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THE PROSECUTION OF MESSRS. FOOTE AND RAMSEY FOR BLASPHEMY.

IN the Queen's Bench Division of the High Court of Justice on Tuesday, April the 24th, the Lord Chief Justice and a Special Jury had before them the case of the Queen v. Ramsey and Foote, the registered proprietor and alleged editor of the "Freethinker" newspaper. The defendants were charged on indictment, removed into this court by *certiorari* from the Central Criminal Court, for the publication in the "Freethinker" of a series of "blasphemous libels," and on conviction were sentenced to imprisonment in Holloway Gaol. They were now brought up on Habeas Corpus, in charge of the governor of the gaol. A fortnight since the two defendants were placed on their trial along with Mr. Bradlaugh, for the same offence; but on the application of the latter, he was tried alone, the result being that he was acquitted. The present prosecution was directed against the two defendants, Ramsey and Foote. They pleaded Not Guilty.

Sir Hardinge Giffard, Q.C., Mr. Maloney, and Mr. Woodfall were counsel for the Crown. Mr. Horace Avory appeared for Ramsey, while Mr. A. R. Cluer held a watching brief for Foote.

Mr. Avory: My lord, before the jury is sworn I think it right to mention at once that I am told that there is some question as to who, under these circumstances, may be liable to any additional expense occasioned by the calling of a special jury.

Lord Coleridge: Whose special jury is it?

Mr. Avory: The defendant Bradlaugh moved that this case should be removed from the Old Bailey by *certiorari* to this court,

and it was his application originally for a writ of *certiorari*. That matter was disposed of the other day, and the special jury was charged with it.

Lord Coleridge: You are not quite accurate, Mr. Avory. The removal was by Mr. Bradlaugh; the application for a special jury was by Mr. Ramsey.

Mr. Avory: I did not know that that was so. There is another matter I should mention. I don't know whether your lordship is aware of the previous trial which took place at the Central Criminal Court. Although the defendants are not in a position to plead because the indictment charges other numbers of the newspaper than that on which they are convicted, yet in effect they have been tried, and those numbers have been given in evidence before Mr. Justice North.

Lord Coleridge: What has that to do with the present state of things?

Mr. Avory: I thought perhaps your lordship might put it to the prosecution whether the court should be occupied in trying the matter again.

Lord Coleridge: No, no. In any other case I should have made a great many remarks and suggestions, but I think it better to let this proceed in the ordinary way.

Mr. Avory: I thought it right, my lord, to mention this. I only appear here on behalf of Ramsey to watch the legal aspect, and I think it my duty to say that these counts should be quashed on the ground of uncertainty. I can give you the number of counts.

Lord Coleridge: I heard Mr. Bradlaugh upon this. If you mean to take those same points you need not reargue it.

Mr. Avory: I simply take the same objection, my lord, that they are bad for that reason.

Lord Coleridge: That is those which refer to the printing of the newspaper.

Mr. Avory: Those counts which say the defendants printed, published, or caused and procured it to be printed and published.

Lord Coleridge: I think there is nothing in that.

Mr. Avory: I thought it my duty, my lord, to take the objections.

Mr. Cluer: Before the jury are sworn, on behalf of the defendant Foote, I have to submit that the indictment should be quashed on this ground; that it charges a joint offence, and that it is conclusively proved, as Mr. Bradlaugh has been acquitted, these were separate offences, and in all cases where three are joined together for libel, the Court refuses to arrest judgment on the ground that the act was a joint act.

Lord Coleridge: Are you asking me to rule on the indict-

ment that three persons must be either acquitted or convicted. If you indict persons for a joint act, you can acquit all or convict one, and acquit the others. If you indict A, B and C, for doing something, and you prove it against A, it does not follow that you can convict B and C.

Mr. Cluer: They are charged with one joint act.

Lord Coleridge: It doesn't follow the jury will acquit the other two because they have acquitted one.

Mr. Cluer: I submit they cannot be put in charge on this count at all.

Lord Coleridge: I cannot agree with you there.

Mr. Cluer: One other objection to the indictment is this. In the 2nd, 4th, and 6th counts, the charge is in these terms. In the 2nd count, the charge is that of publishing a libel of and concerning religion. I submit that this is not properly stated as it does not say of the Christian religion. I submit there is no offence really to go to the jury in a count that merely charges an offence against religion. It must either be amended or the count struck out.

Lord Coleridge: I don't think so. Do you wish to put in "Christian religion?"

Mr. Maloney: No, my lord.

Mr. Cluer: I submit that that is void.

Mr. Maloney: If I consented to that, my lord, it might lead to something else.

Lord Coleridge: That is the introduction; the rest are merely settings out.

Mr. Cluer: It is four lines from the end—"and concerning religion."

Lord Coleridge: There is nothing in that. Now, what is your other objection?

Mr. Cluer: There is one further point I wish to urge. In the ninth count—it may be a mistake in my copy—of the indictment just before the quotation is made, a charge is made concerning the Book of Revelations as part of the Holy Bible. There is no such Book strictly speaking in the Bible, and I submit that should be amended.

Lord Coleridge: I think it is quite good enough.

Mr. Cluer: Such things have been held in other cases, and I submit it is a matter for amendment. The Book is of course the Book of Revelation.

Lord Coleridge: It is—to follow the words—"meaning the Book of Revelations as aforesaid."

Mr. Cluer: It has reference to something that doesn't exist.

Lord Coleridge: I cannot take judicial notice that there is no such Book as Revelations in Holy Scripture.

Mr. Cluer: I have a copy in my chambers I can bring (Laughter.)

Mr. Maloney then proceeded to open the case for the crown. He said,—May it please your lordship, gentlemen of the jury,—the indictment in this case charges that the defendants William James Ramsey, and George William Foote, published a blasphemous libel in a newspaper called the “Freethinker” in various numbers of that paper between the months of March and the months of June, 1882. To that indictment the defendants pleaded Not Guilty, and it is your duty to try whether they are guilty or not. In the temporary absence of my learned leader, Sir Hardinge Giffard, it falls upon me to explain the facts of this case to you, and what has occurred already this morning. What has occurred previously in the history of this case will to some extent render my duty and yours, I hope, not a long one here to-day. I think the atmosphere has been cleared this morning of some of the technical objections which perhaps might have otherwise occupied some time. Mr. Avory this morning referred to something which took place, not with reference to the numbers indicted here to-day, but with reference to a special issue of the “Freethinker,” the Christmas Number. This took place a couple of months ago, and resulted in a certain event respecting Ramsey and Foote. It is necessary, first, to narrate to you something of the history of these proceedings. Some of you have doubtless seen something in the papers about them before to-day. The prosecution in this case, of the defendants Foote and Ramsey, commenced at the Mansion House before the Lord Mayor on the 11th of July last. After the first hearing Mr. Bradlaugh was made a co-defendant, and the charge was investigated. They were committed to the Central Criminal Court, and the case was afterwards removed into the Court of Queen’s Bench just before the long vacation, when the defendants entered an appearance in the month of November and pleaded Not Guilty. In December it was set down for hearing, and so it comes on here. That explains how it is that such a long time has elapsed since the commencement of this prosecution. After the case had been removed to the Court of Queen’s Bench a special number of the “Freethinker” was issued, and proceedings were taken by the Corporation of London against that particular issue of the paper. The question you are here to-day to determine has nothing to do with anything that took place subsequent to the month of June last year. Prosecutions for blasphemy have happily been rare in London. Certainly in Middlesex, prosecutions for blasphemy have disappeared from the Law Courts for thirty or forty years, and doubtless it will be urged by the defendants in this case, that that was sufficient evidence to show

that the whole system upon which prosecutions for blasphemy were based is effete, and that persons should not prosecute for blasphemy now-a-days. But when you see the papers you will perhaps be inclined to conclude that prosecutions for blasphemy within the last generation have been unusual in London ; because there was no reason, because newspapers and books did not contain what was an outrage upon the feelings of the community at large ; and I think when you see the libels they are charged with, you will say that this at any rate is a publication about the blasphemous nature of which there can be no doubt, or as to the propriety of stopping or curtailing its licentiousness to some extent. An event which has occurred since these proceedings took place, and which condemned the persons responsible for the Christmas Number is an argument in favor of this prosecution as showing that it was time steps should be taken, and that the steps taken in this prosecution were not taken too soon. Doubtless it will be put forward that this is a political movement. I think they will have some difficulty, so far as they are concerned, in proving that. The defendants will find some difficulty in making you believe that this prosecution was commenced from political motives. The prosecution was commenced against these two alone originally, and it was only afterwards that a summons was issued against Mr. Bradlaugh. You heard that Mr. Bradlaugh was acquitted a week ago in this court by a special jury. I cannot recognise any of your faces as having been on that jury, but doubtless you know a good deal of what took place. Mr. Bradlaugh was acquitted on that occasion. There were two questions discussed by my lord, and what you will have to consider to-day is this, Does this publication come within the definition of blasphemy, a definition which I will shortly briefly avert to. The next question you will have to consider is, Are the defendants responsible for the publication of it? Have they aided and assisted in producing this paper from week to week and selling it? Those are the two questions you have to consider. First, is it a blasphemous paper, and are these incriminated passages blasphemous? Secondly, Did the defendants publish or procure these to be published? I don't mean in the ordinary trade sense—because one of the defendants, Mr. Foote, is charged with being the editor. The question is, Did they aid in sending forth this blasphemous matter either by editing, selling over the counter, being proprietors, deriving profits, or in any other way? The question discussed on the last trial was mainly whether the then defendant was responsible for the publication, and there was very little discussion whether the matter was blasphemous itself. I think here to-day the principal struggle will be not as to whether Ramsey and Foote are responsible for this paper, because the evidence I shall

call will bring conviction to your minds that Ramsey is responsible for the publication as he is registered as printer, proprietor, and publisher under a recent Act of Parliament, and that is *prima facie* evidence. It will be for him to show you that he is not printer, publisher, or proprietor. I shall give evidence to show that Ramsey has sold this paper in the shop in Stonecutter Street, which was the publishing office of the paper and the publishing office of the *National Reformer*. After the proceedings had commenced at the Mansion House—and this may become important—a month or two afterwards, there were published other numbers headed Prosecuted for Blasphemy. There can be no doubt that Ramsey was active in procuring publication of the issues of this paper and these numbers. As to Foote the evidence will show you that from the time the paper began in May, 1881, down to a time subsequent to the dates in this indictment, he was the editor of the paper. His name appears on the front of every paper as editor, and inside the paper it is stated that all communications are to be addressed to him as editor of the "Free-thinker," at his private lodgings. I shall call evidence to satisfy you that he was and has been the editor from the very first. On the recent trial of Mr. Bradlaugh, Sir Hardinge Giffard quoted what the law of blasphemy is, as it is very appropriately defined in a standard work on Libel, and that is the law of blasphemy which the prosecution here to-day will ask you to carry in your minds when reading the libels in this indictment. Mr. Starkie says: "The law distinguishes between honest errors and malice of mankind. The wilful intention to insult and mislead others by means of licentious and contumelious abuse applied to sacred subjects, or by wilful misrepresentation or artful sophistry calculated to mislead the ignorant and unwary, is the criterion and the test of guilt. The malicious and mischievous intention, or, what is equivalent to such an intention in law as well as in morals, a state of apathy or indifference to the interests of society, is the broad boundary between right and wrong." Now, gentlemen, when you bear that definition in mind, recollect that there is no attempt here, and if the attempt were made it would be useless in the present day—no attempt is being made to suppress free discussion or the liberty of the press, or to interfere with the just rights of any subject. Every person has the right in this country to discuss controversial matters so long as he keeps himself within the bounds of decency and reason. But when a person indulges in malignant scoffing, and abuse, and derision, gross caricatures, and parodies, flagrant insults, and outrages to the feelings of ninety-nine people out of a hundred in this country; when you see in this paper they have passed all the bounds of decency, I think you will come to the conclusion that this case comes within the definition of Starkie, and that it

deserves the censure of the law. You will have an opportunity of reading the libels. It is usual to read out the libels in court, but I shall follow the example set at the last trial, and I shall not read them and offend the people in court by so doing. I shall not read them unless compelled. It is somewhat interesting to find what Ramsey and Foote think of their own writings, and there are two passages in the sixth count of the indictment which show they knew what they were doing; that their intention was to outrage the feelings of the people of this country; that there was an intention to commit blasphemy and violate the law. They themselves say they intended to commit blasphemy. I read from the first portion of the sixth count, my lord. There is set out in that count an extract from one of the Atheistic sermons, which appear from week to week in this newspaper. I shall not read the infamous and loathsome comparison between the deity and Shylock given in that sermon, but in one passage occurs these words: "I am told that people are shocked at my Atheistic Sermons; their blasphemy is so terrible. Well, well, it is disgust which compels me to pen them. I do it from a sense of duty. I am fighting against the most disgusting book in the world. Don't expect me to speak gently of it. I owe a duty to mankind, and I will perform it. Godism must be destroyed." Such is the opinion Foote and Ramsey put forward as to the nature of the matter issued in violation of the law, and outraging the feelings. Then I come to another portion which is in the newspaper, page 158, of the 14th of May, and which is set out in the indictment under the heading of "Acid Drops." It is as follows: "The bigots of to-day are the rankest cowards. They will not proceed against any Secular leaders for 'blasphemy,' although our lectures and articles are full of it; but they are ready to harrass any less-known Freethinker who may be more safely dealt with. Down at Tunbridge Wells, Mr. Seymour, the secretary of the local branch of the N. S. S., has recently been singled out as a victim. He was cited before the Justices of the Peace, on Monday last, to answer the charge of having issued a blasphemous placard, libelling the Christian religion and the holy Scriptures. The 'great unpaid' committed him to the Assizes, which will take place about July, bail for a hundred pounds being required in the interim. No doubt the bigots fancy they will score an easy success. But they may find themselves mistaken. The Freethought party will stand by Mr. Seymour to the end, and the case will be fought through every stage. We are not going to let pious humbugs seize and imprison our members without a struggle, and we are prepared to protect the humblest Freethinker in the exercise of his personal rights. Secular Societies are not to be molested with impunity for advertising their proceedings in an orderly way, while the

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Salvation mob is allowed to parade the street and to kick up a disgraceful row like hell let loose. Mr. Foote lectured at Tunbridge Wells a few days after Mr. Seymour received his summons. The papers will not advertise, the police had frightened all the bill-stickers, and it was given out that all who came to the Hall would be spotted. One or two local personages came to report the proceedings. Mr. Foote crammed his lecture with blasphemy, and challenged the authorities to prosecute him. But they haven't the courage. These bigots are a set of blustering bullies who are afraid of a fair fight; they like instead to get hold of some unprotected victim and kick him to death." That was Mr. Foote's challenge, "that he crammed his lectures with blasphemy and challenge the authorities to prosecute." In answer to that Mr. Foote is here to-day. He will have, I am sure, full justice at your hands, and will have a fair fight as he calls it. That blustering challenge of Mr. Foote's for the authorities to come forward and prosecute, is as much as to say that he and those behind him were stronger than the laws of this country, and stronger than the sense of right of the community at large. I read these passages to show you what legal view these gentlemen take of the stuff which they sent out from their office. They crammed their lectures with blasphemy, and a truer word was never spoken by Mr. Foote when he set out in that article that these lectures are crammed with blasphemy. He has told you before that their intention is to outrage the feelings of people and of the community. All this was not dwelt upon so much on the last occasion. The question then was, whether Mr. Bradlaugh was or was not responsible for this matter. The struggle to-day will be whether these are blasphemous, and the defendants will try to import other matter to get the jury to take a favorable view of the matter. Now I see my learned leader is here, I may say, I have dwelt so long on this case, because I bear in mind something that occurred when Foote and Ramsey were convicted at the Old Bailey. It seems in this case the defendants may not call any evidence, and there may not be an opportunity of my addressing you again.

Lord Coleridge: Is there no summing-up by the counsel for the prosecution in this case?

Sir Hardinge Giffard: Not unless the defendants appeared by counsel.

Mr. Maloney: I knew it was not usual, and I have therefore dwelt at some length upon these matters on that account. I think you will be inclined to think that though prosecutions for blasphemy have been rare, it was due to the fact that no such outrage upon public decency has been perpetrated as these; and that the time has arrived when some effort should be made by the public authorities, or somebody setting the public authorities

in motion, to stop this, and to prevent people who are passing through the streets from having their eyes shocked by pictures in shop windows. In conclusion, I would say that though the law has been often remiss, and is often remiss and slow, yet it generally ends by catching those who outrage it; and whether they challenge the law in so many words, or whether they go along quietly, using some other person to challenge the law on their behalf, the law in the end secures them and lays them by the heels. I think you will conclude that this is an instance upon which the censure of the law ought to be visited. The events which have put Ramsey and Foote in their present position will be taken into consideration by the Court. The censure of the law is what we ask for, and the censure of the law is worthily visited upon persons who make a profit in spreading such vile corruption through the country.

Lord Coleridge: Can you give me a shorthand note of Brother North's sentence?

Mr. Avory: Here are the shorthand writer's notes.

Lord Coleridge: I wanted to know whether in the sentence passed at the Old Bailey the subject matter of this indictment was considered.

Mr. Maloney: No, my lord.

Mr. Avory: My friend was not there, and therefore he cannot decide. You will find the evidence of Kelland, the clerk to the solicitors prosecuting. He then produced all those numbers charged in this indictment in evidence. Those numbers were handed in. He gave evidence as to the person of whom he purchased them, so that the evidence to be given here to-day was before the learned Judge who tried that case.

