for he declined to quash the indictment. However he could argue that as a point of law. – Mr. Bradlaug moved to quash the indictment or an 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 specified in the indictment. In order to support the indictment the whole of the pamphlet should have been set out; but if parts of the indictment were sufficient to sustain the charge of obscenity that then those parts should have been set out in the indictment. He asked for a new trial on the ground that the advocacy of checks to the population did not constitute a libel within the common law. – The Lord Chief Justice: There are checks consistent with morality and others not. It is an offence to publish anything which is inconsistent with public morals. – Mrs. Besant resumed her argument. – The Lord Chief Justice remarked that the offence was that of publishing such a book as this. – Mrs. Besant: Containing checks, which your Lordship said was a legitimate enquiry. – The Lord Chief Justice: Because I agreed that the language of the book was not open to objection. There was nothing of indecency in it, and the details were such as if they had been in a medical work that they were not open to objection; and you were entitled to argue that it was published as a medical work. When you came to propose checks then the question is whether it is consistent with public morals, and the jury found that against you. – Mrs. Besant then urged that the verdict was really a verdict of not guilty against them, and she moved for a new trial on the ground that the words selected by the jury were self-contradictory and against the weight of evidence, and that when the verdict was finally brought in it was by a misdirection. The jury found that the book was calculated to deprave public morals, but they entirely exonerated the defendants from any corrupt motives in publishing the book. Corrupt intent was charged in the indictment, and having been acquainted of that she submitted that they were free. – The Lord Chief Justice said that one part of an indictment being badly drawn did not vitiate the good parts of the indictment. – The Solicitor-General having supported the indictment and Mr. Bradlaugh replied.

The Lord Chief Justice, in giving judgment, said he was clearly of opinion that there should be no new trial. The question was one eminently for a jury, who had found that the publication was calculated to be subversive of public morals. The whole subject had been put before them in all its various aspects, and they had given it their best attention. He agreed now that it was not competent for him to quash the indictment, and he ought not to have reserved the point. As to whether an indictment, not setting forth specifically the libel, was good, he was of opinion that it was, and though there was a balance of convenience and inconvenience to prosecutors and defendants, still the result was more favourable to holding that it was not necessary to set it out specifically. He could not grant a new trial or arrest the judgment, but it would be open to the defendants to take the case to a Court of Error.

Mr. Justice Mellor said the question of whether it was an essential part of the indictment and that it does not set forth the terms of the libel, was one for a court of error, but not to arrest the judgment. The only remedy that the defendants had was to bring an “error” upon the indictment, and obtain the opinion of the Court of Error, as to whether this is so essential a part of the procedure that it vitiates the trial where there is no statement on the record of the particular terms in which the libel had been conveyed to the public. – They could not arrest the judgment, and he saw no ground for the new trial. – The Solicitor-General prayed for judgment, and their lordships then adjourned to consider judgment. On their lordships returning into court, the Solicitor-General produced two affidavits, one by a newsagent, setting forth that he had been directed, after this indictment had been made out, by Mr. Bradlaugh’s manager to get the book at an address given, and the other being a newspaper reporter, who said that the book had been sold to young women and lads. The report which had been given in the *Morning Advertiser* was read, and Mr. Bradlaugh said the report was ridiculously incorrect. – The Lord Chief Justice remarked that a most unjustifiable use had been made of his name, if it was correctly reported that he had summed up in favour of the defendants. All that he said was that the verdict should not be given in a storm, and without mature deliberation. – Mrs. Besant said that the report was ridiculously incorrect. A juryman had written to her that the verdict was not the verdict of the jury, but of the foreman. – The Lord Chief Justice: It is too late now to make that objection. – Mr. Bradlaugh: We do not deny that we continued to sell the book. – The Lord Chief Justice: Then the matter assumes a most aggravated character. We should have preferred to have allowed the defendants to go on these recognizances, if they had submitted to the verdict of the jury and not have sold the book. – His Lordship then sentenced the defendants to six calendar months imprisonment and to pay a fine of £200, and to enter into recognisances of £500 each to refain from publishing the book for two years after the expiration of the sentence; that sentence was given expressly because they had been contumacious. – Mr. Bradlaugh: Will you stay the sentence until we have gone to the Court of Appeal? – The Lord Chief Justice: Certainly not. After a pause His Lordship, getting a pledge from the defendants that they would not publish the book during the pendencey of the appeal, allowed them to go on their own recognisances till the Court of Error shall have decided. If the court affirms the ruling, then the above sentence stands.