**THE PROSECUTION OF MR. BRADLAUGH AND MRS. BESANT**

The following report is curtained from the Times.

On Monday, Tuesday, Wednesday and yesterday, the LORD CHIEF JUSTICE of ENGLAND and a Special Jury heard the case against Mr. Bradlaugh and Mrs. Annie Besant for publishing an obscene book. The indictment charged that on the 24th of March the defendants wickedly and willfully and contravening and intending to vitiate and corrupt the morals of youth and of people generally and to incite them to obscene and unnatural and immoral practices published a certain obscene book entitled the Fruits of Philosophy. This book pointed to the misery and crime produced by the poor having larger families of children than they can properly bring up; and it indicated a means whereby persons “may refrain at will from becoming parents” without in any way restraining their indulgence.

The defendants appeared in person.

The Solicitor-General, Mr. Straight, and Mr. Mead were for the prosecution.

The SOLICITOR-GENERAL, in opening the case, said this was a prosecution under an Act designed to prevent the circulation of any matter calculated to destroy or corrupt the morals of the people. The present book was substantially the same as a former book entitled The Young Married Couple’s Companion, the seller of which had been prosecuted to conviction; but the present defendants had, as they avowed, deliberately challenged prosecution in order to test their right to publish it. The question was thus raised whether persons had a right to sell and disseminate such books as these, tending to create morbid feelings and lead to unlawful practices.

The LORD CHIEF JUSTICE observed that the question was not merely whether the book was obscene in the coarser sense of the term, but whether its tendency was to vitiate public morality.

The SOLICITOR-GENERAL – Quite so; that was the way in which he desired to put it – as a book calculated to deprave public morality. It entered into a minute description of the commerce between the sexes, with the avowed view of instructing people how to enjoy the pleasure of such sexual intercourse, and yet avoid having offspring.

The LORD CHIEF JUSTICE observed that the book professed to recommend marriage, and he referred to the passage cited in which the proposal of Malthus to put restraints on marriage was repudiated, and marriage was advocated.

The SOLICITOR GENERAL said he was aware of this, but he submitted that this was only colourable, to give the book a better complexion, and that the real scope of the book was, as he had stated, to suggest to people that they might, with or without marriage, enjoy the pleasures of sexual intercourse, and yet avoid offspring. The book, in truth, under the guise of “philosophy,” dealt with these matters in a publication generally circulated without any lawful excuse. In order to convey to the jury a general idea of the character of the book, the Solicitor-General proceeded to read an entire chapter, entitled “Of Promoting and Checking Conception;” and, having done so with obvious reluctance, said the jury might well believe that he had read such matter to them with the greatest reluctance, and he should read no more. He was willing to put the prosecution on that chapter. The jury had heard it, and they would have to say whether it was not obscene. You said the Solicitor – General, are the guardians of public morals. You, the jury, are to determine a question of this sort. Every man’s own feelings must tell him whether such matters as these are not obscene. And if they are, then there is no excuse for the general publication of such matters. Don’t tell me about English or American doctors, who, it is said, have published similar matters! Whoever chooses to circulate the publication of such filth- for I do not hesitate to call it filth-must justify it by some principle of law. It is for you, with the good sense of an English jury, to decide whether such publications as this are or are not to be considered obscene; whether such publications as this are to be permitted to be circulated through all classes of society at 6d a copy. The question was for them to determine, and on that question he did not hesitate to ask their verdict.

Proof was then given of publication of the book by the defendants. It was proved that copies had been purchased at 6d a copy at the shop of the defendants, both of them being present at the time.

This was the case for the prosecution.