Mr. Maloney: The evidence was with a view of showing the connexion between all the defendants and the paper. Those numbers were put in evidence with the purpose of showing Foote's name was on them, and that he was charged in the month of July with having published them.

Mr. Avory: The point is that all the evidence that could be given as to the defendant's connexion with this paper was practically given upon that trial. The papers were actually handed in to the learned judge who saw every one of those numbers. There were none read in court.

Lord Coleridge: This case has been tried at the Old Bailey, and if Mr. Bradlaugh had not been connected with it, this would have been heard before the trial on the Christmas Number.

Mr. Maloney: It would have been heard at the July sittings.

Lord Coleridge: It would have been heard before the Christmas Number case.

Mr. Cluer: I have an informal shorthand note of the sentence,

but I can say from memory that what has been said by Mr. Avory is absolutely correct.

Mr. Maloney: The defendants, Foote and Ramsey, joined in the application for removal, and one of the reasons was that the fiat of the Public Prosecutor was too general—that is, as to the form of the fiat given.

Lord Coleridge: Was there more than one libel?

Mr. Avory: Different parts of the Christmas Number were made the subject of different counts.

Lord Coleridge: Very well. I must ascertain as well as I can.

The first witness called was,

Frederick George Frayling, who was examined as follows by Mr. Maloney:—

Are you a clerk in the office of the Director of Public Prosecutions?—I am.

Do you produce his fiat authorising this prosecution?—Yes. [Fiat handed in.]

That is signed by him?—Yes.

Mr. Avory: I think it necessary to take the same objection to this fiat as was taken on a former occasion. The objection taken to it was that it was too general, that it did not name anybody, and that the fiat of prosecution should name the person. This appears to be a copy of a section of the Act of Parliament.

Lord Coleridge: Let it be read. [The fiat was read accordingly.]

Lord Coleridge: I think it is enough.

James Barber, examined by Mr. Maloney:—

You are Assistant Registrar at Somerset House—Registrar of newspapers?—Yes.

Do you produce the file of registration relating to the “Free-thinker?”—I do.

Give the date of the first entry?—Friday, the 26th of November, 1881.

The date of the next entry?—August 2nd, 1882.

And the next?—February 7th, 1883.

Mr. Maloney: I wish, my lord, to point out when Mr. Ramsey is registered as proprietor.

Witness: The first registration is of William James Ramsey, who is registered as proprietor and publisher; place of business, 28 Stonecutter Street, London, E.C.; place of residence, 20 Brownlow Street, Dalston, E.

And the signature?—William James Ramsey.

What is at the foot of it?—Printer and publisher.

Those words are printed?—Yes, they are printed in and not written, and he signs below them.

Was this form partly printed and partly filled in?—Yes.

Now, the next?—August 2nd, 1882. This return, also, has Ramsey as proprietor.

The next?—There is no place of business given in this return, and it differs from the other in that respect. The next return is in the form of William James Ramsey ceasing to be the proprietor. It is a return pursuant to the 11th section of the Libel Act.

Lord Coleridge: Just read that. Under the title of Newspapers—"Freethinker;" names of persons who cease to be proprietors—William James Ramsey; names of persons who become proprietors—George William Foote; occupation of new proprietor, journalist.

Mr. Maloney: Do you know in whose handwriting it is?—Yes, Mr. Foote's.

That is the defendant?—Yes.

Lord Coleridge: How is this material in this matter?

Mr. Maloney: As regards Foote it will be very material.

Lord Coleridge: All this occurred since the indictment.

Mr. Maloney: It is after the indictment.

Lord Coleridge: That would not affect the state of things under the indictment.

Mr. Maloney: I think it would be evidence of his connexion with the paper and with 28 Stonecutter Street.

Lord Coleridge: Before the indictment?

Mr. Maloney: It would be some evidence of his connexion even before the indictment.

Lord Coleridge: Oh, no.

Mr. Maloney: I want it for the purpose of identifying Mr. Foote.

Lord Coleridge: I won't stop you about anything before the indictment. What has anything he has done since the indictment to do with the state of things before?

Mr. Maloney: It would show his connexion with the paper, his name being upon any issue of it.

Lord Coleridge: I have not stopped you upon that. I don't stop you up to the date of the indictment. I don't see what right you have to go to August 2nd.

Mr. Maloney: The way I put it is this. The name on the paper continued the same before the indictment and after the indictment.

Lord Coleridge: What have we to do with after? You must show at the time of the indictment he was connected with the paper. Things done after cannot be material.

Mr. Maloney: Suppose the defendant puts forward something—

Lord Coleridge: If he says and signs that he was connected with that paper, it is a different matter.

Mr. Maloney: If a man registers himself, his name being on

the newspaper from the commencement—surely that is sufficient.

Lord Coleridge: You want to show that this is against Mr. Foote. You want to show that he was the proprietor of the paper.

Mr. Maloney: No; editor of the paper.

Lord Coleridge: Well then, editor of the paper in July, 1882. Suppose this was the only evidence in the case, would you go to the jury as to his being editor of a paper in July, 1882, because he becomes proprietor in February, 1883?

Mr. Maloney: He is charged with being the man whose name was on the paper in July, 1882, and with being editor of it. After that charge is made his name continues still, and goes on in the paper until December.

Lord Coleridge: I am not dealing with that.

Mr. Maloney: If I find in the month of February, 1883, something which says I am proprietor now, is not it sufficient?

Lord Coleridge: If you want a signature, I agree with you. If you want evidence of handwriting, it is correct.

Mr. Maloney: The identity of the person is what I want.

Lord Coleridge: If you want proof of his handwriting, you can show that.

Mr. Maloney: I don't think at present I require proof of the handwriting, but proof of the identity.

Lord Coleridge: I don't think I can hold it as evidence at present, but I won't reject it. I have taken that signature as Foote's. I cannot say it is any evidence for the purpose that you wish.

Examination of witness continued by Mr. Maloney: Who came to register the paper?—Mr. Foote and Mr. Ramsey.

Both appeared at your office?—They did.

Lord Coleridge: Do you wish to ask anything, Mr. Ramsey?

Mr. Ramsey: No, my lord.

Lord Coleridge: Do you, Mr. Foote?

Mr. Foote: No, my lord.

George John Lavell, examined by Mr. Woodfall: You are a clerk in the office of the solicitors to the prosecution, are you not?—I am.

You have purchased several numbers of the "Freethinker"?—I have.

Where did you purchase them?—At 28 Stonecutter Street.

Do you produce the numbers of the "Freethinker" which you purchased?—They are in court.

Will you give me the dates of them?—March 26th, 1882.

What was the date on which you purchased that number?—I don't know the date.

Could you give me anywhere about the date?—Somewhere about the date of the paper.

Was the next one May 21st?—No.

What was the next you purchased?—June 11th.

And when did you purchase the next?—On June 14th.

Are those the only two that you purchased?—I had purchased other numbers, but they are the only two I produce.

What time of the day did you purchase?—Between the hours of 11 and 4.

During the hours of business?—Yes.

Whom did you see in the shop?—I saw Mr. Ramsey in the shop.

Who was it sold you the papers?—Mr. Norrish.

How often have you seen Ramsey there?—I cannot say positively. I have seen him on more than one occasion.

Did you serve any notice to produce upon the defendants?—I did, on the defendant Foote.

And on the solicitor for the other defendant?—No.

That was the only notice you served?—Yes.

Lord Coleridge: Mr. Ramsey, do you wish to say anything?

Mr. Ramsey: No, my lord.

Lord Coleridge: Do you, Mr. Foote?

Mr. Foote: Yes, my lord.

Cross examined by Mr. Foote: You don't remember the date on which you purchased the number of the "Freethinker" for March 26th?—No.

How do you remember the date of your purchase of the number for June 11th?—Because I put the date on when I purchased it.

Where?—On the paper.

When did you put it there?—The same day I purchased it.

Where did you write it?—At the left-hand corner.

In what place?—In the office.

How is it you omitted to put the date of purchase on the number for March 26th?—I cannot tell you how it was I omitted to do that.

How are you sure in your own mind at all about the purchase of the number for March 26th?—Because the paper never went out of my possession until I had a conversation with my employer about it.

About what time was it?—About the date of its issue; within a few days.

How did you remember these two dates?—June 11th by my own handwriting.

How do you recognise the other?—Through having a conversation with my principal.

Although that was only a few days afterwards you could not

charge your memory with the date you purchased it?—It may have been a week afterwards, but I could not charge my memory.

You could not charge your memory for a week?—Not in this case.

Is your memory better in other cases?—Sometimes.

You served me with a notice to produce?—I did.

Where?—At Holloway Gaol.

Mr. Foote: That is all, my lord.

Mr. Maloney: The notice to produce was not put in. This witness served the notice to produce.

[Notice to produce put in.]

Edward John Kelland, examined by Mr. Maloney:—You are a clerk to the solicitors for the prosecution?—Yes.

And you purchased copies of the "Freethinker" at 28 Stonecutter Street?—Yes.

Will you check the dates. Which of these did you purchase?—April 9th, 1882.

When did you purchase that?—June 30th.

What is the next number?—April 23rd.

When did you purchase that?—June 30th.

What is the next?—April 30th.

When did you purchase that?—June 30th.

What is the next?—May 7th.

When did you purchase that?—June 30th.

What is the next?—May 14th.

When did you purchase that?—On the same date.

What is the next?—May 21st.

When did you purchase that?—May 24th.

What is the next?—May 28th.

When did you purchase that?—June 4th.

Mr. Maloney: That is all I ask you about the dates. Other numbers were purchased by you also?

Witness: Yes. There is another number, my lord, June 18th, which was purchased June 15th.

Lord Coleridge: No, no.

Witness: Yes, my lord. It was dated Sunday, but you can get them previously.

Mr. Maloney: Do you recollect whom you purchased them from?—Mostly of Ramsey.

Do you recollect the placards posted outside the shop?—Yes, I saw them.

And inside the shop?—Yes.

Contents bills?—Yes.

Have you seen copies of the paper exposed in the window?—I saw a number of May 28th exposed in the window.

Did you see them subsequent, or prior to the proceedings at

the Mansion House?—I have seen numbers week after week in the shop window, but I cannot say for certain.

Did you serve that notice to produce on Ramsey?—Yes.

Cross-examined by Mr. Ramsey: You say you purchased most of the numbers produced of me?—Yes.

Do you identify any of those you purchased from me?—I don't identify any particular number.

How do you know they were purchased from me?—I can recollect I have purchased them from you.

By what means do you know you purchased most of them from me?—I can recollect you serving me; that is the only thing.

Did you produce those numbers at the Old Bailey when I was tried?—Yes.

Were they handed in to the learned Judge?—Yes.

Did you also give evidence that you had purchased them?—Yes.

Mr. Ramsey: That is all, my lord.

Cross-examined by Mr. Foote: You have not told the Court of whom you purchased all the copies you produced. You purchased most of the copies of Mr. Ramsey. Did you purchase any of them from me?—No, never.

Did you purchase any in my presence?—No. I purchased copies one day when you were coming down stairs.

You have told the Court you may have seen me come down some stairs as you were purchasing a number?—I said I had seen you coming down stairs when I had purchased a number.

Before you said you may have seen me. Do I understand you to say you have seen me when you were purchasing one of these numbers?—Yes.

Lord Coleridge: He did not say that. He said he saw you after he had purchased them, and when you had gone out of the shop.

Witness: That is so. You had come down stairs as I had just bought the papers.

Lord Coleridge: I correct you; it is better for you.

Mr. Foote: Thank you, my lord. (To Witness): Did you say at the Old Bailey you had only seen me once at Stonecutter Street, and that on February 16th of this year?—That is so.

Now, I ask you how you reconcile these statements. At the Old Bailey you said you had only seen me once at Stonecutter Street, and that on February 16th in the present year. You in your evidence now tell the Court that it is within a few months of your purchase of one of the numbers you now produce?—I beg to correct that. I made a mistake. I was purchasing copies as I usually do, and after I had purchased a copy I saw you come down stairs.

Let us understand. What day is it you are referring to?

Lord Coleridge: You don't mean that they apply to any of these?

Witness: No, my lord.

Mr. Foote: That was on February 16th?—Yes.

Mr. Foote: That is all I wanted, just to show that the witness had only seen me once, and that on February 16th in this year.

Mr. Maloney: Would your lordship kindly read on the front page?

Lord Coleridge: What is it you want me to read?

Mr. Maloney: On the front page of the paper is "Edited by G. W. Foote." Then in the inside, under notice to correspondents, "Literary communications to the Editor, G. W. Foote, 9, South Crescent, Bedford Square, London. All business communications to be addressed to the publisher, 28 Stonecutter Street."

Lord Coleridge: How is this at present evidence against Foote?

Mr. Maloney: My lord, I will call further evidence.

Lord Coleridge: At present this is only evidence against Ramsey. This gentleman says he bought most of these papers from Ramsey.

Mr. Maloney: At the end it says printed and published by W. J. Ramsey, 28 Stonecutter Street.

Edward Whittle, senior, examined by Mr. Woodfall:—Do you reside at 4 Coulthurst Road, New Cross?—Yes.

Are you a compositor?—Yes.

Where are you employed?—I work at 170 St. John Street, Clerkenwell.

Is that the office of your son?—Yes.

He is a printer?—Yes.

Do you know where the "Freethinker" is composed?—I don't know where it is composed.

Were you examined at the Mansion House?—Yes.

Were the numbers of the "Freethinker" put in printed by you?—No. To the best of my recollection the majority of them were printed in St. John Street.

You know that is so?—Yes.

At the office of your son?—Yes.

Do you know who was editor of these numbers?

Lord Coleridge: Oh, no. You cannot ask a question of that sort of this witness. Editor is a complex term. It may mean a variety of things. I may know Mr. Smith, say, as editor of the "Quarterly Review." I know that merely as a matter of social gossip. If I were asked in the witness-box if I knew who was the editor of the "Quarterly Review," I should say I know nothing about it. For the purposes of society I know who the editor of the "Quarterly Review" is, but I don't give evidence

in a criminal case of what I may know in that way. If I was a compositor, and Mr. Smith told me to compose something, I should say that.

Examination continued by Mr. Woodfall: Do you know Foote?—I do.

Have you seen him at the office in John Street?—I believe I have.

Don't you know you have?—To the best of my recollection I have seen him there, but I cannot say how many times.

Do you know to whom the proofs are sent?

Mr. Cluer: I submit the question is not a proper one.

Mr. Woodfall: Do you send the proofs?—No.

Do you know the proofs are sent to Mr. Foote?—I don't know.

You don't know?—I don't know. I have no means of knowing.

Lord Coleridge: There must be some person who takes the proofs.

Mr. Woodfall: Do you know who takes the proofs?—They may be either sent by post or hand.

To whom would they be sent?

Lord Coleridge: The rules of evidence say you have got to make out your case. Of course the Court knows there are a variety of things you cannot prove in courts of justice.

Mr. Maloney: May I be allowed to ask whether he knew of any instance of proofs having been sent from the office in St. John street, prior to the month of July?

Mr. Cluer: That is the same question in a worse form.

Lord Coleridge: Wait a moment. Let me hear the question.

Mr. Maloney: Do you know what proofs are?—Yes.

Do you recollect proofs to have been sent prior to the date of your examination at the Mansion House?—Certainly.

To whom?—To Mr. Bradlaugh. (Laughter.) I don't refer to proofs of the "Freethinker," my lord. (Laughter.)

Lord Coleridge: You don't?—No.

Mr. Maloney: I asked you about the "Freethinker."

Witness: You asked me about any proofs, not about the "Freethinker."

Mr. Maloney: Any proofs of the "Freethinker"?—I don't know. (Laughter.)

You don't recollect whether proofs of the "Freethinker" were sent to any person?—No, I don't. They may have been sent, but not to my knowledge.

Do you recollect being examined at the Mansion house?—Yes.

Mr. Maloney: I call your lordship's attention to the first deposition of this witness.

Mr. Cluer: If Mr. Maloney is going to cross-examine his own witness, I shall have something to say.

[First deposition handed in.]

Mr. Maloney: Has your lordship got to the part, "I don't know who takes the proofs?" Then something else occurs, and I ask your lordship to permit me to read that.

Lord Coleridge: I think if you read that you should read the whole of it. He says, "I believe Mr. Foote is the editor of the 'Freethinker,' because I see his name is on the front of the paper. I have seen him at St. John Street. I don't know where the first proof is sent. I don't know who takes the proofs. Sometimes they are sent to Mr. Foote, I suppose. I do not know that they are sent by hand, 'Copy' is sent by hand or post. I don't know anything about the 'Freethinker.'"

Mr. Maloney: Will your lordship look at the end of the second deposition?

Lord Coleridge: He says this: "Do you really know of your own knowledge whether Mr. Foote was or was not the editor of the 'Freethinker?' I don't. I only have an opinion merely because I have seen his name on the front of the paper. That is the only conclusion I can arrive at."

Mr. Maloney: Allow me to ask him about the proofs being sometimes sent to Foote.

Lord Coleridge: They may have been sent. Do you know as a matter of fact they have been sent to Mr. Foote?

Witness: They may have been sent, but I am not positive.

Mr. Maloney: Does he know Mr. Foote's handwriting?

Lord Coleridge: You know Mr. Foote's handwriting by seeing it at the office?—Yes, but not in St. John Street.

Mr. Maloney: You did not see his handwriting on any documents in St. John's Street?—No.

Where?—At Lisson Grove.

Where was that?—My son's office in St. John's Street, Clerkenwell, was a printing office. Lisson Grove was the printing office before we came to St. John's Street.

