THE BRADLAUGH PROSECUTION.

Yesterday, in the Queens’s Bench Division, before Lord Chief Justice Cockburn and a special jury, the trial of Mr. Charles Bradlaugh and Mrs. Annie Besant, on a charge of publishing an indecent book, was resumed. The Solicitor- General, Mr. Douglas Straight, and Mr. Mead appeared for the prosecution. The defendants conducted their own defence.

Mrs. Besant, in resuming her address, said that when the court adjourned on Monday afternoon she had laid the foundation for drawing a distinction between natural and death-producing checks and those artificial checks of which she was the advocate upon the increase of population. She was the more encouraged in her defence by having only that morning received a letter from Professor Bain, in which he said that he regarded this trial as one of the most critical in the history of our liberties. The natural checks were most prevalent in savage life. Mr. Malthus had said that if population went on increasing without check, in time there would not be standing room on the habitable globe for the human race. The natural checks to be found in savage life were infanticide – too prevalent even in civilised life – the murder of the aged, the frequent wars, the famines, and the terrible diseases. The poor of this country were looking to the jury to secure them from those checks which meant misery and vice, and to give them a chance of using scientific checks that meant happiness and comfort in their homes. Looking at China with its over-whelming population, Mrs. Besant pointed out the vice that resulted from it. Again (she proceeded) in our Australian colonies, where sixty women were to be found amongst 20,000 men, the amount of vice and disease was beyond all imagination. In Europe all tended to preserve life, disease was cured, and wars were gradually being replaced by arbitration. The more, therefore, that civilisation progressed the more were the natural checks removed, and if we did not replace them by scientific checks civilisation would only mean increase misery. If the population of England went on increasing at its present rate during the next fifty years, with the corresponding rise in the price of provisions, the mass of the people would be reduced to the most abject misery. We were following the example of Ireland, which resulted so disastrously in the famine of 1848, by increasing our population at a greater rate than our food supply. One wretched consequence of our enormous population was overcrowding, which led to more immorality on the part of young lads and girls than any that could result from giving them dry technical physical knowledge. She had seen with her own eyes the most terrible scenes and vice among the poor, and she asked whether they marveled that she risked even imprisonment and fine in order to bring salvation and happiness to those unfortunate creatures. Another check upon the population of this country was insufficient and unwholesome food, the result of low wages due to over-competition, and the large number of children which were brought into the world. Another check was the terrible drunkenness among our poor arising from want of food. Baby farming and intentional overlaying of infants were others of the dreadful checks which were the result of our civilisation. She asked whether it was immoral to murder children after they were born by means of these direct checks which the Solicitor-General pointed to as those designed by nature and by Providence than by means of the scientific checks for advocating which she stood there as a criminal that day. It was the existence of this misery and vice, and of prostitution, which had led her to the conclusion that, however this trial might go, it was her duty steadily and patiently – in no spirit of defiance – to persevere in her endeavour to alleviate human suffering, even though in reaching her goal she had to pass through the prison. Mr. Darwin had objected to her proposal that the great improvement in the higher animals and in man was the result of the struggle for existence. She admitted that there would be some force in that argument if man lived on the same terms as the animal, and let the young, the weakly, the aged, the diseased, and the starving die without assistance; but under our present conditions of life such a thing was impossible, and therefore Mr. Darwin’s argument did not apply.

The Lord Chief Justice: It may be well worthy of Mr. Darwin’s consideration whether the result of a struggle for existence may not be twofold – namely, that beneath the small numbers of a highly –gifted race a deteriorated mass may not be found.

Mrs. Besant proceeded to point out the evil that resulted from delaying marriage until late in life. It was a mockery to tell young men and women that they must not marry until the spring time of their youth had passed away, and until their fresh and youthful affections had become blunted. She did not seek to prevent the production of children altogether, but merely to limit their number. It was not because she disliked children, but because she loved them so much that she urged that not more should be brought into the world than could be provided for. Profligacy on the one hand and celibacy on the other each gave rise to manifold evils that were worse than those which flowed from early marriages. Mrs. Besant, having referred to Mr. Montagn Cookson’s views on the subject, said that the object of this book was not to prevent marriage or to promote profligacy, but to encourage marriage early in life by introducing an artificial but healthy check upon the population. In support of her argument she referred to the works of Mr. John Stuart Mill, Professor Leone Levi, and Mr. and Mrs. Fawcett. She deprecated the discussion of physiological questions in magazines, and contended that they should be contained to works the titles of which indicated clearly the nature of their contents. She had placed before the jury the dilemma of choosing between the misery and vice resulting from over – population and from late marriages or the use of certain checks after marriage, and it would be for them to say which they preferred. Dwelling upon the physical pain and the ruin to the health of women in the poorer classes from over- childbearing and over-lactation, she adverted to the number of letters she had received from country and town clergymen urging her to proceed in her course. She pointed out that medical men had recommended that in the case of deformed women unable to produce a living child abortion should be brought about, and surely that was more immoral than to recommend the use of a check. She contended that the whole of the first chapter showed that there was nothing obscene in the intention of the writer.