Mrs. Besant then during eight hours addressed the jury in her own defence, declaring that she did so, however, not merely on her own behalf, but on behalf of a mighty number of clients, scattered up a down through the country, who were deeply interested in the subject. She complained of the coarse imputations contained in the indictment, and especially of its charging bad intent. What bad intent could she have had in assisting to put forth this book? She had nothing to gain, and much to lose in it. If the object of the publication was good, it was lawful, and she repudiated the charge that it was immoral. Could the jury, on their oaths, say that what they had heard read was “obscene;” and, above all, could they say that it had been published with the bad and wicked intent imputed? Yet unless there was this bad intent the indictment failed. The law never meant to touch medical or physiological books. Obscenity was what was indecent with a bad feelings or motive. Coarseness was offensive, but it was not indictable. Much of English literature was coarse – passages in Tristram Shandy, for instance – one of which she handed to the jury; and as the jury were a special jury, doubtless familiar with English literature, she need not accumulate instances of the kind which might be found in all our dramatists, even in Shakespeare, and if this prosecution were successful a host of mischievous prosecutions might be instituted among London publishers, such as Churchill, and Bohn. Medical or physiological books had no tendency to arouse sexual feelings, which were rather aroused by glowing descriptions and amorous passages such as were to be found in Fielding or Congreve. She then went into the history of this publication. The subject of the work, she said, was one of the great social questions of the age, dealt with by J.S. Mill, and Fawcett, and Baynes, and other eminent thinkers – the great problem how to check the excessive increase of population, the cause of so much pauperism and misery. This question could not be dealt with satisfactorily unless perfect freedom of discussion was allowed. It was not true to say that the author recommended self-indulgence, instead of self-restraint, and that he did not advise the restraint of the indulgence of passion. She denied this, and read passages from the book to show that it was not so. No doubt the author, she avowed, professed to show that the pleasure attendant upon sexual intercourse might be realized without encountering the anxieties and responsibilities of offspring, and she put it to the jury whether this was not desirable, seeing that daily experience showed that men and women would not forbear from this gratification. Moreover, the necessity for checks on population had been shown by statistics, and urged by the most eminent authorities. Economical science had long shown the necessity for checks on reproduction, and it was the province of medical science to discover them Mr. Malthus had shown that the “law of population” was to increase beyond the means or power of support. Population, unless checked, was illimitable, whereas the means of support were necessarily limited.

The LORD CHIEF JUSTICE – Did Mr. Malthus make allowances for deaths?

Mrs. Besant – He allows for checks arising from various causes, among which, unhappily, are starvation, disease, and death, and our case is that these are the checks which do operate, and which we say show the necessity for some other checks derived from science to keep down population. Unless such checks could be derived from science, we should be left to the barbarous checks supplied by war, and famine, and preventable disease, and infanticide, and “baby-faming,” and other horrors of our age. Those were the means which it was said “God and nature” provided to check the excess of population. Checks we must have; and she pleased for a birth-restricting check, instead of a death-producing check. Better not to produce children, than to produce them only to be destroyed by starvation, disease and death!

Continuing her address on Tuesday, Mrs. Besant said she had received a letter from Professor Bain, saying that he regarded this as one of the most critical trials in the history of our liberties. She enlarged upon the evils of over-population, and upon war, disease, and deaths as the checks upon it. Having referred to other natural checks, Mrs. Besant said there was only one argument against preventable checks that deserved consideration. She referred to Mr. Darwin’s argument as the survival of the fittest in the struggle for existence. But the answer to Mr. Darwin was that it would be exactly the least able, and not the most able, who would thus increase, for they were the least considerate and most careless of consequences.

The LORD CHIEF JUSTICE- It might be well worthy of Mr. Darwin’s consideration whether the results are not equal, and that while a few may struggle through the competition and there may come a smaller number of a more highly gifted race, yet upon the masses the effect must be deterioration.

Mrs. Besant – That is the exact point I desire to put. It seems to me that Mr. Darwin in his study of the natural kingdom without man has left out the question of those prudential checks which we say might have in the human race the effects which natural causes have in the animal kingdom. We desire to substitute scientific checks – prudential checks – for those “natural” checks which now prevail, and which produce such dreadful evils. Mr. Malthus advocates restraint on marriage, and advises that men and women refrain from marriage until late in life. But is that a moral check? Is it productive of morality? On the contrary, it tends to produce immorality. It was, however, she continued, hardly worth while to discuss it; for men and women could not refrain from marriage until late in life, and, as Mr. Montague Cookson said, it was a mockery to advise it, especially to poor men. For it was poor men who, above all others, most desired marriage, and to whom marriage was most necessary. Then, as men and women would not refrain from marriage until late in life, as Mr. Malthus advised, what remained but restraints on births after marriage? She was the mother of a daughter, whom she believed to be much happier from a correct knowledge of physiology, instead of picking it up in a casual manner. 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 then addressed the jury. He said that in the periodical which he conducted he had ever 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. It might be criminal, but not obscene.