Lord Coleridge: There was composition done at St. John's Street, and printing done at Lisson Grove?—Yes; but not at the same period. Composing was done at both places.

Mr. Maloney: Have you seen matter of the "Freethinker" in the handwriting of Mr. Foote? You need not answer unless you please.

Lord Coleridge: Oh, stop.

Mr. Maloney: I told him he need not answer.

Lord Coleridge: Then why do you ask the question? You could not possibly suppose that was a proper question to put.

Mr. Maloney: I am thinking about the depositions.

Lord Coleridge: I have not seen the depositions. I know

nothing about it. I have not looked at them, except so far as you tell me. I see not a word about that here. All I have read of the depositions is those two bits I have read. I don't see how they will justify your question. I see nothing in these depositions to justify the question about his handwriting. Then, I really don't understand you. You first put a question, which I think any man at the Bar must know was improper and irregular; then you say it is not improper and irregular because it is in the depositions, and when I look at the depositions it is not there.

Mr. Maloney: I am treating this as a hostile witness.

Lord Coleridge: That doesn't make it proper. Cross-examination must be a proper process. You have no right to ask questions that are not evidence. You must know, in a criminal case, I should not have allowed you to ask a question which is not permissible. Have you, Mr. Ramsey, anything to ask the witness?

Mr. Ramsey: No, my lord.

Lord Coleridge: Have you, Mr. Foote?

Mr. Foote: No, my lord.

Edward William Whittle, son of last witness, examined by Mr. Maloney:—You were examined as a witness here the other day?—Yes.

You are a printer carrying on business at 170 St. John Street?—Yes.

Look at those numbers before you of the "Freethinker." You saw those numbers when you were here last week?—I did, sir.

Were these printed by you?—Yes.

For whom?—Mr. Ramsey.

Do you know defendant, Foote?—Yes.

Has he been there in reference to the "Freethinker?"

Lord Coleridge: You cannot ask that.

Mr. Maloney: What has he done there?—He has come in reference to matters he had to give me.

Anything else?—With orders.

What orders?—For pamphlets I have printed for him.

Anything else?—No.

Do you use the word orders there in the sense of directions or in the trade sense? I want to know whether you mean directions or in the trade sense?—If he wanted a pamphlet he would come and give me directions to print it.

Mr. Maloney: May I ask him if he has had directions or orders as to newspapers?

Lord Coleridge: I think you may ask about the subject matter of the indictment.

Mr. Maloney: have you had any orders in that sense of direction?

Lord Coleridge: You have had orders about some of those papers?—Yes, my lord.

Mr. Maloney: What was the nature of your directions?

Mr. Cluer: Were they in writing?

Witness: No.

Mr. Malony: Who would send the "copy," and say it must be set up?

Witness: Would be set up for what?

Mr. Maloney: The "Freethinker." Did the manuscript of the "Freethinker" come to you?—Yes.

Lord Coleridge: Do you mean the whole of the manuscript came to you?—The majority of the manuscript.

Mr. Maloney: Did you usually see the manuscript of the "Freethinker"?—Yes.

Did you know Mr. Foote's address?—Yes.

That is the address in the paper, I may take it?—Yes.

Lord Coleridge: What is the address?—9 South Crescent, Bedford Square, my lord.

Mr. Maloney: Is there a proof "pulled" before the paper goes out?—Sometimes.

Lord Coleridge: I do know what a proof is, but I don't know the other word, "pulled."

Mr. Maloney: "Pulled," my lord, is, I believe, the usual word.

Lord Coleridge: What is "pulled?"

Witness: Simply rolling the type and pulling an impression.

Mr. Maloney: Were you in the habit of sending proofs to anybody?—Yes.

To whom?—Sometimes to the author of the articles, and sometimes to Mr. Foote.

Is that the usual course?—Yes.

When you sent proofs to Mr. Foote, to what address did you send them?—South Crescent.

Did you send by post, or how?—Sometimes by post.

Sometimes by post, sometimes by letter?—Yes.

Has he taken proofs away on those occasions when he has been at your office?—I should say not.

Have any proofs come back from him which you had sent to him?—Yes.

Have any come back with corrections?—Yes.

Any come back with headings put in?

Lord Coleridge: I don't like to confine you too strictly. I take it for granted you are limiting your examination to the matters under discussion.

Mr. Maloney: Yes, my lord.

Mr. Cluer: That is not in the evidence of the witness as yet.

Lord Coleridge: Otherwise, I don't see that this is admissible.

Mr. Cluer: It is irrelevant, my lord.

Lord Coleridge: Do I understand you that this happened with reference to these people?

Mr. Cluer: I submit the witness should have before him the specially incriminated article.

Lord Coleridge: Let us see, first of all, if he has anything to do with each number.

Mr. Maloney: Had you anything to do with the number of March 26th?

Mr. Cluer: I object to this.

Lord Coleridge: Had Mr. Foote anything to do with that?

Witness: Yes.

Lord Coleridge: What did Mr. Foote do in respect of the number of March 26th?

Mr. Maloney: Did the manuscript come through his hands?—I cannot say as to the whole of it.

Can you say as to the publication?—I cannot say as to the first article.

Lord Coleridge: What do you say of the first article?—That came from him.

Do you mean that the manuscript is composed, as far as the manuscript is concerned, by him?—Yes, my lord.

Is it in his handwriting?—Yes, my lord.

Mr. Cluer: This is not indicated, my lord. What page is that on—page 98?

Witness: Yes.

Mr. Cluer: Page 99 is the first indicated.

Lord Coleridge: Just give me the beginning.

Mr. Maloney: "That is the god whom Christians love and adore."

Lord Coleridge: Do you see the passage?—Yes, my lord.

What do you say about that passage?—I should not like to say where they came from.

Mr. Maloney: To the best of your belief?—To the best of my belief it would come from Mr. Foote.

Is it in the same article with the paragraph which begins "Friends and favorites of Jehovah"?—Yes.

Lord Coleridge: Are these all out of one article?

Mr. Maloney: I don't know.

Lord Coleridge: Well; but really you should know. Is that all in one article?—Yes.

Is the manuscript in his handwriting?—No; it is signed William Heaford.

Then it was not in his handwriting?—No, my lord.

Mr. Maloney: The question I put to you was, through whose hands, or from whom did the manuscript come? From whom did directions come to insert it in the paper?

Lord Coleridge: First of all, did it come?

Mr. Maloney: That manuscript that came to you for the "Freethinker" would come from Mr. Foote?—I should imagine it does.

After it had been set up, do you know whether you sent a proof to Mr. Foote?—I should not like to say.

Have you any belief?—I have no belief about it. We don't send proofs of everything.

When a proof is sent out, is it printed on a slip of paper?—It is printed on a long slip on one side only.

Mr. Maloney: Now we will go to the next number.

Lord Coleridge: Stay; we have not done with this. You imagine it came from Mr. Foote. By whose orders was it put in the paper?—By those of Mr. Foote. (To Mr. Maloney): I protest against having to lead you.

Mr. Maloney: I was only afraid of going too far.

Lord Coleridge: That is perfectly legitimate. Of course, it is perfectly legitimate to put it in that way— I am not prosecuting counsel.

Mr. Maloney: Now we will come to the number of April 9th. Had Mr. Foote anything to do with that paper?

Lord Coleridge: You have not got through your work. I will not help you any more; you must go on your own way,

Mr. Maloney: All the papers have been printed by you?—Yes.

Had Mr. Foote anything to do with that number of April 9th?—Yes.

Lord Coleridge: That begins, "Joshua's first victory"?—Yes.

Lord Coleridge: What page is that?

Mr. Maloney: Page 113, my lord. (To witness): Have you page 113 before you?—Yes.

You see "Joshua's first victory"?—Yes.

From whom did the manuscript of that come?—That is Mr. Foote's.

By whose directions was it printed in the paper?—Mr. Foote's.

Turn to page 116 of that issue. You will see a paragraph beginning "All those Christians." By whose directions was that put in the paper?—Mr. Foote's.

Do you know who is the author?—No.

Turn to the number of April 23rd. You see the cartoon on the front page?—Yes.

Had Mr. Foote anything to do with it? By whose directions was it issued in the paper?—Mr. Foote's.

Turn to the issue of May 7th, page 150. You see the paragraph beginning with "It strikes me god must have been suffering from bile"?—Yes.

Do you know who is the author of that?—Yes.

Who?—Mr. Symes.

By whose directions was it inserted in the paper?—Mr. Foote's.

Now turn to page 158 of the paper, that same number. Do you see an article there called "Atheistic Pulpit;" the first portion of it?—Yes.

By whose directions was that inserted?—Mr. Foote's.

Look at page 155, "Acid Drops." You see the paragraph, "The bigots of to-day are arrant cowards," and, going to the end, "Mr. Foote lectured at Tunbridge Wells, and challenged the authorities to prosecute him"—Yes.

Who is the author of that?—Mr. Foote.

By whose instructions was it inserted?—Mr. Foote's.

Turn to May 14th, page 158; again, on the 7th count. Do you see the paragraph, beginning, "After Moses, Joshua was his favorite or vizier"?—Yes.

Do you remember who was the author?—Yes.

Who?—Mr. Symes.

By whose directions was it inserted?—Mr. Foote's.

May 21st, has an article headed "What shall I do to be damned;" page 162. Did you see that?—Yes.

Who is the author?—Mr. Heaford.

By whose directions was it inserted?—Mr. Foote's.

Page 163—"The mind turned topsy-turvy with fear and dread at the mere thought of the awful possibility of one of these rampagious beasts in Revelations lying down after dinner with the lamb of god inside him." Is that in the same article?—Yes.

Lord Coleridge: That is the same thing.

Mr. Maloney: May 28th, page 174. Do you see a paragraph beginning "The last day of damnation?"—Yes.

By whose directions was that inserted?—Mr. Foote's.

Turn to the front page of that number. You see a comic Bible sketch, "The Divine Illumination?"—Yes.

By whose directions was that put in the paper?—Mr. Foote's.

Is that a representation of almighty god?—

Lord Coleridge: Where does that begin?

Mr. Maloney: The charge is last in the indictment.

Lord Coleridge: That is for the jury.

Mr. Maloney: Now turn to June 11th. That question, my lord, rather goes to three of the counts. Would you allow me to ask this witness as to the picture?

Lord Coleridge: I don't think you ought to ask this witness. "What do you think of that picture." The picture tells its own story. You charge it as a blasphemous libel, and you say Mr. Foote ordered it to be put in. You can show it to the jury, but you have no right to ask this gentleman what he thinks of it.

Mr. Maloney: Did he authorise the cartoon of June 11th, "A miss and a hit?"

Witness: "Yes, I should say so.

Has Mr. Foote spoken to you at any time in reference to the meaning of any of these cartoons?—No.

Mr. Maloney: May I ask him whether he knows who was editor of those numbers?

Lord Coleridge: No; certainly not. That is a complex question. Editor may mean a great many things. A man may be editor, and not authorise the publication of any one of these things. I cannot help saying, Mr. Maloney, that this was suggested to you. I have eyes, and I cannot help seeing what is going on. You ought not to take suggestions that are not proper. This case must be tried like every other case. I have regretted to observe the feeling imported into this prosecution. On a former occasion I restrained myself for obvious reasons. Why cannot this case be tried, like any other case, without going one inch out of the legal path. Why does counsel go and examine a man's bankers-book.

Mr. Maloney: Will your lordship allow me to ask the witness whether Mr. Foote has spoken to him as to the person who was editor of this paper?

Lord Coleridge: If it bears against Foote or Ramsey, you have no right to ask it. (To witness): Has Mr. Foote ever told you who edited the paper?—No, my lord.

Lord Coleridge: That is a totally different thing. Anything Foote says against himself is evidence against him. Do you wish to ask anything, Mr. Ramsey?

Mr. Ramsey: No, my lord.

Lord Coleridge: Do you, Mr. Foote?

Mr. Foote: No, my lord.

Mr. Maloney: That is the case, my lord.

Lord Coleridge (to defendants): If you would rather take your luncheon first, before addressing the jury, do so by all means.

Mr. Ramsey: I should, my lord.

Lord Coleridge: Gentlemen of the jury, you must come back by half-past one.

Mr. Maloney: I didn't quite hear whether evidence for the defence is to be called, and I should like to know that, because of some of the official witnesses. I want to free some of the official witnesses.

Lord Coleridge: I cannot press these gentlemen; they must take their own course. If they think right to call witnesses they must do so.

After the adjournment for luncheon, Mr. Maloney said: In

reference to handing the libels themselves to the jury, I suppose that will be done at the end of the case.

Lord Coleridge: I should think so.

Mr. Avory: There will be no witnesses for the defence.

Mr. Maloney: Then I don't address the jury.

Mr. Ramsey then proceeded to address the jury as follows:—
 Gentlemen of the jury,—I appear before you to-day to answer this charge under circumstances of extreme difficulty. For eight weeks I have been in close confinement in prison, cut off from all participation in the active life and business of the world around me; away from home, from family, and all I hold most dear. With the exception of one short hour each day spent in pacing round and round a track in company with the vilest dregs of London criminality—whose very presence is like some loathsome contagion—and a brief visit on each alternate day to chapel—in the same company—all the time has been passed in a narrow cell in solitude and silence, with nothing but the duty calls of the prison officials to vary the horrible monotony; my mind a prey to such torture as any man must feel, who separated from those whom he loves, with no knowledge of what is happening to them, knows only too well that their comfort, their happiness, their very lives are dependent on him. All this, combined with the prospect of nine weary months of such misery before me, has brought about a state of mental depression against which I have been unable to successfully battle. So that although during the last two weeks, thanks to the kindly considerateness of his lordship and the indulgence of the governor of the prison, I have been supplied with the means for preparing to meet this charge, I have found myself unequal to the task. I therefore, gentlemen, crave your indulgence for any deficiencies in my defence, and ask you to believe that the great principle of “Free speech and Freethought,” assailed here to-day, is capable of being sustained by the best of arguments and the grandest of oratory. I stand before you charged with blasphemy—an offence which is not of the nature of a crime like theft or murder, but is a manufactured offence, differing in various countries (blasphemy in Spain is orthodoxy in England, blasphemy in India is orthodoxy in England), made for the purpose of maintaining the doctrines of the Established Church and suppressing all opinions which differed from them. During the time that the Church had supreme control over the making and administering of the laws of the country, prosecutions were plentiful. Quakers were branded and flogged as blasphemers, Unitarians were punished as blasphemers, and are even now indictable under this same law under which I am prosecuted. Deistical writings were

prosecuted as blasphemous and the publishers sent to prison. But gradually as dissent grew more powerful, as opinions more in accordance with freedom and justice permeated the minds of the people, as religious tests and disabilities were abolished, and men, for the suppression of whose opinions these laws were made, began to take part in the legislation of the country, so these infamous prosecutions grew less and less in number, the law falling at last into such disuse, that for more than fifty years no prosecution of this character has been instituted in the City of London, although hundreds of attacks upon Christianity have been made during that time, some of a far more severe character than those for which men were sent to prison, mostly published within the city precincts and all liable to prosecution under this law, by any public company manipulator who, finding his financial reputation growing shady, thinks he may obtain a cheap reputation for piety by posing before a gullible public as a modern defender of the faith, and gain a substantial profit at the same time. Into such disuse have these laws fallen that the highest and most honored expositors of English law are at utter variance as to what should be their modern interpretation. One view is that Christianity being by law established, any publication which denies its truth must be blasphemous. Mr. Justice Stephens lays it down that the blasphemy lies in the *matter* not in the *manner*. If this be so, then the major portion of the best works of the leading scientists of the day should have been indicted as blasphemous. If your verdict should be in accordance with this view, then this prosecution will be the precursor of a general raid. This is not a mere idle assertion, for emboldened by the initiation of these prosecutions a society is already in existence with the Rev. "Dr." Wainwright at its head, which has announced in the "Times" its intention of prosecuting the works of Messrs. Huxley, Tyndall, Darwin, Herbert Spencer, and others as rapidly as its funds will allow. This may appear ridiculous, but the ridiculousness is the fault of the law, not the men. They are logical enough, and certainly far more honest than the instigators of this prosecution. Another view is, that controversy on any subject should be permitted which is carried on in decorous language and in good faith; but that ridicule, abuse, contumelious reproach, or the use of language calculated to wound the feelings of Christians, should be held to be blasphemous. This has the merit of plausibility, but I trust I shall succeed in proving to you that it has nothing more. Before accepting this view, you must believe that these laws were made for the purpose of protecting the feelings of members of the Established Church, while the feelings of all else might be outraged.