The Lord Chief Justice: Judging from what appears upon the face of it, there is nothing in the first chapter to show that the intention of the writer may not have been perfectly proper and perfectly pure.

Mrs. Besant then proceeded to deal with the two first paragraphs of the second chapter of the pamphlet, leaving the remainder of it to be dealt with by Mr. Bradlaugh, as more convenient to all parties. No physical knowledge properly taught and properly understood could be taken to be a moral evil. In the case of the Queen v. Hinckley the facts put forward were all of the most disgusting character, without their conveying any knowledge of benefit to society. No physical fact was of itself indecent although it might doubtless be used to convey and indecent suggestion. In the examination for the Government Science School young girls were expected to be fully acquainted with the whole system of reproduction, and with the structure of male and female organs, and prizes were given to the successful candidates containing plates and details which she did not think should be placed in the hands of young people. When Lord Beaconsfield, Lord Derby, and the learned Socitor-General were indicted for circulating works of this character in girls’ schools she hoped they would remember that she had not been guilty of such conduct. (A Laugh.) The misuse of knowledge did not make that knowledge bad, indecent, or obscene; the knowledge remained the same whether used or abused; the fault lay not with the giver but the receiver of it. In Naples, if a person wished to kill his enemy secretly he resorted to poison, but would the jury say that a botanical book dealing with poisonous plants was therefore calculated to deprave society? Would they limit medical thought by the misuse which impure and obscene minds might make of it? The same argument might be used against the sale of knives and ropes, because with such things life might be destroyed. It was like the fifty years’ old argument employed against the sale of penny boxes of Lucifer matches because they gave the agricultural peasantry a power of burning hayricks. The fault of the misuse of knowledge did not lie with the giver of the knowledge, but with the person who misused it. This was a trumped-up prosecution of a book that had been in circulation forty years, and by spite and malice had been brought into greater notoriety than the author could have ever anticipated. Justice required, if they were convicted on this indictment, that Mr. W. H. Smith, a member of her Majesty’s Government, should also be prosecuted for circulating without restrain amongst the wealthy classes who could spare 2s 6d, 5s or 6s, what they would say by their conviction was indecent in a sixpenny book. The object of the book was to promote marriage and teach temperance in those who were married. Dr. Knowlton’s object in writing the book was the opposite of that which had been attributed to it. The book was to be condemned for its obscenity on account of its price, but she hoped the jury would not condemn it on account of its price and measure obscenity by the money paid for it. She could not understand why she and her co-defendant had been singled out for this prosecution, when medical works were sold by the different booksellers without restriction. The circulation since this prosecution had increased enormously – from 700 a year to 125,000 a year. If she gained the verdict the sale would be stopped, the object being to gain the right to publish, and any other person might take it up; and she warned them that the publication of the book would not be stopped by her conviction.

Mr. Bradlaugh, in rising to address the jury, said he felt the grave responsibility that rested on him, lest his want on tact in dealing with delicate matters should damage his co-defendant, who had presented the case so earnestly and so eloquently before them. The indictment was for publishing an obscene libel, but there was no statute which defined the word “obscene” They were indicted under the common law, but no work similar to this had been made the subject of an indictment at common law. This was the first case in which the defendants had ever stood forward and said the book was not obscene. He would affirm that there was not a line in the book which was not written with decency. When the learned Attorney-General applied the term “filth” to a work in which, as he contended, there was not a trace of vulgarity, he must have forgotten that he was pleading for the conviction of a man and woman, and must have thought he was engaged in some civil cause. Having quoted Lord Campbell’s remarks on introducing his bill in the House of Lords, and which was directed against what was intended to corrupt and deprave the public mind, he said in this case they (the defendants) has given notice to the authorities of their intention to publish the work. They had been arrested on a warrant, an indignity of which he did not complain, but which might have been well spared to the lady who was his codefendant. In the periodical which he had conducted he had even put forward Malthusian views, and if this book was obscene, how was the poverty and misery of the working classes to be prevented? John Stuart Mill had left it on record that his attention had been directed to him (Mr. Bradlaugh) because he put forward these views. Indictments for obscenity, not under the statute but the common law, must be looked at with a little care.

The Lord Chief Justice said what he would hold was that if the jury should be of opinion that the effect of this book was to deprave public morals, and to corrupt youth, it was an infraction of the law.

Mr. Bradlaugh submitted that even so he and his co-defendant could not be convicted under this indictment.

The Lord Chief Justice: I shall hold to the contrary.

Mr. Bradlaugh contended that this work was an essay on the population, and that it was not indictable to advocate checking the population. He was still addressing the court when his lordship rose.