The LORD CHIEF JUSTICE – If it tends to corrupt public morals with reference to the relation between the sexes, if what it recommends or suggests as to the results of those relations has a demoralizing and degrading effect upon the public morals, then the defendants are liable.

Mr. Bradlaugh – Then it is a misdemeanour to advocate the checking of population and to state the means of checking it.

The LORD CHIEF JUSTICE – It is for the jury to say whether or not the means it suggests, or the advice it gives, is calculated to deprave the public morals.

Mr. Bradlaugh – Not in such a prosecution as this – an ordinary prosecution for obscenity.

The LORD CHIEF JUSTICE – It is vain for me to repeat – I shall leave it to the jury in the way which I have stated, which is the way in which the law has been laid down in various cases, though not, perhaps, in a case precisely similar to the present: but the law is clear, that any published matter which tends to deprave public morals and to corrupt the minds of youth, or any class of the community, that is an offence.

Mr. Bradlaugh – That I entirely accept.

The Court adjourned on Tuesday before Mr. Bradlaugh had finished.

On Wednesday, Mr. Bradlaugh continued his speech, dwelling for the twentieth time upon the awful social results of over-population and over-crowding – disease, misery, dissipation, prostitution, crime, & c. He also held that the language and teaching of the pamphlet were quite as modest as those of well-known scientific books like Carpenter’s Physiology, which was placed in the hands of youths in the Science and Art Department.

The LORD CHIEF JUSTICE said what might be necessary in a medical or scientific work intended for students might be utterly out of place in a pamphlet intended for general circulation.

Mr. Bradlaugh urged that works like this should be widely circulated. He declared that he was pleading for the poor, to whom he belonged, and in conclusion he stated that if the jury gave their verdict against him and his co-defendant, they might at least state that though they had done wrong they believed they had been doing right.

Witnesses were then called.

Miss Alice Vickery, a medical student in London and Paris, member of the Pharmaceutical Society of Great Britain, and holder of diplomas from several examining bodies, was called and examined by Mrs. Besant. She stated that she had known checks adopted by women to prevent child-bearing, such as suckling a child for two years, which was very detrimental to the health of mother and child. In Paris mechanical means were taken to prevent it.

By Mr. Bradlaugh – The physiological details in the Knowlton pamphlet were not by any means highly coloured, but, on the contrary, were sober and carefully given.

Dr. Drysdale, Fellow of the Royal College of Surgeons, and member of the College of Physicians, said he had read the pamphlet, and considered it a very excellent one. It was written by a clever man, and it was a gook he should place in the hands of any friend who wanted such information.

The LORD CHIEF JUSTICE – Do you think it a libidinous book?

Dr. Drysdale – On the contrary, I think it would have an opposite effect to a work of that kind. He had seen a great deal of the poor of London, and could state that the mortality amongst their children was enormous. It was three times as large as that amongst the children of the rich. Checks were extensively used throughout France, where it was the practice amongst the peasantry to limit their families to two or three.

By Mrs. Besant – Overcrowding was the cause of a deal of the mortality in London, and of the immodesty of women which led to prostitution.

Mr. Henry George Bohn, publisher, who was the next witness, stated that he had published Dr. Carpenter’s work Animal Physiology, and that he had published an English translation of a French book which contained every detail to be found in Knowlton’s pamphlet. Before he was 21 he was acquainted with every fact in Knowlton’s book. As to the price of the publication, if he could have doubled the circulation he certainly should have doubled the price.

This was all the evidence.

The Court then adjourned.

The conclusion will be found in our fifth page.