with impunity. The test for blasphemy would be whether some one's feelings had been hurt, and then, as Lord Shaftesbury has denounced the proceedings of the Salvation Army as outrageous and blasphemous, it would be the duty of the authorities to consign General Booth and his companions to prison. But to satisfy even the most rudimentary notions of justice, the law should at any rate be reciprocal, and each should be compelled to refrain from hurting the feelings of every other, whether he be Churchman, Dissenter, Jew, Mahomedan, Freethinker, or anything else. It could not even stop at that. There are a great number of people who are far more sensitive on political questions than on theological ones, I believe that many times more people had their feelings outraged by the cartoon which appeared in a so-called comic paper a few weeks since, representing Mr. Gladstone as the notorious and infamous "No. 1," than have ever experienced the slightest annoyance at anything appearing in the "Free-thinker." So that to be just, the law should protect the feelings of every political partisan. The same argument will hold good in science and literature. In short, it would be a criminal law for the enforcement of politeness all round; and that no law could possibly accomplish, even it were desirable to attempt it by such means. Starkie, held to be an authority for this view, says: "A wilful intention to pervert, insult and mislead others by means of licentious and contumelious abuse applied to sacred subjects, or by wilful misrepresentations, or by artful sophistry, calculated to mislead the ignorant or unwary, is the criterion and test of guilt." Now, gentlemen, we are not charged with using licentious language; there is not the faintest trace of it; the prosecution would have been glad to seize on it if there had been. Do not be misled by the prurient hints of the learned counsel suggestive of obscenity and indecency, which are used for the sole purpose of insinuating a charge he dared not openly make. Which would you consider to be "artful sophistry calculated to mislead the ignorant or unwary?" the mere banter, and ephemeral jests never intended and never supposed to be serious, appearing in a little obscure periodical, here to day and gone to morrow; or the works I have alluded to, not ephemeral, but taking their place as standard literature, not intended and not thought to be jest, but the serious reasonings of thoughtful men with all the authority of world-wide reputation. Artful sophistry can only mean that which has the appearance of wise reasoning, and is not; and I submit, gentlemen, that there can be no doubt as to which class of publication that epithet most fitly applies to in the mind of a firm believer. Most certainly these works have done ten-

thousand times more to undermine and destroy the Christian faith than the "Freethinker" could do in a century. These laws really owe their retention to their disuse. Whilst all liberal-minded men who knew of their existence were ashamed of them, nobody thought them worth troubling about, believing them to be dead. They would have been abolished long since had the prosecution been honest in its bigotry instead of hypocritical, and had it attacked wealthy firms which have issued high-priced blasphemy for the cultured classes. If these laws were not in existence, not even the most bigoted man in the House of Commons would think of attempting to make them, or, if he did, could carry his project one solitary stage. This was abundantly proved, when not long since, Lord Redesdale sought to bring in a bill in the House of Lords, imposing a religious test on Members of Parliament. The bill was contemptuously thrown out. But now the so-long dormant monster of Religious Persecution is to be galvanised into new life and prosecutions are in full swing, not against wealthy firms, who may publish as much blasphemy as they like in costly volumes—that would be too dangerous; but against men who, because they are poor, are easier to attack. The courage of the prosecution is that of a big bully who valiantly assails a small boy. And what is the pretext? that the limits of controversy have been overstepped. But what are the limits of controversy? Every doctrine in the Bible, every article of the Church of England, almost every verse from Genesis to Revelation has been the subject of controversy, not alone between Christians and Freethinkers but between the thousand and one sects into which Christianity itself is split in every direction. The learned counsel has not attempted to define those limits, nor to say when or by whom they were made. The words might have some meaning if we had in England an Inquisition which from time to time issued an edict and said "in criticism thus far shalt thou go and no farther;" but until we have such a tribunal the words are meaningless. It is merely the cant phrase which has always been used when bigotry has sought to crush hostile opinion, and each counsel, half ashamed of the task he has in hand, borrows it from his predecessor. Since these old laws fell into disuse a great change has come about in religious controversy. Education has advanced with great and rapid strides, and heresy has kept pace with it, so that opinions are freely expressed to-day which less than a century ago would have sent their author to prison. The Rev. W. Woolston was sent to prison for a long time for denying the truth of the Pentateuch. To-day Colenso does the same thing and remains and receives the salary of a bishop of the Established

Church; and he employs the same weapon of attack, namely, ridicule, as we are charged with using. He over and over again shows the falsity of the stories in the Pentateuch by reducing them to an absurdity; as, for instance, where he calculates that, according to the biblical account, every mother in Israel must have had forty-two sons besides a proportionate number of daughters. His works have been before the public for twenty years, and yet no one dreams of prosecuting Messrs. Longmans, the publishers of them. Peter Annett denied the authenticity of the Pentateuch, and was sent to prison for more than a year, and twice stood in the pillory. Dr. Temple does the same thing in the famous "Essays and Reviews," and is rewarded by being made Bishop of Exeter; and, although Lord Shaftesbury denounced the work as "blasphemous productions vomited forth from hell," yet no one has prosecuted or thinks of prosecuting the publisher. When Willams was prosecuted for selling Paine's "Age of Reason," Lord Chief Justice Kenyon said, in passing sentence, that if such works were permitted to be sold the law would be stripped of one of its principle sanctions—the dread of future punishment. Canon Farrar may to-day publish his disbelief in a hell, and, instead of being placed in a criminal dock, he is made a high dignitary of the Church of England. In nearly the last indictment for blasphemy, Messrs. Moxon were found guilty of blasphemy for publishing Shelley's "Queen Mab," under a similar indictment to that on which I stand arraigned. To-day we find that no less a person than the late First Lord of the Admiralty publishes that same Shelley's "Queen Mab," upon every railway-bookstall in the Kingdom without let or hindrance, and in absolute defiance of the verdict of the jury which condemned it; and when he was appointed to that high office in the State, not one member of the House of Commons rose to protest or say a word about it—not even the learned counsel for the prosecution, who sat in the House as a member. He not only said nothing about it, but actually accepted the office of Solicitor-General, thus becoming legal adviser to one who was deliberately setting the Blasphemy Laws and a jury's verdict at defiance. What conclusion can you come to, gentlemen, other than that the learned counsel and the whole of the House of Commons considered these laws to be obsolete and the jury's verdict worthless? What value, gentlemen, will you put on the new-found zeal for enforcing these laws on the part of one who was quite content to condone blasphemy when the blasphemer could confer place, power, and emolument? The exact value may be found in figures at the back of his brief. Surely, gentlemen, when we find so great a change has taken place,

that men may now say with impunity, and with honor, that which, when those laws were in operation, would have sent them to prison; when we find that that which less than a century ago would have ensured the author a long confinement in gaol, is now rewarded with a bishopric; when we find that a bishop may say (and still retain his office) that for which a man was sent to prison and the pillory; when we find the Quaker, whipped and branded in one age, lately sitting in the Cabinet itself; when we find a Cabinet Minister himself setting at defiance the verdict of a comparatively modern jury, and deliberately publishing the blasphemy they condemned without protest or hindrance on the part of the authorities so defied; surely, gentlemen, it is not too much to ask you to believe that the promoters of this paper were not actuated by any desire to commit a breach of the peace, but were fully persuaded that, in view of the many and great changes that had taken place—to some of which I have drawn your attention; with the knowledge that the law had been regarded as obsolete for many years—no one would think of dragging from its obscurity this barbaric relic of the legislation of a bad bygone time and setting it in force against them. No good was ever done by these prosecutions, even from the point of view of the prosecutors themselves; they do but draw attention to that which was sought to be suppressed. No work was ever yet suppressed by prosecution. Paine's "Age of Reason" and "Rights of Man" have been prosecuted over and over again, and to-day their sale is greater than ever. Of those who are prosecuted it makes martyrs, for these laws have never been directed against real criminals but always against honest citizens. I stand before you to-day charged with a criminal offence, and yet am a man whose character is unspotted, whose honor is unimpeached, whose integrity is unquestioned; and whatever bodily torture and mental agony an adverse verdict might inflict—it might kill me, but it could not sully my reputation nor blacken my name. I ask of you, gentlemen, a deliverance from this cruel and hateful law; I ask you to say by a verdict of Not Guilty that you refuse to define blasphemy anew; and stamp with your disapproval these disgraceful attempts to revive the fossil remains of laws which, passed in an ignorant, barbarous, and brutal time, are an anachronism out of all harmony with the growing freedom of the age. I ask you to refuse to reopen that page of English history of which we should all feel ashamed, stained as it is with the blood and tears of thousands of victims to priestly intolerance and persecution; that page which all right-thinking men would gladly see blotted out for ever. As Professor Hunter truly says: "The Heresy Laws bring

before us one of the most melancholy aberrations of legislation. These laws have caused prodigious suffering, but they never conferred on the human race one iota of countervailing advantage. They represent a dead loss to the credit side of human happiness, and the passions which gave rise to them are an unmitigated and unredeemed evil. Black is the guilt of those who have abused their position as the guides and instructors of mankind, to plant in the infant mind the seeds of unfounded and irrational hatred, and so have helped to pile up that great mountain of persecution of man's inhumanity to man, which has made countless thousands mourn."

Mr. Foote next addressed the jury. He said: "My lord and gentlemen of the jury, I am very happy, not to stand in this position, but to learn what I had not learned before—how a criminal trial should be conducted, notwithstanding that two months ago I was tried in another court, and before another judge. Fortunately, the learned counsel who are conducting this prosecution have not now a judge who will allow them to walk out of court whilst he argues their brief for them in their absence.

Lord Coleridge: You must learn one more lesson, Mr. Foote, and that is, that one judge cannot hear another judge censured or even commended.

Mr. Foote: My lord, I thank you for the correction, and I will simply, therefore, confine what observations I might have made on that head to the emphatic statement that I have learnt to-day, for the first time—although this is the second time I have had to answer a criminal charge—how a criminal trial should be conducted. And, notwithstanding the terrible nature of my position, there is some consolation in being able, for the first time in two months, to talk to twelve honest men. Two months ago I fell amongst thieves, and have had to remain in their society ever since, so long as I have been in any society at all. It is not my intention, it is not even my wish, to go over the ground which was traversed by my co-defendant in his very eloquent and pathetic account, his manly and simple account of the mental difficulties which accompanied the preparation of his defence; but I will add, that although we have profited—I may say in especial by the facilities which his lordship so kindly ordered for us, and by the kind consideration of the governor of Holloway Goal—yet it has been altogether impossible, in the midst of such depressing circumstances, for a man to do any justice to such a case as I have to maintain. Prison diet, gentlemen, to begin with—a material item—is not of the most invigorating character. (Laughter.) My blood is to some extent impoverished, my faculties are to a large extent weakened, and it is only with considerable difficulty

that I shall be able to make them obey the mandate of my will. The mental circumstances, how depressing have they been! In looking over a law book I saw something about solitary confinement as only being allowable for one month at a time, and for not more than three months in one year. What the nature of the confinement is I am unable to ascertain, but it strikes me that twenty-three hours' confinement out of twenty-four, in a small cell about six feet wide, comes as close as possible to any reasonable definition of solitary confinement. Still it is no use wearying you with the difficulties that have attended the preparation of my defence. This much, however, must be said in connexion with it; that a change has come over the method of treating those who are found guilty and sentenced to punishment under these laws. Gentleman, as a matter of fact, an indisputable matter of fact, I and my co-defendants are undergoing essentially the severest punishment that has been inflicted for any blasphemous libel for the last 120 years. Since Peter Annett's confinement in Clerkenwell Gaol with twelve months' hard labor, in the year 1763, there has been no punishment meted out to a Freethought publisher or writer at all approximating to what we have to undergo. The sentence, even before the law practically fell into disuse from forty to fifty years ago, gradually dwindled to six, four, and three months. Our sentence, gentlemen, was twelve months. Again, prisoners were nearly all treated as first-class misdemeanants—as far as I can ascertain, all were—they were not sentenced to twelve months—not merely of intellectual death—but twelve months of *conscious* intellectual death. They were not debarred from access to their friends, and most of them even carried on their literary work, and supported those near and dear to them. We have to depend on the charity of those who, notwithstanding the position in which we stood two months ago, and stand now, do not esteem us the less—who understand that there is a great vital principle struck at through us, however unworthy we may be to defend it, and who in lending their aid to see that our interests do not suffer so much as they otherwise would, are actuated by more than friendship for us, by their love of that principle which has been assailed by our conviction, sentence, and committal to gaol, and is again assailed in the prosecution which is being conducted here to-day. A change, gentlemen, has come over the public mind with respect to heresy and blasphemy, which every reader of history finds intelligible. Religious bigotry is never more vicious than when it has a large infusion of hypocrisy. While people feel that their cause can be defended by argument they are ready to defend it by those means. While they feel that supernatural power is maintaining their creed they are to a large extent content in trusting their

cause to the deity in whom they believe. But when they feel that the ground, intellectually and morally, is slipping away under their feet; when they feel that the major portion of the intellectual power of their day and generation is arrayed against their creed, when it is not scornful or indifferent to it; when, in short, the creed is not only losing its members' brains, but its own wits; then it turns in wrath, not upon the high-class heretics who are striking week after week the most deadly blows at the creed in which these prosecutors profess to believe, but at those who happen to be poor and comparatively obscure. These poorer and more pronounced Freethinkers, are made the scapegoats for the more respectable Agnosticism of the day, which is more cultured, but infinitely more hypocritical. The martyrdom of olden times had something of the heroic in it. A man was led out to death. He could summon courage for the minutes or hours during which he still had to face his enemies. They placed faggots round his funeral pyre. In a few minutes, at the outside, life ended; and a man might nerve himself to meet the worst under such circumstances. Then also the persecutors had the courage of the principles on which they proceeded, and said, "We do this to the heretic in the name of god; we do it because he has outraged the dignity of god, and because he has preached ideas that are leading others to eternal destruction with him." But now orthodoxy has a large infusion of hypocrisy; like Pilate, it washes its hands. But, gentlemen, all its pretences will be discounted, I believe, by you. When it is said, "We don't do this in the interests of outraged omnipotence, and we, the finite, are not arrogantly championing the power, or even the dignity of omnipotence;" when they say "We are only carrying out a measure of social sanitation, and preventing men from making indecent outrages on the feelings of others;" you will agree with me in believing that this is hypocrisy and cowardice also. Looked at clearly, it is utterly impossible that you can draw any line of demarcation between the manner of controversy in religion and that in politics, or any other department of intellectual activity, unless you make a difference as to the matter, unless you go the full length of the principle which is implied, and logically say: "We do so because religion is not as these. There is matter as well as manner, and we protect the feelings of men with respect to these subjects, because there is invulnerable truth somewhere imbedded in their belief, and we will not allow it to be wantonly assailed."

I will now dismiss that, and will ask your attention, before I proceed to deal with matters of more importance, and certainly more dignity, to some remarks that fell from the lips of the junior counsel for the prosecution, in what

he called the temporary absence of his leader—a temporary absence which has turned out to be considerably protracted. One remark he made use of was that we had attempted to make a wicked and nefarious profit out of the trade in these alleged blasphemous libels. That seemed to me to be very superfluous, because if, as he held, the libels were wicked and nefarious, there was no need to say anything about the nature of the profit. But he himself ought to know—at any rate his leader would have known—that a passage was read at our previous trial, and used as evidence against me in particular—a passage which distinctly stated that notwithstanding the large sale—and a large sale is always a comparative term, for what may be a large sale for the “Freethinker” would not be large for the “Times”—the proprietor was many pounds out of pocket. The learned counsel for the prosecution, I daresay, knew that, but then it suited his denunciatory style to talk about wicked and nefarious profit. (Laughter.) I have no doubt he makes profit out of the prosecution—it is his business. You can get any quantity of that sort of thing by ordering it, provided you at the same time give some guarantee that after ordering, it will be paid for. He spoke of a blustering challenge which was thrown out in one of the alleged libels, and he gave you a quotation from it in which the word “blasphemy” was used. The report said that a man at Tunbridge Wells was being prosecuted for blasphemy. The learned counsel omitted to tell you what you will find by referring to the indictment, that the word “blasphemy” is between inverted commas, which shows it was employed there, not in the sense of the writer, but as a vague word, to which he might not attach the same meaning as those using it. So much for that.

And now one word more as to his introduction before I proceed. The word “licentiousness” was introduced. The word “decency” was introduced. I have to complain of all this. I propose to follow the method which was followed in Mr. Bradlaugh’s trial some days ago in this court, and had the full approval of his lordship. I don’t propose to do what the junior counsel for the prosecution did, notwithstanding he said he would not, and read to you any passages from those alleged libels. Although I do that, I feel what an immense disadvantage results to me because the words “indecent,” “licentiousness,” are bandied about outside before the great jury of public opinion, and we are accused, and may be pronounced guilty and sentenced for offences which people outside have never had properly explained to them. Thus we are brought in guilty of blasphemy, and people say we should have been so sentenced and punished because our attack was indecent. Now, the word “indecent” as you know, has a twofold meaning. It may mean un-

becoming or obscene. People will take which meaning best suits their purpose, and so we are at this great disadvantage when none of these libels are read out, that we may be brought in guilty of a charge and sent to prison on it, and people outside may think that we are really guilty of another offence and actually punished for that, the other being a cloak and pretence. I leave the junior counsel for the prosecution.

