***THE QUEEN v. BRADLAUGH AND BESANT***

At the Queen’s Bench, before the Lord Chief Justice and Mr. Justice Mellor, Mr. Bradlaugh and Mrs. Besant appeared in person and applied for a certiorari to remove any indictment, that might be found against them, into this court for trial by a special jury. Mr. Bradlaugh said that he and Mrs. Besant had been committed by one of the Justice sitting at Guildhall, for trial on a charge of misdemeanor, and he now applied for a writ of certiorari to remove any indictment, that might be found against them, into this court for trial. The misdemeanor was the publication of a book alleged to be an essay on the population question, and which it was alleged, on behalf of the prosecution, was an obscene book. The Lord Chief Justice: Is it a Government or a private prosecution? Mr. Bradlaugh said it was a prosecution by the Corporation of the City of London. He had communicated with the solicitor to the City, who left the matter in their lordships’ hands, neither assenting to nor dissenting from the application. The Lord Chief Justice: Where, in the course of things, would the trial take place? Mr. Bradlaugh : At the Central Criminal Court. The Lord Chief Justice: Not at the Sessions? Mr. Bradlaugh : No. The Lord Chief Justice : What presses on us is that the success or failure of your application must depend very much on the view we take of the real and true character of the work. If, on looking over it, we think the object it has in view is a legitimate mode of promoting knowledge on a matter of human interest, then, lest any miscarriage should arise from undue prejudice, we might think it a case to be tried by a judge and a special jury. If, on the other hand, the science of philosophy is merely made a pretence for the publication of the book, and calculated to arouse the passions, it follows that we should not allow the pretence, if a pretence, to prevail, and treat the case otherwise. If we really think it is a fair question of a scientific work or not, and the object legitimate, we shall be disposed to accede to your application and allow the indictment to be tried by a judge and a special jury, and for that purpose allow the proceedings to be removed into this court, but before deciding we must look into the book, and form our own judgment as to the real object of the book. Mr. Bradlaugh asked if the Court should grant the writ, as they were on bail on their own recognisances, and the object was to test the question, whether the Court would allow them to enter into their own recognisances as to the payment of costs. The Lord Chief Justice : Yes. Copies of the work were then handed in, and Mr. Bradlaugh and Mrs. Besant retired from the court.

The Lord Chief Justice on Monday delivered his judgment as follows : In the case of “The Queen v. Bradlaugh and another” application had been made for a certiorari to remove the trial of an indictment charging the defendants with publishing an obscene book into this court, to be tried by a special jury. We have looked at the book which is the subject matter of the indictment, and we think it raises the fair question whether it is a scientific production for a legitimate purpose, or whether it is what the indictment states it to be, an obscene publication. We think it is a question to be tried by a judge and a special jury, therefore the certiorari will be granted.