

THE BLASPHEMY LAWS: What they are, and why they should be abolished.

"Give me the liberty to know, to utter, and to argue freely according to conscience, above all other liberties."—MILTON.

There have been more prosecutions for blasphemy during the PAST YEAR than during the previous FIFTY YEARS. There have been more prosecutions for SPOKEN blasphemy during the past FIVE YEARS than during the previous HUNDRED YEARS. What has become of our boasted freedom of speech? What are the blasphemy laws; and why should they be permitted to continue?

During the first five centuries of Christianity in England the legal prohibitions of heresy were few and unimportant. The Church relied upon its terrible power of excommunication to punish the man who dared to exercise the right of private judgment. But when the authority of the Pope was rejected by a large and increasing number of persons, excommunication lost its power, and in the fourteenth century it was complained that there were "evil persons" who "expressly despised" the censures of the Church, and refused to submit to its condemnation. At this period the aid of the law was called in and there commenced a series of enactments for the extirpation of heresy by burning, imprisoning, and fining the heretic. In addition to the statute law, heresy also became a criminal offence under what is known as common law, the law, i.e., which has its origin in custom and acquires legal force through the repeated decisions of more or less famous judges; or which expresses the views of the judges without warrant of legislature or custom. The statutes for the

punishment of "offences against religion" still in force are :—

- I. Depraving, despising, or reviling the Sacrament of the Lord's Supper. (1 Ed. VI, c. 1.)
- II. To speak in derogation, depraving, or despising of the Book of Common Prayer. (1 Eliz., c. 2, s. 3.)
- III. An Act for the more effectual suppression of blasphemy and profaneness. (9 Wm. III, c. 35.)
- IV. An Act to prevent certain abuses and profanations on the Lord's Day. (21 Geo. III, c. 49.)
- V. An Act for the punishment of blasphemy in Scotland. (6 Geo. IV, c. 47.)

To these must now be added Section 54 of the Metropolitan Police Act, 1839, and Section 28 of the Town Police Clauses Act, 1847, which give the police power to take persons into custody for using profane language in public places. In the cases of Mr. Jackson at Leeds in April, 1912, and Messrs. Chasty and Muirhead at Ilkeston in the following month, the magistrates held that profanity is indistinguishable from blasphemy.

The common law as to blasphemy was settled in 1676 by Lord Chief Justice Sir Matthew Hale. The learned judge then laid down that "Christianity, being parcel of the laws of England, therefore to speak in reproach of the Christian religion is to speak in subversion of the law." This was the accepted reading of the law for two centuries. So late as March, 1883, Mr. Justice North, in trying Messrs. Foote, Ramsey, and Kemp, said that it was blasphemy to deny the existence or providence of God; or to ridicule the persons of the Trinity, or the Christian religion, or the Holy Scriptures in any way. In April of the same year, however, Lord Coleridge, in his celebrated summing up, gave what was virtually a new reading of the law. Specifically contradicting former rulings, he said that it was no longer true that Christianity was part of the law of the land, but that "if the decencies of controversy are observed, even the fundamentals of religion may be attacked without the person being guilty of blasphemy." This ruling in effect put the law upon an entirely new footing. It was traversed at the time by several learned lawyers, and in 1886, in the case of Dr. Pankhurst v. Thompson, Baron Huddleston and Mr. Justice Manisty both expressed their disagreement with Lord Coleridge's

ruling, but it has recently been reiterated and confirmed by Mr. Justice Phillimore and Mr. Justice Darling in Mr. Boulter's case, 1908-9, Mr. Justice Horridge in the cases of Messrs. Stewart and Gott, 1911, and by Mr. Justice Eldon Bankes in Mr. Bullock's case, 1912.

All laws against heresy or blasphemy are laws for the repression of opinion, and Lord Coleridge's reading of the law does not alter that fact or remove the danger of prosecutions. Who is to decide what are the "decencies of controversy"? Are twelve antagonistic jurymen to be the censors? What would be the decision of twelve Belfast Orangemen who had to try a Catholic speaker, or twelve Catholics who were trying a bitter Protestant lecturer? Is it reasonable to expect a more impartial verdict from twelve Christians in trying a Secularist for an attack upon their faith? The Secularist is, in effect, tried by a packed jury. At its best, Lord Coleridge's law as to spoken or written blasphemy is a law which gives immunity to "the scholar and the gentleman" whilst denying it to the poor and unlearned. Can anyone defend the retention of a law which discriminates between two classes of the community in this way?

Moreover, experience shows that these police prosecutions are a complete failure even from the point of view of the prosecution. So far from promoting moderation of speech, by rousing resentment they actually lead to the use of violent language. Free-thinkers to whom coarseness in controversy is extremely repugnant are placed in a very awkward position. There is something invidious in trying to moderate the violence of those who are open to prosecution. It is impossible to remonstrate with such a speaker publicly, since the remonstrance might set the law on his track and be used against him on his trial. It is equally difficult to remonstrate privately with those embittered by the imprisonment of their friends. The law, as it is administered to-day, is an engine for silencing, not the advocates of scurrility, but the advocates of moderation.

Further, even if Lord Coleridge's law has superseded that of the previous 200 years in regard to spoken or written heresy, the old reading still obtains in regard to legacies, contracts, and the guardianship of children.

A legacy bequeathed for the purpose of propagating

opinions subversive of the Christian religion was held to be contrary to the law so recently as 1903. The question as to the "decencies of controversy" or the place in which the opinions were to be propagated did not arise. The legacy was invalid simply because it was inconsistent with Christianity. If a parent publishes his or her Atheistical opinions, the Court may hold (and has held) that as a reason for depriving such parent of the custody or guardianship of the children. Contracts for purposes involving the publication of heretical opinion can be (and have been) broken with impunity. It has even been held that there is no copyright in heretical books.

It is argued that these laws are obsolete. If they *are* obsolete, then nothing could be more simple or more straightforward than to abolish them. The proof that they are not obsolete is, first, that they are enforced; second, that their abolition is resisted. So long as there are people who oppose the abolition of the blasphemy laws, so long may we be quite sure that there are people who desire to see them enforced. The only way to ensure that no one shall be imprisoned or otherwise punished for his opinions is to take away the power to punish. Public opinion ought to be the one and only censor of the "decencies of controversy."

Freedom to criticise, freedom to express opinion, is one of the most valuable rights a man can possess, and should belong to the uncultured quite as much as to the cultured. We therefore plead for the entire abolition of the power to prosecute for the expression of opinion in matters of religion.

Those who value the right to speak freely, according to conscience, above all other liberties, are urgently requested to join the Committee for the Repeal of the Blasphemy Laws, and should send in their names at once to the Secretary.

The following Societies are already represented on the Executive Committee:—The British and Foreign Unitarian Association, the National Secular Society, the Positivist Society, the Rationalist Press Association, the South Place Ethical Society, and the Union of Ethical Societies.

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