My co-defendant has referred to the impolicy of these prosecutions. I wish to say a word or two on that head. They have one great disadvantage from the point of view of the prosecution—they advertise and disseminate widely the very opinions which they try to suppress; and it seems to me if they were really honest and had the interests of their own professed principles at heart, they would shrink from taking any such steps. Then again, history shows us that no work that was ever prosecuted was successfully put down. There was only one method of persecution that succeeded, and that was persecution to the extent of extermination. If you take the case of the massacre of the Albigenses, or take the case of early Christian heresies—the very names of which read as the names of some old fossil things that belonged to a different era of the world's history—you will find wherever a sect has been crushed out it has been by extermination—that is, by putting to death everybody suspected of holding the objectionable opinion; but when books and pamphlets have been prosecuted they have never been put down. Unless you can seize and secure everybody infected with heresy, naturally you arouse their indignation and excite their fervor—you make those who were before critics afterwards fanatics, and consequently they fight all the harder for the cause attacked. Paine's "Age of Reason" was a prosecuted work. Richard Carlile was sent to gaol for nine years for selling it; his wife and sister were sent to gaol; shopman after shopman went to gaol. You would have thought that would have suppressed the "Age of Reason;" yet, as a matter of fact, that work still has a large circulation, and a sale all the larger because of the prosecutions instituted against it fifty or sixty years ago. Take the case of a prosecuted work belonging to another class of literature—a pamphlet published by Mr. Bradlaugh and Mrs. Besant, the prosecution of which was denounced by the then Lord Chief Justice from the Bench. By that prosecution, a work that had been circulated at the rate of one hundred per year for forty years, was run up to a sale of one hundred and seventy-five thousand. It is perfectly clear, therefore, that in that case the prosecutors had defeated their own object. When a question as to the "Freethinker" was asked in the House of Commons, so far back as February in last year, Sir William Harcourt replied that it was the opinion of all persons who

had to do with these matters, that it was not politic to proceed legally against such a publication. That answer was made to Mr. Freshfield. A few days afterwards he made a similar answer to Mr. Redmond. But there is a class of people who rush in "where angels fear to tread," and the prosecution has unfortunately done that. It is a curious thing, gentlemen, that all those who have been moving against the persons who are alleged to be responsible for the "Freethinker," belong to one political party. The junior counsel for the prosecution told you that no doubt one of the two defendants would ask you to believe this was a political move, and I do ask you to believe it is almost entirely a political move. Every person connected with it has been a Tory. Mr. Freshfield represents the immaculate borough of Dover, and Mr. Redmond is the representative of a small Irish constituency, the whole of whose voters could be conveyed to Westminster in a very few omnibuses. (Laughter.) Next, gentlemen, comes the Corporation of the City of London that secured a verdict against myself and my co-defendant two months ago. I need not tell you what the politics of the Corporation of the City of London are, nor will I undertake to prophesy what they will be when brought into something like accord with the spirit of the age by the new Bill which is to be introduced. The prosecuting counsel, Sir Hardinge Giffard, is also a Tory. I don't mean to say that he is the worse for that. Every man has a right to belong to which political party he pleases. Tory, Whig, Conservative and Liberal, are great historic names, and men of genius and high character may be found on both sides. But it is a curious thing that this prosecution should be conducted so entirely by men of one political persuasion, while those struck at belong to the extreme opposite political persuasion. These two things should operate in your minds, and influence your views as to the motives which animate those who conceived this persecution, and find the funds to carry it out. And last, though not least, we have Sir Henry Tyler, also a Tory of the deepest dye, who has been the pronounced and bitter public enemy of Mr. Bradlaugh, one of my co-defendants who is released from his position of danger by a verdict of acquittal. At my previous trial the jury were told that the real prosecutor was not the City Corporation but our lady the Queen. I am very glad indeed to be able to rely on the authority of his lordship in saying that the nominal prosecutor in this case is the Queen, and the actual prosecutor who sets the Crown in motion is Sir Henry Tyler. Now, gentlemen, what was the real reason for Sir Henry Tyler's moving in this case at all? Sir Henry Tyler was known to be engaged in the City in financial pursuits. He was known to be a dexterous financier and an experienced director of public companies. He was known to be not so much

loved by shareholders as by political friends, and you would think if outraged deity wanted a champion, Sir Henry Tyler would be one of the last persons who would receive an application. (Laughter.) Sir Henry Tyler had an enemy in Mr. Bradlaugh. Sir Henry Tyler had been rebuked in the House of Commons, by a minister of the Crown, for his mad antagonism to Mr. Bradlaugh. It is he who has found all the funds for this prosecution, and I ask you to believe that this prosecution was initiated and carried on by Sir Henry Tyler and his political friends for a purely political purpose; to cripple, if possible, Mr. Bradlaugh, and so to win through religious prejudice what could not be won by open political warfare. As I said before, men of genius and high character are to be found in the two great political camps, but this is a miserable descent for a great historic party, which once had its Peels and its Pitts, and now has its Churchills, its Newdegates, its Tylers and its Giffards. (Laughter.)

Our offence is blasphemy. The word "blasphemy" has a theological meaning as well as a moral and legal one; and directly you put the question theologically, What is blasphemy? you are stunned by a babel of contradictory answers. In our own country the Christian says Jesus Christ is god, and it is blasphemy to say he is not. A Jew, also a citizen, and who may sit in our national legislature, says Jesus Christ was not god, and it is blasphemy to say he was. In short, one might say theologically, that blasphemy is entirely a question of geography; the answer to the question will depend upon the country you are in and the time you put the question. It is a matter of longitude and latitude, and if we are to rely upon the very loose view of the law I shall have to refer to, as given by Starkie, it is a matter of very considerable latitude. The Bible, which it is alleged we have assailed, does not help us very much. The blasphemy referred to in the Old Testament is simply that of cursing god, which I suppose no one would do, if even he had a mistress like Job's wife, except his proper position was not in Holloway Gaol but in Colney Hatch. (Laughter.) The Jewish law is very unfortunate, and it is unfortunate to refer to, because it culminated in the judicial murder of Jesus Christ. And you have the spirit of the blasphemy law brought out in the prosecution of Jesus of Nazareth, and, as related in the Acts of the Apostles, the proceedings for blasphemy against St. Paul. With the Jews a man was soon found guilty, and very often after they had stoned him to death they settled at leisure the question whether he was really guilty or not. It was Pontius Pilate, who represented the majesty of the law, that stood between the bigotry of the Jews and their victim. And you will remember that it was the Roman power, the secular power, which cared for none

of these things, that St. Paul appealed to and that saved his life from his Jewish enemies, who would have put him to death as a blasphemer. Morally, blasphemy can only be committed by a person who believes in the existence of the deity whom he blasphemes. Lord Brougham has left that on record in his "Life of Voltaire." He says that ridicule or abuse of deities in whom he doesn't believe is only ridicule and abuse of ideas which have no meaning to him, and he cannot be guilty of blasphemy unless he believes in the being whom he blasphemes. In practice, blasphemy means, always did and always will, a strong attack upon what we happen to believe. The early Christian used to blaspheme before he gained a victory over Paganism, and he was put to death. The Protestant used to blaspheme before he triumphed in England over the Catholic. The Dissenter blasphemed before he won political rights as against a domineering State Church, and he was put to death. The Unitarians blasphemed and they were imprisoned; but when they became a powerful section of the community they were tolerated, and more extreme Freethinkers became blasphemers. It is particularly necessary you should bear this in mind, because you must consider the very unfair position in which a man stands who is brought before a tribunal believing in the existence of the deity and the attributes of the deity, who is said to be blasphemed in a publication for which it is maintained he is responsible; and when at the same time they have to adjudicate, not only upon the matter of it, but the manner of it. If they dislike the matter they are sure to object to the manner; and so a man in my position stands at a dreadful disadvantage. Blasphemy means a strong attack upon our belief, whatever it happens to be—that is, our religious belief; and, curiously enough, I have noticed many publications which urged that the blasphemy laws should be amended, and it should be made a crime to insult any form of religious belief. I should not oppose any such amendment as that, because it would very soon reduce the whole thing to an absurdity; for every sect would be prosecuting every other sect; courts of justice would be filled with disputes, and the whole blasphemy law would have to be abolished, and every form of opinion would be equal in the eye of the law, as I hold it should be.

Our indictment is at common law. The great danger of this is, there is no statute to be appealed to accurately defining the crime. Blasphemy is not like theft or murder—it is more a matter of opinion and taste. And it really comes to this—that no man can know thoroughly what a blasphemous libel is; and no man can be sure whether he is penning a blasphemous libel or not; and the only way to find out what the offence is, is to go to Holloway Gaol for twelve

months, which is a very unpleasant way of deciding a matter of this kind. It means that a jury is summoned, and the matter is put into their hands; and if they don't like it, that is sufficient for a verdict of Guilty. It is a very unfortunate thing that any man should be tried for such an offence at common law. Recently, when I was tried at the Old Bailey, Mr. Justice North, in his summing-up, told the jury that any denial of the existence of deity was blasphemy. On the first occasion the jury would not bring in a verdict of Guilty, and had to be discharged; and I was kept in prison until the next trial took place. Mr. Justice North told the jury on the second trial nothing of the sort. He left out altogether the words as to denying the existence of deity. What made the change in three days? It is impossible for me to say. It may be he thought a conviction easier with such an interpretation of the law; or it may be that even he, a judge, had read the comments in the daily press, and that some alteration had been made, perhaps for the better. The view which was entertained by Mr. Justice North does not seem to be the view entertained by the Lord Chief Justice, in whose presence, fortunately, I now stand, if I may judge by his summing up on the trial of one of my co-defendants in this action last week. Then, again, we have Mr. Justice Stephen, who is practically at variance, not only with Mr. Justice North, but with the still higher authority of his lordship; so that it would largely depend, in being tried at common law, whether one happened to have one's trial presided over by this judge or the other. In the particular case I cited one jury brought in a verdict of Guilty, but another jury four days before—although the evidence was exactly the same—declined to. So that you have a double uncertainty—your fate depends upon the view of the law entertained by the judge who presides at the trial, and on the tastes and the convictions of the jury. I submit, gentlemen, that is a very grave defect, and puts at great disadvantage men who stand in my position. If a man is to be sent to gaol for twelve months, blasphemous libel should be defined by statute. The 9th and 10th William III. is the only statute dealing with blasphemy. It was held in the Court of Queen's Bench when Mr. Bradlaugh moved to quash the indictment, on which I am now being tried, that this statute was aimed at specific offenders, and only laid down so much law as referred to them. No doubt that is true enough; but still, if the statute does not fully define blasphemy, yet everything included within the statute is clearly blasphemy. There is not a word about ridicule, abuse, or contumely. The statute says anybody who has professed the Christian religion within these realms, shall, for denying the existence of god, or saying there are more gods than one, or denying the truth of Christianity, be sub-

ject to certain penalties. The law was called "ferocious" by Mr. Justice Stephen himself, and it admirably enlightens us as to the nature of the age in which those Blasphemy Laws originated. So that even the statute appears to contain a view of the law, which the Lord Chief Justice so considerably said he should not feel justified in being a party to, unless it were clearer than it seemed to him.

Having said we were tried at common law, and dwelt on its disadvantages, I ask what is common law? Common law is judge-made law and jury-made law. Mr. Justice Stephen on this point has some very notable remarks in the introduction to his "Digest of the Criminal Law":—"It is not until a very late stage in its history that law is regarded as a series of commands issued by the sovereign power of the State. Indeed, even in our own time and country that conception of it is gaining ground very slowly. An earlier and, to some extent, a still prevailing view of it is, that it is more like an art or science, the principles of which are first enunciated vaguely, and are gradually reduced to precision by their application to particular circumstances. Somehow, no one can say precisely how, though more or less plausible and instructive conjectures upon the subject may be made, certain principles came to be accepted as the law of the land. The judges held themselves bound to decide the cases which came before them according to those principles, and as new combinations of circumstances threw light on the way in which they operated, the principles were, in some cases, more fully developed and qualified, and in others evaded or practically set at nought and repealed." That is precisely what I ask you to do in this case. I ask you to consider that this common law is merely old common usage, altogether alien to the spirit of our age; and that it cannot be enforced without making invidious, unfair, and infamous distinctions between one form of heresy and another; and I ask you to say that it shall not be enforced at all if you have any power to prevent it.

Why should you, as a special jury in this High Court of Justice, not set a new precedent? I propose briefly to give a few reasons why you should. Blasphemy, my co-defendant told you, was a manufactured crime. I urge that it is altogether alien to the spirit of our age. The junior counsel for the prosecution said blasphemy was prosecuted very seldom; it had not been prosecuted in the City for fifty years; and he urged as a reason that blasphemy was not often committed. "For fifty years!" That is not true. From my slight knowledge of literature, which is not, as one of the journals said, entirely confined to Tom Paine and the writings of Mr. Bradlaugh, I could undertake to furnish the junior counsel for the prosecu-

tion with some tons of blasphemy published during that fifty years; although I probably could not find the prosecution such a powerful motive as they have recently had for proceeding against these blasphemous libels. The law against blasphemy is practically obsolete—the fact that there have been no such prosecutions for fifty years ought to settle that point. Mr. Justice Stephen himself, as to chapter 17 of his “Digest,” which includes the whole of the offences against religion, says: “The whole of this law is practically obsolete, and might be repealed with advantage;” and he further said it would be sufficient as to blasphemy if the power of prosecution were confined to the Attorney-General. In this case the Attorney-General has had nothing to do with the prosecution. The jury were told in another court the Public Prosecutor had instituted it. As a matter of fact, he simply allowed it. The Public Prosecutor has undergone himself a good deal of ridicule, and I submit that his allowance or disallowance is scarcely equivalent to the allowance or disallowance of the Attorney-General, and certainly not equivalent to the institution of proceedings by the Attorney-General. Mr. Justice Stephen says: “My own opinion is that blasphemy, except cursing and swearing, ought not to be made the subject of temporal punishment at all, though, if it tended to produce a breach of the peace, it might be dealt with on those grounds.” I shall have a few words to say about breach of the peace shortly. Thus Mr. Justice Stephens says: “This law is practically obsolete,” and further that no temporal punishment should be inflicted for it. You are made the entire judges of this question, under the very clear language of the celebrated Libel Act, called “Fox’s Act,” passed in 1792, to regulate libel trials. When issue was joined between the Crown and one or more defendants, it was there laid down that the jury were not bound to bring in a verdict of guilty merely on the proof of the publication by such defendants of a paper, and of the sense ascribed to the same in the indictment. So that I hold you are the complete judges; there is no power on earth that can go behind your judgment. You are not bound to give a reason for your verdict; you are simply called upon to say guilty or not guilty; and I submit you have a perfect right to say guilty or not—especially not guilty—on the broad issue of the question; and thus to declare that this blasphemy law is utterly alien to the spirit of our age.

It would be impossible for the old common law to be enforced now. The old common law was never put in force against persons who only ridiculed the Christian religion. Our indictment charges us with bringing the Christian religion into disbelief; so that bringing it into disbelief is blasphemy. That is logical—bringing it into disbelief is bringing it into gross con-

tempt. All the cases, from Nayler down to the latest cases of forty years ago, and as far down as the year 1867, turn upon the right of a man to question and oppose publicly the truth of the Christian religion. Peter Annett stated in the "Free Inquirer" his disbelief in the inspiration of the Pentateuch, and was punished for it; Bishop Colenso can prove the same thing in seven big volumes, and not only remain a colonial Bishop of the English Church, but men of culture, like Mr. Matthew Arnold rebuke him for disproving what no sensible person believes. In the case of Woolston, he languished in Newgate year after year, and I believe he died there. For what? For saying that the miracles of the New Testament should not be taken literally, but allegorically. Mr. Matthew Arnold says that the Bible miracles are fairy tales, and are all doomed, and that educated and intelligent men treat them as portions of the world's superstition. Nobody now thinks of prosecuting Mr. Matthew Arnold, yet he is guilty of the same offence as Woolston. Bishop Colenso is guilty of the same offence as Peter Annett, and yet no one thinks now-a-days of punishing him. If, gentlemen, the common law is more humane now, it is only because the spirit of the age is more humane. That you are bound to take into consideration, and that should influence you in giving a verdict of not guilty to me and to my co-defendant.

I may refer you to a case which occurred in the year 1867, which will show you that the common law has always held that it is a crime to call in question the truth of the Christian religion. In the year 1867 the case of *Cowan v. Milbourn* was decided in the Court of Exchequer; it originally arose in Liverpool. The secretary of the Liverpool Secular Society had engaged the assembly room for the purpose of two lectures. The lectures were entitled, "The character and teaching of Christ; the former defective, the latter misleading;" and the second, "The Bible shown to be no more inspired than any other book." There is not a word of ridicule, sarcasm or contumely in this language; yet when the owner of the rooms, after the expense of advertising had been incurred, refused the use of them for the lectures, and declined to compensate the persons who had rented for those two nights, it was held by the Court of Exchequer that it was an illegal act to deliver such lectures with such titles, and that no damages could be recovered, because the rooms had been declined for the perpetration of an illegal act. Acting on this case, some solicitors at Southampton last summer, after the expenses of advertising had been incurred, refused the use of the Victoria Assembly Room for a lecture by myself, on the ground that the lecture would be an illegal act. The lady who owned the room was pious, although

she had not the honesty to recompense my friends for damages they had incurred on the strength of her own agent's written contract. As far back then as 1867, it was held that any impugning of the truth of Christianity was an illegal act, and my contention, therefore, holds good that bringing Christianity into disbelief is as much a part of blasphemy as bringing it into contempt.

I know there are objections urged against this view. It is said that Christianity is part and parcel of the law of England. We have had, fortunately, a trenchant criticism of this by his lordship. It was pointed out by his lordship, in language so precise that I am sorry I cannot quote it, that if Christianity was part and parcel of the law of the land, in the sense in which the words are generally used, then it would be impossible to bring about any reform of law, because, no law could be criticised, much less ridiculed, on the same ground that Christianity, which is part of the law, cannot be ridiculed or criticised. Something occurred to me which seems to go even further than that; and that is, that if Christianity were part and parcel of the law of the land, then the prosecution for blasphemy would be an absurdity. There is no crime in criticising any law, or ridiculing any law, in the pages of "Punch." If Christianity were part and parcel of the law of the land, there could be no crime in criticising it. That view was taken by the Royal Commissioners in 1841. In their report they went into it at great length. The Royal Commission did endorse that view, and pointed out fully that if Christianity were part of the law of the land, still the law could be criticised and ridiculed, and, therefore, no blasphemy indictment could lie on any such grounds. Sir Matthew Hale, a judge of the 17th century, first said that Christianity was part and parcel of the law of the country. He was a man of great intellectual ability, and a most upright judge; but if he lived in our age, would he endorse such ridiculous language now? He was infected by the superstition of his age. This same judge sentenced two women to be hung for witchcraft, an offence which we now know never could exist, notwithstanding the verse in Exodus, "Thou shalt not suffer a witch to live." The time will come when it will be thought quite as absurd to prosecute people for the crime of blasphemy as we think it now to hang people for witchcraft. If blasphemy be a crime at all, it is only a crime against god, who, if he be omniscient, knows it all, and who, if omnipotent, is quite capable of punishing it all.

