**THE BRADLAUGH CASE**

In the Queen’s Bench Division on Thursday morning, before Lord Chief Justice Cookburn and Mr. Justice Mellor, the case of the Queen v. Bradlaugh and Besant, in which the defendants had been convicted of publishing an indecent pamphlet called “The Fruits of Philosophy,” again came before the court. The Solicitor-General, Mr. Douglas Straight, and Mr. Mead appeared for the prosecution. The defendants appeared in person.

The Solicitor-General moved for judgment.

The Lord Chief Justice: I don’t know whether the defendants intend to move for a new trial.

Mr. Bradlaugh said he did intend to make such a motion. But he proposed, in the first place, to move to quash the indictment on the ground that it was bad in law; inasmuch as, being an indictment for an obscene libel, it did not set forth and specify particularly the words upon which the charge was founded. The difficulty in which he had been placed by the form of difficulty in which he had been placed by the form of the indictment was that he did not know even now whether the obscenity charged was the advocacy of certain checks to population or the language used in advocating those checks.

The Lord Chief Justice: That would be a ground for moving a new trial.

Mr. Bradlaugh would move for a new trial on that ground. He submitted that for the last hundred years checks to population had been discussed with perfect freedom.

Mrs. Besant said she also moved for a new trial on the ground that the verdict was a special one, and was equivalent, looking at the terms of the indictment, to a verdict of not guilty; that the form of the words used by the jury was self-contradictory, and that the verdict, if good, was against the weight of evidence, and that when the verdict was finally brought in it was so brought in by misdirection. They had been charged in the indictment with having a corrupt intention in publishing the work, and that corrupt intention the jury had expressly acquitted them of.

The Lord Chief Justice: You cannot enter a special verdict in a criminal case; we must enter a verdict either of guilty or of not guilty. It is open for you to contend that, on the finding of the jury, I should have directed a verdict of not guilty to be entered.

The Solicitor-General observed that the question, libel or no libel, was one for the jury and not for the court, and that therefore there would be no right to demur.

The Lord Chief Justice, in giving judgment, said that he was of opinion that there ought not to be a new trial in this case on any of the grounds relied upon by the defendants. The case was one peculiarly for the jury, than whom there could not be a better tribunal for the determination of such a question as the morality or the immorality of a work; they representing, as the Solicitor-General had happily expressed it, the average intelligence of society. In his opinion there was no reason for disturbing that verdict. It had further been contended that the verdict of the jury was not rightly entered. The jury having entertained doubts as to the legal effect of the facts they found proved, laid them before the court by their verdict, and he felt it to be his duty to tell them that where persons published a work having a tendency to deprave public morals, they were guilty of an infraction of the law, whatever might be their motive in publishing it. Upon that, the jury had at once returned a verdict of guilty. On the whole, therefore, their Lordships could not entertain the application on the part of the defendants for a new trial. The defendants further contended that judgment should be arrested on the ground of the legal insufficiency of the indictment, inasmuch as the words alleged to be obscene were not set out in it. In his opinion it would be exceedingly inconvenient to require the words to be so set out. If their decision on this point were wrong it cold be taken to a Court of Error.

The Solicitor-General said that the record now being in court he prayed for judgment, and he handed in certain affidavits.

Mr. Bradlaugh, in answer to the Court, said that he had no affidavits in reply.

The Lord Chief Justice said from the report which was published in the newspapers Mrs. Besant appeared to have stated that he had summed up in favour of the defendants. That was an entire misrepresentation of what he had done, which simply was to hold the scales of justice evenly.

Mr. Bradlaugh said the report was ridiculously inaccurate, and if anything turned upon it, he should ask for leave to meet it by affidavits.

Mrs. Besant asserted that the report was utterly inaccurate. She had no knowledge that the pamphlet was sold at the meeting. She had received a letter from one of the jurors stating that he had not concurred in the verdict. She pleaded guilty to having referred to the Lord Chief Justice as “one of the most highly trained brains in England,” and if she was wrong in having done so she begged to apologize for it. (A laugh)

Mr. Bradlaugh said that as a matter of fact he had continued to circulate the pamphlet.

The Lord Chief Justice: Then the mater assumes a very serious aspect indeed, because that implies that notwithstanding the verdict of the jury the defendants intend to publish this book. The jury having acquitted you of any intention to break the law we were disposed to have passed a very lenient sentence upon you, but if the law is to be openly set at defiance the case becomes a very grave one and assumes an entirely different character.

Mr. Bradlaugh : Then we respectfully submit ourselves to the judgment of the Court.

Mrs. Besant : I have nothing to say in mitigation of punishment.

Their Lordships having consulted for some minutes.

The Lord Chief Justice said: This case has assumed a character to very grave importance. Had the defendants announced openly in this court that having acted in error, as the jury found they did, and to the benefit of which finding they are fully entitled, and that after having had a fair and impartial trial, and having been found guilty of doing that which is an offence they were ready to submit to the law, and would do everything in their power to prevent the publication and the circulation of this work, which the jury have found is calculated to deprave public morals, we were prepared to have discharged them upon their own recognisances. But we cannot but see that in what has been said and done pending this trial, and especially since the verdict of the jury has been given, the defendants instead of submitting themselves to the law have set it at defiance by the continued sale and publication of the book in question. Therefore, that which was before a comparatively light offence now assumes a very grave character, which we must punish with adequate severity. The sentence of the court upon you, Charles Bradlaugh and Annie Besant, is that you be imprisoned for six calendar months, and that each of you pay a fine of £200 to the Queen; and, further, that you enter into your own recognisances in £500 each to be of good behavior for the term of two years. We have thought it right to pass this sentence, because we think there is an intention on your part to set aside the law. I am very sorry indeed to be obliged to pass such a sentence upon you, but it is the result of your own conduct.

On the application of the defendants, execution was stayed, in order to enable them to appeal, they entering an undertaking to cease the publication and sale of the pamphlet in the meantime.