THE BRADLAUGH PROSECUTION

Yesterday, in the Queen’s Bench Division before Lord Chief Justice Cockburn and a special jury, the trial of the indictment against Mr. Charles Bradlaugh and Mrs. Annie Besant, for publishing a pamphlet called “The Fruits of Philosophy,” of an alleged obscene character, was resumed. The Solicitor – General, Mr. Douglas Straight, and Mr. Mead appeared for the prosecution. The defendants conducted their own defence.”

Mrs. Besant, in summing up the evidence she had place before the jury, remarked that the case had become much narrowed since it was opened by the Solicitor-General. The defence had proved that the philosophy of the work in question was real, and not merely a pretence to cloak indecency. It had also been shown that the pamphlet, so far from seeking to discourage marriage, advocated it in the strongest terms. The language of it, moreover, was mild and chaste compared with that used in ordinary medical works. The case was now narrowed down to the question whether the pamphlet in question was a medical work, or whether it was a grossly obscene work calculated to deprave public morals. It had been shown that it was written by a duly qualified medical man of considerable eminence in his own country, and that it was written with scientific accuracy, being, therefore, to all intents and purposes a scientific work written by a scientific man for a scientific purpose. The only distinction between it and other works of an admittedly scientific character, giving the same information which were published by men whose character was unblemished, and which were advertised in all the daily papers, was that the latter were sold at a higher price. The prosecution had utterly failed to show not only that there was an intent to deprave on the part of the writer, but also that the work itself was calculated to excite improper feelings. Could the jury read the indictment and then find her guilty of a criminal intent to corrupt youth? Up to the present time she did not know who her prosecutors were – for aught she knew, this prosecution might have been suggested by private malice. The jury of course knew nothing of her past life, or they would feel how absurd it was to bring such a charge against her. She was not born among the poor, neither had she, as her co-defendant had, raised herself by sheer force of character and won the right to speak before them to-day. But she asked them, did they intend to send her, who had worked for the good of her fellow-creatures for so many years, from that court to a gaol, there to herd with those degraded women mere association with whom would bring agony to her? A verdict of guilty would involve destruction to her and to all she had worked for through life; it would destroy her influence with the poor – and yet no, for they at least would know that she had been fighting hard for them even in this court. If the jury believed in justice, in truth, in purity, they could not find her guilty. But should they do so, she should appeal from their verdict to that of history, which would be that this man and this woman, knowing the misery of their time, the starvation of their fellow-creatures, and the overcrowding of the homes of the poor – that they twain had joined hands together to do their best to alleviate that misery, and history would say of them “Well don!” whatever the verdict of the jury might be. Mrs. Besant resumed her seat amid some applause.

Mr. Bradlaugh summed up the defence very shortly.

The Solicitor-General, in reply, pointed out that the defendants had themselves forced the city authorities to institute this prosecution, which, he admitted, had been most mischievous in its effects; but the authorities had been placed in the dilemma of being compelled either to institute it or to permit the circulation of a work which they regarded as being calculated to injure public morals. He did not care to inquire into the motives which had induced the defendants to publish this work. Giving them credit for the best motives, what the jury had to do was to determine the character of the book itself.

The Lord Chief Justice: You charge the defendants in the indictment with having published this book with the intent to corrupt and vitiate public morals.

The Solicitor-General: This is the legal effect of their act, and every person must be taken to intend the natural consequence of his act.

The Lord Chief Justice: But you start by acquitting them of the intent charged, and it would be a startling state of things if persons whom the prosecution them-selves acquit of such an intent were to be found guilty of it. That may be the legal view of the case, but it appears to be a startling result.

The Solicitor-General contended that the only question for the jury was, Was this an obscene book or not? It advocated practices which he submitted were contrary to the law of God and man. It was a work which no man would wish to see in the hands of his daughters, and which no man of decent mind would place even in those of his wife. It was filthy, disgusting, and immoral. If the book were calculated to deprave public morals, then there were no surrounding circumstances which would justify the defendants in publishing it, whatever their motives might be in doing so. All who valued the married state, and national morality and purity, would object to see this book circulated amongst their own wives and daughters; and if the jury returned a verdict of not guilty, it might be thrown broadcast to-morrow all over the country.

The Lord-Chief Justice, in summing up, said that there was one point on which every person who had listened to this trial would cordially agree with the Solicitor-General, and that was with regard to the mischievous character and effect of the prosecution. A more ill-advised and a more injudicious prosecution had probably never been brought into a court of justice. Here was a work which had been published for more than forty years, and which appeared never to have got into general circulation until this prosecution was instituted, since when thousands of copies had been sold. The Solicitor-General had asserted that no alternative had been left to the authorities except to institute this prosecution. All he could say was that he did not agree with the learned counsel on that point, and when the learned counsel talked about the authorities, he should like to know who they were, because up to the present moment the fact had not transpired. Was the real prosecutor the policeman who appeared nominally in that capacity, or was the prosecution instituted by the magistrates? He did not believe that the magistrates had anything to do with the matter. Of course a policeman had a perfect right under the existing state of the law to set the criminal law in motion, and that right would remain as long as the Government of this country thought proper to leave the administration of justice defective, as from his place on the bench he said it was, in the essential matter that it did not provide for the appointment of a public prosecutor. The defendants were indicted for having published this work, with the intention of corrupting and vitiating public morals. The law declared that any publication which outraged decency was illegal. If this was not a work of that character, the defendants were entitled to be acquitted. The book professed to provide a remedy for over-population. The evils of over-population were real and not imaginary, and various thinkers and writers had suggested remedies for them. The remedy for them was doubtless difficult to find. Malthus had suggested that people should refrain from marriage until a late period of life, and Dr. Knowlton had in his pamphlet suggested a different remedy. It had been charged that Dr. Knowlton had alluded to marriage as a mere cloak to encourage prostitution and immorality. He did not believe that there was the slightest foundation for that suggestion. He believed that in referring to marriage Dr. Knowlton had done so with perfect honesty and truthfulness. Was this book written with the intention of exciting improper passions and wantonness? There was not a single word from the beginning to the end of the work, dealing as it did with dry physical technicalities, which could have that effect. The question, therefore, was whether the checks advocated in this work were such as were opposed to morality. The Solicitor-General said that they were contrary to the law of God and man – it was for the jury to say whether they took that view of the matter. Of the *bound fides* of the defendants in publishing the work with the view of relieving the misery of the poor and for bettering the condition of humanity there could be no doubt. But even if the use of the checks advocated in the pamphlet were legitimate, it was a question whether injury might not be done to the public morality by indicating to unmarried people how they might avoid the consequences of immorality. If the jury were of opinion that this work was calculated to injure public morals on any grounds, then, however pure and good the intention of the defendants might have been in publishing the work, it would be their duty to find them guilty.

The jury retired at a quarter to one o’clock.

THE VERDICT.

On returning into court at twenty minutes past two o’clock,

The jury said: We are of opinion that the book is calculated to deprave public morals, but we entirely exonerate the defendants from any corrupt motive in publishing it.

The Lord Chief Justice: I must direct you upon that to find a verdict against the defendants.

The Lord Chief Justice said that under these circumstances both defendants must appear on that day week, when the court would be sitting in banco, and then any objection they might have to make to the indictment would be considered.