Since Sir Matthew Hale's time there have been great alterations in the state and in society, alterations which will justify you in setting this old barbarous law aside. To begin with, compulsory oaths have been abolished in our courts of justice

Evidence can now be given by Freethinkers on affirmation. Mr. Bradlaugh last week was acquitted on the evidence of people, every one of whom affirmed, and not one of whom took the oath. Next, Jews are admitted to Parliament. I don't wish to enter into a religious discussion, or to provoke a dying bigotry, but I do say, that if with the views the Jews are known to entertain of the founder of Christianity, and if with the acts of their high priests and scribes, as recorded in the New Testament, still unrepudiated by the Jewish people, they can be admitted in our national legislature, and help to make laws which are stupidly said to be protective of Christianity, then it is absurd for Christians to prosecute Freethinkers for carrying on honest criticism of doctrines and tenets they don't believe, and which they think they are bound to oppose and attack. Then again, the Christian oath of allegiance that used to be taken in Parliament, has been abolished. Now the House of Commons simply clings to a narrow theistic ledge. I have heard not only counsel but a judge speaking to a jury of Jesus Christ as our lord and savior, when they ought to have known—perhaps did know, but didn't remember in the heat of enthusiasm—that the jury were not bound to be Christians; that there might be some among them who knew Christianity and rejected it. That shows you, still further, that the principles and opinions which lie at the base of these proceedings are not universal as they were once; and that it is time all invidious distinctions were abolished, and all forms of opinion made to stand on their own bottom; and if they cannot stand on their own bottom, then in the name of goodness let them fall. Now these alterations in the state of society are more particularly shown in the writings of our principal men. Mr. Leslie Stephen, for instance, in answering the question, "Are we Christians?" says: "No. I should reply we are not Christians; a few try to pass themselves off as Christians, because, whilst substantially men of this age, they can cheat themselves into using the old charms in the desperate attempt to conjure down alarming social symptoms; a great number call themselves Christians, because, in one way or another, the use of the old phrases and the old forms is still enforced by the great sanction of respectability; and some for the higher reason, that they fear to part with the grain along with the chaff; but such men have ceased substantially, though only a few have ceased avowedly to be Christian in any intelligible sense of the name." No one who has any knowledge of the kind of language held by intelligent men will doubt that such sentiments are exceedingly common. You all know the great and honored name of Darwin, who spent his whole life in undermining the very foundations of Christianity and all supernatural belief. I know

when the bigotry which opposed him, and under the prostituted name of religion said, "Thus far shalt thou go, and no further," saw it was evident he was victor, it professed to honor him and had him buried in Westminster Abbey; but the world is beginning to know if the Church has Darwin's corpse, it is all of Darwin that the Church has had or ever will have.

A great scientist who doesn't confine himself to mere science, as for the most part Darwin did, says: "The myths of Paganism are as dead as Osiris and Zeus, and the man who should revive them would be justly laughed to scorn; but the coeval imaginations current among the rude inhabitants of Palestine, recorded by writers whose very name and age are admitted by every scholar to be unknown, have unfortunately not yet shared their fate, but, even at this day are regarded by nine-tenths of the civilised world as the authoritative standard of fact, and the criterion of the justice of scientific conclusions in all that relates to the origin of things, and among them, of species. In this nineteenth century, as at the dawn of science, the cosmogony of the semi-barbarous Hebrew is the incubus of the philosopher and the opprobrium of the orthodox. Who shall number the patient and earnest seekers after truth, from the days of Galileo until now, whose lives have been embittered and their good name blasted by the mistaken zeal of Bibliolaters? Who shall count the host of weaker men whose sense of truth has been destroyed in the effort to harmonise impossibilities—whose life has been wasted in the attempt to force the generous new wine of science into the old bottles of Judaism, compelled by the outcry of the same strong party? It is true that if philosophers have suffered their cause has been amply avenged. Extinguished theologians lie about the cradle of every science as the strangled snakes beside that of Hercules, and history records that whenever science and orthodoxy have been fairly opposed, the latter has been forced to retire from the lists, bleeding and crushed, if not annihilated, scotched if not slain. But orthodoxy is the Bourbon of the world of thought. It learns not, neither can it forget; and though, at present, bewildered and afraid to move, it is as willing as ever to insist that the first chapter of Genesis contains the beginning and end of sound science, and to visit, with such petty thunderbolts as its half-paralysed hands can hurl those who refuse to degrade nature to the level of primitive Judaism." Professor Huxley writes that, but he doesn't stand here on the charge I have to answer, and why? One is the language of a ten-and-sixpenny book, and the other the language of a penny paper.

Now, gentlemen, take another case. Dr. Maudsly says in his work on "Responsibility in Mental Disease," that Isaiah, Jeremiah and Hosea, the prophets, were all three mad. e/

(Laughter.) He doesn't stand here. Why? Because it would not be safe to attack a man like that. He is part of a powerful corporation that would rally round any of its members attacked and, therefore, he is left unmolested. Mr. Herbert Spencer, in his "Study of Sociology," speaks thus of the Christian Trinity: "Here we have theologians who believe that our national welfare will be endangered, if there is not in all churches an enforced repetition of the dogmas that Father, Son, and Holy Ghost, are each of them almighty; and yet there are not three almighties but one almighty; that one of the almighties suffered on the cross and descended into hell to pacify another of them; and that whosoever does not believe this 'without doubt shall perish everlastingly.'" That is language which is, perhaps, as scornful as any language a man like Mr. Herbert Spencer could use. There is no essential difference between that and language of the most militant Freethought. Mr. John Stuart Mill, who was not only a writer with a world-wide reputation, but who occupied a seat in the House of Commons, said that his father looked upon religion as the greatest enemy of morality; first by setting up "fictitious excellencies, belief in creeds, devotional feelings and ceremonies, not connected with the good of human kind—and causing these to be accepted as substitutes for genuine virtues; but, above all, by radically vitiating the standard of morals, making it consist in doing the will of a being, on whom it lavishes indeed all the phrases of adulation, but whom in sober truth it depicts as eminently hateful. I have a hundred times heard him say, that all ages and nations have represented their gods as wicked, in a constantly increasing progression, that mankind have gone on adding trait after trait till they reached the most perfect conception of wickedness which the human mind can devise, and have called this god, and prostrated themselves before it. This *ne plus ultra* of wickedness he considered to be embodied in what is commonly presented to mankind as the creed of Christianity." In one of those alleged libels, the only passage I shall refer to, there is a statement to the effect—a statement not in my handwriting—(unfortunately I am in the position of having not only to defend my own right but the right of others to be heard) in one of those libels, not written by me, it is said that the deity of the Old Testament is as ferocious as a tiger. What is the difference between a phrase like that and the extract I have read from the writings of John Stuart Mill? It is even worse to say "that the god of Christianity is the perfection of conceivable wickedness." The difference is that one is the language of a nine-shilling book, and the other the language of a penny paper. Writers and publishers of nine-shilling books should not be allowed to go scot free and the writers of penny papers be made the scape-

goat of the cultured agnostics of the day. John Stuart Mill, in another book, says: "Think of a being who could be the idealisation of wickedness." That is the language of John Stuart Mill. His great friend, George Grote, the author of the "History of Greece," is commonly admitted to be the author of a little book, "An Analysis of the Influence of Natural Religion," which he put together from the notes of that great jurispruident Jeremy Bentham, in which natural religion is described as one historic craze, the foe of the human race, and its doctrines and priesthood are denounced in the most extreme language. I will ask your attention to another writer. Lord Derby—who has given his support to a movement for the abolition of the blasphemy laws—some months ago, presiding at a meeting at Liverpool, said Mr. Matthew Arnold was one of the few men who had a rightful claim to be considered a thinker. He is a writer of culture so fine that some people say he is a writer of haughty-culture. (Laughter.) In his fine and delicate way he ridicules the Christian Trinity. He says: "In imagining a sort of infinitely magnified and improved Lord Shaftesbury, with a race of vile offenders to deal with, whom his natural goodness would incline him to let off, only his sense of justice will not allow it; then a younger Lord Shaftesbury, on the scale of his father and very dear to him, who might live in grandeur and splendor if he liked, but who prefers to leave his home, to go and live among the race of offenders, and to be put to an ignominious death, on condition that his merits shall be counted against their demerits, and that his father's goodness shall be restrained no longer from taking effect, but any offender shall be admitted to the benefit of it on simply pleading the satisfaction made by the son; and then, finally, a third Lord Shaftesbury, still on the same high scale, who keeps very much in the background, and works in a very occult manner, but very efficaciously nevertheless, and who is busy in applying everywhere the benefits of the son's satisfaction and the father's goodness." Again, the same writer says: "For anyone who weighs the matter well, the missionary in clerical coat and gaiters whom one sees in woodcuts preaching to a group of picturesque orientals, is from the inadequacy of his criticism, both of his hearer's religion and of his own, and his signal misunderstanding of the very volume he holds in his hand, a hardly less grotesque object in his intellectual equipment for his task than in his outward attire." The same writer actually introduces, by way of showing the absurdities into which Christians themselves have run, a long and learned discussion which took place at the University of Paris nearly three centuries ago, as to whether Jesus at his ascension had his clothes on, or appeared naked before his disciples; and if he did, what became of his clothes?

(Laughter.) If such a thing had appeared in the "Free-thinker," the junior counsel for the prosecution would have said "they are bringing our savior's name into contempt, they are reproaching the Christian religion, and we bring them before you that they may be handed over to the tender mercies of the law." Mr. Matthew Arnold is in no fear of prosecution; it is only the poorer and humbler Freethinkers who are to be attacked. Mr. John Morley—who has thrown his great influence in the scale against me—in his book on "Voltaire," says, "That a religion which has shed more blood than any other religion has no right to quarrel over a few epigrams." There are writings of Voltaire's which, if published in England now, would be made the subject of a prosecution, if there was any honesty in conducting these prosecutions. Mr. Morley now joins the chorus of those who howl the false word "indecent" at me; but no living person, no sentence under this old law, can rob me of the esteem of my friends or the approval of my conscience; and I say deliberately, I would rather be sitting down in my cell, or meditatively walking up and down with racking anxiety at my breast, than walk into the House of Commons throwing my past behind me, and treating those whose views are essentially identical with mine with all the rancor of a renegade.

Lord Amberley, who is not even a plebeian, writes as follows of the Old Testament: "Such a catalogue of crimes would be sufficient to destroy the character of any Pagan divinity whatever. I fail to perceive any reason why the Jews alone should be privileged to represent their god as guilty of such actions without suffering the inference which in other cases would undoubtedly be drawn—namely, that their conceptions of deity were not of a very exalted order, nor their principles of morals of a very admirable kind. There is, indeed, nothing extraordinary in the fact that, living in a barbarous age, the ancient Hebrews should have behaved barbarously. The reverse would rather be surprising. But the remarkable fact is, that their savage deeds, and the equally savage ones attributed to their god, should have been accepted by Christendom as growing in the one case from the commands, in the other, from the immediate action of a just and beneficent being. When the Hindus relate the story of Brahma's incest with his daughter, they add that the god was bowed down with shame on account of his subjugation by ordinary passion. But while they thus betray their feeling that even a divine being is not superior to all the standards of morality, no such consciousness is ever apparent in the narrators of the passions of Jehovah. While far worse offences are committed by him, there is no trace in his character of the grace of shame." If that had appeared in the "Free-

thinker " it would have formed one of the counts of the indictment. But no one has interfered with Lord Amberley. A question was asked by the junior counsel for the prosecution of one witness, whether a certain illustration in one of the numbers was meant to caricature almighty god. The question was stopped by his lordship. With Lord Amberley's words before us, it is easy to understand that could not be meant to represent almighty god. A man who after careful reflexion, after weighing evidence, after exercising his full intellectual and moral faculties upon the question, has arrived at the conclusion that there is an infinite spirit of the universe akin to ours, though greater—such a man would never hear any ridicule or sarcasm from my lips, or from the pen or lips of any Freethinker in the country, because his belief is not amenable to such criticism or attack. It is not almighty god who could be ridiculed in a picture like that. It is the Hebrew deity—the deity of semi-barbarous people who lived 3000 years ago ; a deity reflecting their own barbarity, who told them to go to lands they never tilled, and cities they had never built, to take possession of them in the name of god, and brutally murder every man, woman, and child in them. Can it be a crime to ridicule or even to caricature a mythological personage like this? It is not almighty god who is ridiculed, it is simply the deity of those barbarous Hebrews who have become decent and civilised now. The influences of culture and humanity are at work, and although we utter the same old shibboleths, we have different ideas, different tastes, and I hope different aspirations.

The Duke of Somerset has openly impugned the Christian religion. He gives up the deity of Jesus, and criticises in a hostile manner the holy scripture. If the law were put in force fairly, it would be put in force there. Shelley has been referred to. Shelley wrote, among other poems, one called "Queen Mab." He speaks of the deity of the Christians as a vengeful, pitiless, and almighty fiend, whose mercy is a nickname for the rage of tameless tigers, hungering for blood. As the rest of this extract is couched in similar language, I forbear, out of consideration for the feelings of those who may differ from me, from reading further. But what I have read is sufficient to show that Shelley's writing is as blasphemous as anything that is to be found in any of these alleged libels. And in one of his maturer poems, that magnificent "Ode to Liberty," he speaks of Christ as the "Galilean serpent"—

"The Galilean serpent forth did creep,
And made thy world an indistinguishable heap."

Nobody thinks of prosecuting those who sell Shelley's works

now, and even the leading counsel for the prosecution could actually accept office under a Ministry, of which the First Lord of the Admiralty, on whose bookstalls Shelley's works are exposed for sale, was a member. Of the poets of our day, it may be said, three-fourths of them write quite as blasphemously, according to the language of the prosecution, as any one in the "Freethinker." Mr. Swinburne, one of our greatest, if not our greatest poet—some say he is our greatest, I don't think so—uses in a poetical form the same language that was used by Elijah to the priests of Baal. You will remember the priests of Baal and Elijah had a sort of competitive theological examination, and they put the question to a practical test. They built altars and they cried respectively on their gods. The priests of Baal cut and gashed themselves and cried aloud, but the fire would not come. What did Elijah do? Did he call them to a kind of theological discussion, and say: "Now there is a mistake somewhere, and we must thrash this out according to the well-known canons of logic?" No, he turned upon the priests with what Rabelais would call *sanglante dérision*, and he said, in the language of to-day: "Where is your god, what is he doing, why doesn't he answer you, has he gone on a journey, what is the matter with him?" That is the language of irony and the deadliest sarcasm, and it is a wonder to me the priests of Baal didn't turn round and kill the prophet on the spot. If they had had one tithe of the professed religious bigotry of our prosecutors they would have done so, but history doesn't record that they did. Mr. Swinburne, in his great "Hymn to Man," turns the same kind of derision on the priests of Christendom. He represents them as calling upon their deity, and he says: "Cry aloud, for the people blaspheme." Then he says, by way of finish:—

"Kingdom and will hath he none in him left him, nor warmth in
his breath;
Till his corpse be cast out of the sun will ye know not the truth
of his death?
Surely, ye say, he is strong, though the times be against him and
men,
Yet a little, ye say, and how long, till he come to show judgment
again?
Shall god then die as the beasts die? who is it hath broken his
rod?
O god, lord god of thy priests, rise up now and show thyself god.
They cry out, thine elect, thine aspirants to heavenward, whose
faith is as flame;
O thou the lord god of our tyrants, they call thee, their god by
thy name .

By thy name that in hell-fire was written, and burned at the
 point of thy sword,
 Thou art smitten, thou god, thou art smitten ; thy death is upon
 thee, O lord.
 And the love-song of earth as thou diest resounds through the
 wind of her wings—
 Glory to man in the highest ! for man is the master of things.”

In his lines apostrophising Jesus on the Cross he says :—

“ O hidden face of man, whereover
 The years have woven a viewless veil—
 If thou wast verily man's lover,
 What did thy love or blood avail ?
 Thy blood the priests make poison of,
 And in gold shekels coin thy love.

So when our souls look back to thee
 They sicken, seeing against thy side,
 Too foul to speak of or to see,
 The leprous likeness of a bride,
 Whose kissing lips through his lips grown
 Leave their god rotten to the bone.

When we would see thee man, and know
 What heart thou hadst toward men indeed,
 Lo, thy blood-blackened altars ; lo,
 The lips of priests that pray and feed
 While their own hell's worm curls and licks
 The poison of the crucifix.

Thou bad'st let children come to thee ;
 What children now but curses come ?
 What manhood in that god can be
 Who sees their worship, and is dumb ?
 No soul that lived, loved, wrought, and died,
 Is this their carrion crucified.

Nay, if their god and thou be one,
 If thou and this thing be the same,
 Thou shouldst not look upon the sun ;
 The sun grows haggard at thy name.
 Come down, be done with, cease, give o'er ;
 Hide thyself, strive not, be no more.”

Mr. Swinburne here draws a distinction which Freethinkers
 would draw. Freethinkers may ridicule a mythological deity ;

they may ridicule miracles; but they will never ridicule the tragic and pathetic sublimities of human life, which are sacred, whether enacted in a palace or in a cottage. We know how to draw the distinction which Mr. Swinburne draws here. If the quotations I have read you had appeared in the "Free-thinker" they would have formed one of the counts of the indictment. The only difference between them is, that one is in a twelve-shilling book, and the other in a penny paper. One short extract from another poet, who is recognised as possessing the highest excellence by the greatest critics, whose writings have been praised in the "Athenæum" and the "Fortnightly Review." I am referring to Mr. James Thomson. He says:—

"If any human soul at all
 Must die the second death, must fall
 Into that gulph of quenchless flame
 Which keeps its victims still the same,
 Unpurified as unconsumed
 To everlasting torments doomed;
 Then I give God my scorn and hate
 And turning back from Heaven's gate
 (Suppose me got there!) bow *Adieu!*
Almighty Devil damn me too."

If that language had appeared in the "Freethinker," it would have formed one of the counts of the indictment. What is the difference? Again, I say, the difference is between a five-shilling book and a penny paper. When those books were reviewed, did men point out those passages and condemn them? Not at all. They simply praised his genius; blasphemy is not taken into consideration by men who write for papers of such standing. George Eliot has written many a biting sarcasm, aimed at the popular idols of the day. She translated Feuerbach's "Essence of Christianity," and Straus' "Life of Jesus," both of which are indictable at common law, though they have never been attacked. Renan, in his "Life of Jesus," supposes that the raising of Lazarus took place at a time, when under the messianic delusion the mind of Jesus had become perverted, and that he had arranged the thing with Lazarus. Anonymous books are pouring from the press. Here is one published by Williams and Norgate. It is called the "Evolution of Christianity." Speaking of the Hebrew scriptures, it says: "Truly, if the author of Exodus had been possessed of the genius of Swift, and designed a malignant satire on the god of the Hebrews, he could have produced nothing more terribly true to his malicious purpose than the grotesque parody of divine intervention in human affairs, depicted in the revolting details

of the Ten Plagues ruthlessly inflicted on the Egyptian nation." Only one other instance of ridicule. The writer, referring to the sudden and mysterious death of Ananias and Sapphira, as narrated in the Acts of the Apostles, says: "Ananias and Sapphira his wife sold some property, and kept back a portion of the price. Perhaps Ananias was a shrewd practical man, distrustful of socialism, and desirous of holding something in reserve for possible contingencies. Or Sapphira may have hinted that, if anything should happen to her husband before the advent of Jesus in the clouds, she would not like the position of a pauper scrambling among the other widows for her daily rations. Whatever may have been the motives of the doomed couple, if they had been arraigned before Jesus, he would have assuredly condoned so trivial an offence; but under the new régime of the holy ghost, this unhappy husband and wife were condemned to instant execution." That is the language of satire, and if it had appeared in the "Freethinker," it might have formed one of the counts of our present indictment.

I have referred you to great living writers, to foreign works pouring into the country; I have referred you to anonymous writings, and now I hold one in my hand which is circulated over the country and bears the imprint of Messrs John and Abel Heywood. It speaks in this way of Christianity: "Buddhism is the only religion which has made its way by sheer moral strength; it has become the vast religion that it is, without the shedding of one drop of blood to propagate its tenets. The edifice of Christianity is polluted with blood from keystone to battlement; its tenets and dogmas are redolent of the savage reek of gore, from the death of its lamb to that fountain of blood that its poets are never tired of hymning. Misery and tears still attend its idiotic dogma of original sin, and its horrible threatenings of eternal fire. Buddhism is to Christianity as is a palace of light to a foetid dungeon." That is being circulated wholesale by respectable publishers, and it again, I say, might have formed one of the counts of our indictment if it had appeared in the "Freethinker." Yet we know these publishers will never be molested because they are not poor, and especially because they don't happen to be friendly with a politician, whose enemies want to strike him with a religious dagger when they fail to kill him with the political sword.

I leave that and take the objection that will be raised, that we have dealt too freely in ridicule. What is it? You will remember the ending of some of the problems in Euclid, which is what is called a *reductio ad absurdum*, that is reducing a thing to an absurdity. That is ridicule. Ridicule is a method of argument.

The comic papers, in politics, are constantly using it. Why may it not be used in religious matters also? Reference was made to a caricature, in one of our political journals, which shall be nameless here. Mr. Gladstone is represented as "Number 1;" and morally the conclusion is that he was the murderer of one of his dearest friends. Nobody thinks of prosecuting that paper—the idea would be laughed at. We may caricature living statesmen, but not what are to us are dead dogmas. Surely you will not give your warrant to such an absurdity as that. Mr. Buckle says that every man should have a right to treat opinion as he thinks proper, to argue against it or to ridicule it, however "sacred" it may be. A greater writer than Buckle, John Stuart Mill, wrote an article in the "Westminster Review," on the Richard Carlile prosecutions, in the year 1824; and speaking of ridicule in that article, he says: "If the proposition that Christianity is untrue, can legally be conveyed to the mind, what can be more absurd than to condemn it, when conveyed in certain terms?" I say that this weapon of ridicule has been used by a very large proportion of the great intellectual emancipators of mankind: Socrates used it, and at the risk of offending some, I may say that Jesus used it; Lucian used it; the early Christian Fathers used it unsparingly against their Pagan contemporaries; and I might cull from their works such a collection of vituperative phrases as would throw into the shade anything that ever appeared in the "Freethinker." Luther used it, and used it well; Erasmus used it; the Lollards used it; and it was freely used in the Catholic and Protestant controversy that raged through and after the reign of Henry VIII. It has been used ever since. Voltaire used it in France. I know some may think that it is impolitic to introduce the name of Voltaire here, but Lord Brougham says that Voltaire was the greatest spiritual emancipator since the days of Luther. The only difference between such men as Voltaire, D'Alembert, and Diderot, was his illimitable wit. He had wit and his enemies hated him for it. Ridicule has been used in all times. To take ridicule from our literature you would have to go through such a winnowing and pruning process that you would destroy it. Eliminate from Byron his ridicule, eliminate from Shelley his ridicule, eliminate from other great masters their ridicule, and what a loss there would be! Ridicule is a weapon which has been used by so many great emancipators of mankind; and if we have used it, even in a coarser manner than they, it is the same weapon; and if the weapon is a legal one there can be no illegality in the mere method of using it, and there has been no such illegality shown. If ridicule is a legal weapon, the mere style or manner cannot render it illegal. I say that it is a dangerous thing to make men amenable to criminal

prosecution simply on a question of opinion and taste. Really if you are to eliminate ridicule from religious controversy, you hand it over entirely to the dunces. The two gravest things living are the owl and the ass. But we don't want to become asinine or owl-like. (Laughter.) It seems to me, if I may make a pun, that the gravest thing in the world is the grave; and if gentlemen want the world to be utterly grave they will turn it into a graveyard, and that is precisely what the bigots have been trying to do for many thousands of years. I ask you not to abet them by subjecting us to a daily unseen torture—which means slow murder; which cannot kill a strong man in two or three months, but which may, in twelve months, convert him into a physical and mental wreck, may make him a byword and scorn. Another evidence forsooth of the truth and mercy of their creed!

And now, gentlemen, I will ask your attention for a minute or two to the argument about outraging people's feelings. You never heard it proposed that this should be mutual; it is always a one-sided thing. As Mill says in his great essay on "Liberty:" "With regard to what is commonly meant by intemperate discussion, namely invective, sarcasm, personality, and the like, the denunciation of these weapons would deserve more sympathy if it were ever proposed to interdict them equally to both sides; but it is only desired to restrain the employment of them against the prevailing opinion: against the unprevailing they may not only be used without general disapproval, but will be likely to obtain for him who uses them the praise of honest zeal and righteous indignation." I should regard with more favor this argument if it were attempted to be made mutual. Suppose I were to put into your hands a book like that of Father Pinamonti's "Hell open to Christians," which is circulated by the authority of the Roman Catholic Church. It contains a picture of the torments of hell for every day in the week. That is repulsive to my mind. In my opinion it would debauch the minds of children into whose hands it fell, but I should not think of calling in the law to stop it. Opinion and taste must correct opinion and taste, and the proper jury to sit upon such a question is the great outside jury of public opinion. Indecent attacks on religion it is said must be put down. I want you to cast out of your minds altogether the absurd talk of indecency or licentiousness. If we are to be brought in guilty, let it be of clean blasphemy if you will; and don't by confusing the real nature of our alleged offence, say that if we ought not to be punished for blasphemy, we ought to be punished for indecency, of which I say we are not guilty.

It is said we must not make ourselves a nuisance. I have looked through the law of nuisance, and I don't think there is anything in it to which this libel can approximate. If a man

starts chemical works close to you, and poisons the atmosphere you breathe, you have no remedy but to go to law and stop it, or else remove your business and residence. That is trenching on your rights. In a case of this sort every man has his remedy. There is no Act of Parliament to compel any person to purchase a copy of the "Freethinker." The copies that will be placed in your hands were purchased, not to be read, but for the purposes of prosecution. It was not a surreptitious thing; it was not a publication entitled the "Christian Investigator," with freethought of the most insidious kind in every line. It is called the "Freethinker;" the man who purchased it must have done so deliberately, and gone into the shop to do it. As it was not a paper freely exposed in the shop windows in London, a man must have meant, before he went into the shop, to purchase that very thing, and must have known the character of the contents before he purchased it. I submit that as a man is not forced to purchase or read the paper, the least he can do is to allow other people to exercise their rights. It appears now that liberty is to be taken in the sense of the rough Yankee, who defined it as the right to do as he pleased and to make everybody else do so too. Bigotry puts forward a claim, not only to be protected from having unwelcome things forced on its attention, but to prevent all men from seeing what it happens to dislike.

Now, I will just draw your attention to what we have been told is the proper view of this question. Starkie on "Libel" has been quoted. I have not got Starkie's work, but I have got Folkard's edition of the "Law of Libel," and I must quote from that. The fact that I have not been able to get a copy of Starkie shows in itself the ridiculous nature of this prosecution. That a man should be in peril of losing his liberty on the dictum of "the late Mr. Starkie" is a most dreadful thing. I hope that won't continue. He says: "A malicious and mischievous intention, or what is equivalent to such an intention in law, as well as in morals—a state of apathy and indifference to the interests of society—is the broad boundary between right and wrong." I say it is not so, and that an overt act of crime is broad boundary between right and wrong. If it be alleged I am apathetic to the interests of society, I give it the most emphatic denial. When "nefarious profit" is talked about, I tell the learned gentlemen for the prosecution that they get far more out of their advocacy than I do out of mine. I tell them that a man who throws in his lot with an unpopular cause must not count on profit; he can only count on the satisfaction of what to him is duty done. There is no such thing as apathy here to the interests of society. I have given of my time and means, for great political and social causes, as much as these men. I am no more apathetic to the interests of society than

they are. All these words mean very little. The contention that has been raised is unsubstantial, and rests merely upon the use of adjectives. These are not questions of fact, and when the prosecution talk about "maliciously insulting," "wickedly doing so and so," they simply use a string of adjectives which every man may interpret differently from every other man, a string of adjectives which I am quite sure would not allow any jury of Freethinkers to bring in a verdict of Guilty against me and my co-defendant. I am sorry if that is the kind of law by which a man is to be tried. If it is so I can only deplore it; but it seems to me that Starkie's law of blasphemous libel is simply a noose put round the neck of every man who writes or speaks on the subject of religion; and if he happens to be on the unpopular side somebody will pull the string, and without being worse than those in the race before him, he is tripped up, and it may be strangled. I hope I am not to be tried under that law—if it must be so I can only deplore it.

I am now, gentlemen, drawing nearly to a close. I want to say that blasphemy is simply a relic of ecclesiasticism. Renan says he has searched the whole Roman law before the time of Constantine, without finding a single edict against any opinions. Professor Hunter says practically the same thing. Blasphemy and heresy were originally not tried by secular courts like these at all—they were tried by ecclesiastical courts. Lord Coke, of ancient but of great authority on the subject of law, said blasphemy belonged to the king's ecclesiastical law; and when the writ *de heretico comburendo* was abolished in the reign of Charles II., there was still special reservation made for ecclesiastical courts to try offences. But when the clergy began to lose their power over the people, the judges brought in the very heresy law that had been abolished; the same heresy with another name and a cleaner face. Without the slightest disrespect to the judges of to-day, one can maintain that in bad old times, when judges depended so much upon the favor of the Crown and the privileged classes, and when the Church of England was held necessary to the maintainance of the constitution, it was not wonderful that they should deliver judgments on the question of blasphemy, which really made it heresy as against the State Church. I say that blasphemy meant then, and always has meant, heresy against the State Church. I am told we might have discussion on controverted points of religion if decently conducted. That was not the language of those great judges of the past. They say we might discuss controverted points of the *Christian* religion—those that were controverted amongst learned Christians; but that the great dogmas that lay at the base of the articles of the Established Church could not be called in question; and I could

give judgment after judgment. But I will give you one case that happened in this century. In the case of the Queen against Gathercole, in which the defendant libelled the Scorton Nunnery, Baron Alderson laid it down: "That a person may without being liable to prosecution for it, attack *Judaism* or any religious sect (save the established religion of the country), and the only reason why the latter is in a different situation from the others is, because it is *the form established by law*, and it is therefore a part of the constitution of the country." Russell on "Crimes," volume 3, page 196, gives the case a little more fully. He says: "When a defendant was charged with publishing a libel upon a religious order, consisting of females, professing the Roman Catholic faith, called the Scorton Nunnery, Alderson, B., observed a person may, without being liable to prosecution for it, attack Judaism or Mahomedanism, or even any sect of the Christian religion save the established religion of the country, and the only reason why the latter is in a different situation from the other is, because it is the form established by law, and is therefore part of the constitution of the country."

Now, gentlemen, that supports my contention that heresy and blasphemy originally meant, and still ought to mean, simply ridicule of the State Church or denial of its doctrines; that where religious sects differ from the State Church, no matter what sect of Nonconformity it be, whether it be a section of the great Roman Catholic Church itself, or a Jewish body or Mahomedan believing in the existence of a deity, yet on those grounds, when they differ from the Established Church, they have no protection against ridicule or sarcasm at law. Gentlemen, will you yield that preposterous and invidious right to the Established Church? If any of you is a Dissenter, remember the murders, the robberies, and the indignities inflicted on your ancestors by the State Church. If any one of you is a Quaker, remember that the gaols of London were full of your ancestors who literally rotted away in them. Gentlemen, remember that, and don't give this State Church any protection. Is it to be protected against ridicule, sarcasm, or argument, or other forms of attack? It has its livings worth ten or twelve millions a year; it has its edifices for worship in every parish of the country; it has funds for the purposes of propaganda and defence apart from its State connexions. It has had, until very recently, practically all the educational appliances in its own hands; and is it, gentlemen, to be protected against the onslaughts of a few comparatively poor men? If a Church with such advantages cannot hold it own, in the name of truth let it go down. To prosecute us in the interests of this Church, though ostensibly in the name of god, is to prostitute all that is sacred in religion, and to degrade what should be a great spiritual power,

into a mere police agent, a haunter of criminal courts, and an instructor of Old Bailey special pleaders.

Every man has a right to three things—protection for person, property, and character, and all that can be legitimately derived from these. The ordinary law of libel gives a man protection for his character, but it is surely monstrous that he should claim protection for his opinions and tastes. All that he can claim is that his tastes shall not be violently outraged against his will. I hope, gentlemen, you will take that rational view of the question. We have libelled no man's character, we have invaded no man's person or property. This crime is a constructed crime, originally manufactured by priests in the interests of their own order to put down dissent and heresy. It now lingers amongst us as a legacy utterly alien to the spirit of our age, which unfortunately we have not had resolution enough to cast among those absurdities which Time holds in his wallet of oblivion.

One word, gentlemen, about breach of the peace. Mr. Justice Stephen said well, that no temporal punishment should be inflicted for blasphemy unless it led to a breach of the peace. I have no objection to that, provided we are indicted for a breach of the peace. Very little breach of the peace might make a good case of blasphemy. A breach of the peace in a case like this must not be constructive; it must be actual. They might have put somebody in the witness-box who would have said that reading the "Freethinker" had impaired his digestion and disturbed his sleep. (Laughter.) They might have even found somebody who said it was thrust upon him, and that he was induced to read it, not knowing its character. Gentlemen, they have not attempted to prove that any special publicity was given to it outside the circle of the people who approved it. They have not even shown there was an advertisement of it in any Christian or religious paper. They have not even told you that any extravagant display was made of it; and I undertake to say that you might never have known of it if the prosecution had not advertised it. How can all this be construed as a breach of the peace? Our indictment says we have done all this, to the great displeasure of almighty god, and to the danger of our Lady the Queen, her crown and dignity. You must bear that in mind. The law books say again and again that a blasphemous libel is punished, not because it throws obloquy on the deity—the protection of whom would be absurd—but because it tends to a breach of the peace. It is preposterous to say such a thing tends to a breach of the peace. If you want that you must go to the Salvation Army. They have a perfect right to their ideas—I have nothing to say about them; but their policy has led to actual breaches of the peace; and even in India, where, according to the law, no prosecution could be

started against a paper like the "Freethinker," many are sent to gaol because they will insist upon processions in the street. We have not caused tumult in the streets. We have not sent out men with banners and bands in which each musician plays more or less his own tune. (Laughter.) We have not sent out men who make hideous discord, and commit a common nuisance. Nothing of the sort is alleged. A paper like this had to be bought and our utterances had to be sought. We have not done anything against the peace. I give the indictment an absolute denial. To talk of danger to the peace is only a mask to hide the hideous and repulsive features of intolerance and persecution. They don't want to punish us because we have assailed religion, but because we have endangered the peace. Take them at their word, gentlemen. Punish us if we have endangered the peace, and not if we have assailed religion; and as you know we have not endangered the peace, you will of course bring in a verdict of Not Guilty. Gentlemen, I hope you will by your verdict to-day champion that great law of liberty which is challenged—the law of liberty which implies the equal right of every man, so long as he does not trench upon the equal right of every other man, to print what he pleases for people who choose to buy and read it, so long as he does not libel men's characters or incite people to the commission of crime.

Gentlemen, I have more than a personal interest in the result of this trial. I am anxious for the rights and liberties of thousands of my countrymen. Young as I am, I have for many years fought for my principles, taken soldier's wages when there were any, and gone cheerfully without when there were none, and fought on all the same, as I mean to do to the end; and I am doomed to the torture of twelve months' imprisonment by the verdict and judgment of thirteen men, whose sacrifices for conviction may not equal mine. The bitterness of my fate can scarcely be enhanced by your verdict. Yet this does not diminish my solicitude as to its character. If, after the recent scandalous proceedings in another court, you, as a special jury in this High Court of Justice, bring in a verdict of *Guilty* against me and my co-defendant, you will decisively inaugurate a new era of persecution, in which no advantage can accrue to truth or morality, but in which fierce passions will be kindled, oppression and resistance matched against each other, and the land perhaps disgraced with violence and stained with blood. But if, as I hope, you return a verdict of *Not Guilty*, you will check that spirit of bigotry and fanaticism which is fully aroused and eagerly awaiting the signal to begin its evil work; you will close a melancholy and discreditable chapter of history; you will proclaim that henceforth the press shall be absolutely free,

unless it libel men's characters or contain incitements to crime, and that all offences against belief and taste shall be left to the great jury of public opinion; you will earn the gratitude of all who value liberty as the jewel of their souls, and independence as the crown of their manhood; you will save your country from becoming ridiculous in the eyes of nations that we are accustomed to consider as less enlightened and free; and you will earn for yourselves a proud place in the annals of its freedom, its progress, and its glory.

Mr. Foote's speech, which occupied over two hours and a half in delivery, created a profound impression on the Court, and evidently aroused a feeling of admiration on the part of the jury and the Lord Chief Justice. At its close,

Lord Coleridge, addressing the jury, said: Gentlemen, I should have been glad to have summed up this evening, but the truth is, I am not very strong, and I propose, therefore, to address you in the morning, and that will give you a full opportunity of reflecting calmly on the very striking and able speech you have just heard.

SECOND DAY.

The Lord Chief Justice, in summing up to the jury, said—Gentlemen of the jury, the two prisoners, Foote and Ramsey, are indicted before you for the publication of blasphemous libels, and two questions arise. First of all, are these things in themselves blasphemous libels? secondly, if they are, is the publication of them traced home to the defendants? I will begin with the last because it is the shorter and simpler question. Both are questions entirely for you; and when you have heard what I have to say about the state of the law as I understand it, it will be for you to pronounce a general verdict of Guilty or Not Guilty. For the purposes of the second question, which I take first, I will assume that these are blasphemous libels. I assume it only for the purpose of discussing the second question, and I will discuss it on this basis. Logically, if they are not blasphemous libels, we don't want to discuss the second question. In discussing the second question, I must assume for the purpose of argument that they are blasphemous libels. Assuming these to be libels, is the publication of them traced home to the defendants? Formerly, the fact that a man was engaged in the publication of a paper of

this sort—of any sort—and that he was either editor, publisher or printer of a publication coming out from time to time, and issued under his sanction, made him in a civil action responsible for what appeared in it. It was held also to constitute a criminal libel; and although the publication may have been, in point of fact, by a servant of his, it would make him responsible in a civil action, because in a civil action he would be responsible for the acts of his servants. Yet the case of libel is a peculiar case, in the existence of which sometimes things are assumed, by great judges undoubtedly, and a series of decisions arrived at which modify the law. It was undoubtedly an anomaly in our system that in the case of libel only, facts which would not have justified a criminal conviction against a defendant in any other form of crime, did justify a conviction in the particular case of libel—seditious or even personal libel. But at the same time, in the time of Lord Campbell, when he was in the House of Lords, an Act of Parliament was passed which altered the law in that respect. The law as altered in that respect came under the consideration of the Court of Queen's Bench in the time of my predecessor Lord Chief Justice Cockburn, and was the subject matter of two decisions. I am obliged to go through this again, although I went through it with the jury who tried Mr. Bradlaugh, and, therefore, I must tell you what I told the jury in that case. In the case of the Queen and Holbrook, which was a case of this sort, there was a bad libel published on the town clerk of Portsmouth in a Portsmouth paper, and the proprietor of the paper was indicted for this libel. It was tried twice over, once before Mr. Justice Lindley and once before Mr. Justice Grove, and on both occasions the judges laid down the law sufficiently favorably as the Court of Queen's Bench were of opinion, for the person accused. They laid down the law substantially in this way. If it was proved, as in that case, that the proprietor of the paper made over absolutely the control of a particular part of the paper to a sub-editor or agent, and told him to use his own discretion, to do what he thought right from time to time in relation to that paper, Mr. Justice Lindley and Mr. Justice Grove substantially told the jury that they were at liberty to infer it was as if in each particular case the active positive sanction of the defendant had been obtained to a particular publication. Well, on both occasions that was held by the Court of Queen's Bench not to be the proper way to lay down the law since Lord Campbell's Act. And the law now is that it is not enough to connect the defendant with the publication in which the libel appears, but you must connect the defendant with the libel itself in the publication. They all say when a man has edited in any vague sense you like, when he has been editor of a particular number of a paper in which there has been a libel, that that will not do unless you

give evidence to show that he edited, sanctioned, or in some manner had to do with the particular publication incriminated. Now that is the way in which Justice Lush—of whose words I am always glad to avail myself—that is the way in which he lays down the law in the second case of the Queen and Holbrook. The section is this: "If in respect of the trial of any indictment or information for the publication of a libel, under the plea of not guilty, evidence shall have been given which shall establish a presumptive case of publication against the defendant by the act of any other person, or by his authority, it shall be competent for such defendant to prove that such publication was made without his authority, consent or knowledge, and that the said publication did not arise from want of due care and caution on his part." Then the learned judge goes on to say: "The effect of the statute, read by the light of previous decisions, must be that an authority from the proprietor of a newspaper to the editor to publish what is libellous, is no longer to be, as it formerly was, a question of law, but a question of fact." Before that Act passed, the only question of fact was whether the defendant authorised the publication of the paper. Now the question is whether he authorised the publication of the "libel." Therefore you must, in this case, have evidence to connect the two defendants with the publication of the libel as well as with the publication of the paper. Now I think you will be of opinion that this case has been very ably defended by the two persons who are incriminated, but I must say they have not defended it on the true grounds, but only on what they think true grounds. The grounds to them are true, and upon it they desire to succeed if they can—not that they would be unwilling to avail themselves of any advantage in their favor, because, in a legal sense, they would have a perfect right to stand upon the strictest technicality, if in their favor. But, as a matter of fact, they have not in their defence taken the true points. They have preferred to rest their case upon that which is the second branch of this inquiry, and they have not seriously contested that they did both authorise, sanction and engage in the publication, not only of the papers in which the libels appeared, but of the libels themselves. Still, although they have not chosen to raise that question in argument, it is proper you and I should see that there is legal evidence on which we can fairly and properly say—supposing these to be libels—you are guilty of the publication of them. Now the evidence is certainly all one way. Mr. Kelland, who is a clerk to the solicitors for the prosecution, is called, and says he purchased copies of the "Freethinker" at 28 Stonecutter Street; that he purchased, upon the 30th of June, publications of the 9th of April, the 23rd of April, the 30th of April, the 7th of May, the 14th of May—all in 1882. The publication and

purchase were in 1882. He bought at the same place a paper of the 21st of May on the 24th of May, a paper of the 28th of May on the 4th of June, and a paper of the 18th of June on the 15th of June. That I ought to explain, seeing it is published some days before the date. They have a Sunday date upon that, and the papers can be procured some days before the date, therefore the paper of the 18th of June was bought on the 15th, and then he says, "I purchased these mostly of Ramsey." Now, any of them—because really I cannot regard, and I suppose you will not regard the publication of more than one of these—three or four—of these libels, assuming them to be libels, as more than one, the first one—the publication of any of the libels is sufficient, if it be a libel, to bring the defendants within the meshes of this indictment. And if you think Ramsey sold the papers across the counter—and the witness was not cross-examined effectively upon that point, and Ramsey did not dispute that he had sold those papers to him—then as far as Ramsey is concerned, there is a distinct proof of the publication of a number of these libels at all events, because he was the proprietor of the paper and sold the copies produced in court. That, according to any view of the law, is distinct evidence of publication personally by Ramsey. As I say, Ramsey is entitled to the credit of not having seriously disputed it. He doesn't deny it. Still it is right it should be proved, and it is proved by a witness that is not cross-examined. If you believe Mr. Whittle, I don't know that it is necessary to go further, as far as Ramsey is concerned, to connect him with the actual publication of these libels. The matter stands differently as regards Foote, because Mr. Kelland, in reply to Foote, said, "I purchased none of you; never. I have seen you coming down stairs, not more than once, and that was on the 16th of February. That is the time when I said I saw you coming down stairs at Stonecutter Street." That is nothing, because in the first place it is months after these sales had taken place; and under the authority of the Queen and Holbrook, if a man is seen coming down stairs it is not sufficient for a libel. Then Mr. Edward Whittle is called, and he says he has seen Foote's writing on particular papers, but not at St. John Street. Whittle was not cross-examined. On looking at his evidence before the Lord Mayor, it did not appear there was any particular need to examine him. He said here substantially what he said before the Lord Mayor. Whittle says he is a printer, carrying on business at 170 St. John Street. "Those numbers, which are the subject-matter of the counts of the indictment, were printed by me for Ramsey. I know Foote, who has come to give me orders for anything he wanted. I have had orders from him as to some of these papers. He sent the manuscript for the 'Freethinker.' The greater part came from Foote. I

usually saw the manuscript of the 'Freethinker.' I believe a proof is sometimes pulled. I have seen proofs of the other articles. The first article, that is the article in the first count, came from Foote. I know his handwriting." This is—I won't say a friend in any bad sense, since he is an acquaintance of Foote, by reason of his having printed for Foote. He has really no hostility to Foote, but he is obliged, by force of law, to say what is the truth—that the first libel, in the first incriminated paper came from Foote, and was sent in his handwriting. If so, there is abundant evidence to show, as far as that is concerned, that he is connected with it. He takes the second, and says: "I should not like to say where it came from. To the best of my belief it came from Foote. It was in Foote's handwriting. I should imagine it came from Foote. This was put in the paper by order of Foote. This paper was printed by me by his orders." It is impossible to say that is not evidence to connect Foote with the second incriminated passage. Then they take the third. That was in Foote's manuscript, and it was printed in the paper by Foote's orders. It is impossible to say that is not evidence that Foote is connected with this. The third, that is the illustration, was put into the paper by Foote's direction. Then the fourth. Foote didn't write this one, but it was inserted in the paper by his directions. Then as to the next count. Foote directed the insertion of this article. As to the next one, the witness said: "I don't know who wrote it, but Foote ordered it to be inserted." Then the next. "Foote didn't write this, but ordered it to be put in the paper." As to the next, witness says: "Mr. Heaford wrote this." Then the next. "Mr. Foote ordered this to be inserted." "Mr. Foote's name is on the paper." Then the last one. "He authorised this also; he has never spoken to me about the meaning of these cartoons; he has never told me he edited the paper." You will remember that yesterday, I prevented a general question put in that form, bearing in mind the *Queen v. Holbrook*. A man may be the editor of a paper but it doesn't follow, because he is the general editor of a paper, everything in that paper makes him criminally liable. It must be shown that the incriminated portions of the paper have had, so to say, his mind upon them, and that his mind has gone with the publication of them. Now on the part of young Mr. Whittle we have had this evidence, which certainly is sufficient, uncontradicted—and it is uncontradicted—to show that Foote, as well as Ramsey, was actively, and within the decision to which I have already adverted, connected with the publication of these incriminated passages. There is no evidence on the other side. I must say that Mr. Foote, in his very able speech, rather assumed that he was responsible for these publications, that he authorised them, and that his mind did go with them. Anything

he said in his speech would probably be not enough, but here is the evidence of Whittle, whom he did not cross-examine; who gave his evidence with reluctance—not unbecoming reluctance—because he was giving evidence against a person by whom he was employed. So he gives evidence which fastens on Foote the responsibility of the publication of every one of these incriminated passages. I don't know that it is proved he wrote them in the sense of having composed them, but with regard to all of them it is shown he sent them to the printer with directions to have them printed in the "Freethinker." Now that is enough to satisfy you, unless you can see some reason which I cannot suggest to you, to doubt this evidence. Supposing you assume these to be libels—Foote and Ramsey both are answerable for their publication. That, however, of course, is, comparatively speaking, the least matter which you had discussed yesterday, because the proof was clear, and the proof was not, in fact, disputed. The other point, which is first in logical relation, remains—Are these within the meaning of the law blasphemous libels? Now that is a matter that as you have been truly told is entirely for you. You have the responsibility of looking at them, and of pronouncing whether they are or are not blasphemous libels. My duty is to express to you, as clearly as I can, what is the law upon the subject; I will not say to answer, because it is not the duty of a judge to answer, the speeches made; but it is, as I conceive, his duty to point out to you which of the observations are well founded in his judgment. No one knows more than I how erring and feeble that judgment is. Still it is to be exercised to the best ability God has given me, and you must take it for what it is worth, and then the matter is for you. In addressing any jury, but more especially a jury like this, I should feel the most absolute confidence that a jury in a criminal case would obey the law as laid down, and whether they liked it or not, they would take the law from the judge and apply it like honest men to the facts; because, as I said a week before, it is far more important that the law should be administered conscientiously, than that the law in a particular case should be a good or bad law; because the moment judges or juries go beyond their functions, and take upon them to find one way or the other—not according to the law as it is but as they think it ought to be—then, instead of any certainty, anything upon which any subject can rely, we are left to an infinite variety of human opinion, to the caprice—excuse me using the expression—to the caprice that may at any moment influence the best of us, to the prejudices that bias—I will not say that, because sometimes prejudices are good—but to the feelings and prejudices which distort and disturb the judgment from the simple operation of ascertaining whether the facts proved come within the law, as they are

bound to take it. You have heard, and heard with truth, that these things are, according to old law, old dicta of old judges, undoubtedly blasphemous libels, because they asperse the truth of Christianity. I said a week ago—and I see no reason to doubt that I said correctly—in regard to these words and to these expressions, for reasons which I will give presently, from the very cases in which these expressions have been used, that can no longer be taken to be a statement of the law in the present day. It is no longer true in the sense in which it was true when those statements were made. It may be true in another sense—I don't say it is not—but it is no longer true, in the sense in which those statements were made, that Christianity is the law of the land. Jews, Nonconformists, Mahomedans, and a variety of persons in the times when these dicta proceeded from great judges, were treated as having scarcely any civil rights at all. It was impossible, in a free country, to persecute them to death, but almost everything short of persecution to death was enacted deliberately by the Parliament of this country against such persons—I don't mean by name because it was not so; and it has often been pointed out that the exclusion of the Jews was an exclusion *by accident*, although I am bound to confess I had never much faith in that. They were historically excluded, probably because, at the time when the statute was passed, they were not thought sufficiently worthy an Act of Parliament. But now—I may be in error—but as far as I know the law a Jew may be Lord Chancellor. Certainly a Jew may be Master of the Rolls; certainly, by the merest accident when the late Master of the Rolls was appointed, before the Judicature Act came into operation, a great and illustrious lawyer, whose loss the whole profession is deploring, and in whom those who were honored with his friendship knew they lost a warm friend and loyal comrade—he might have sat here and tried this very case, and he might have been called upon to say—at least if the law be correct, that Christianity is part and parcel of the law of the land. He, a Jew, might have been bound to lay down, according to that view, to a jury in which there might have been half a dozen Jews, that it was a breach of the law, subjecting a man to twelve months' imprisonment, to deny that Jesus Christ was the Messiah, a thing which he himself did deny, which every Jew in the land must deny, which Parliament has deliberately allowed them to deny, and which it is just as much now under the law of the land their right to deny, as it is your right and mine, if we believe it, to assert it. Therefore, to base the prosecution of an aspersion on Christianity *per se*—I shall, I hope, be taken to mean no more than I exactly express—to base a prosecution for an aspersion of Christianity *per se*, on the ground that Christianity is in the sense of Lord Hale, Lord Raymond, or Lord Tenterden, part of the law of the land, is, in my judgment, to forget that law grows

like other things, that though the principles of law remain, yet that the law grows. And it is one of the inestimable advantages of the common law that it is so, that the principles of law have to be applied to infinitely changing circumstances and to growth—some people would say towards retrogression, but I should venture to say towards progression of human opinion. Therefore, merely to discover that Christianity is denied, or the truth of Christianity is denied, on general grounds, and to say, therefore, that a man may be indicted for a blasphemous libel, is absolutely untenable; and I, for one, will certainly never, until I am bound to do so—of course I should be happy to obey the law like a dutiful subject, if it is expressed in a way I cannot fail to understand—but, until it is so expressed, I shall not lay down the law in a way which cannot be historically justified. The Acts being passed, Parliament is the maker of the laws, and if Parliament has passed laws which make the *dicta* of the old judges no longer applicable it is no disrespect to those judges to say that laws made under one state of things are no longer law under another state of things, which Parliament has altered. When I last addressed the jury on this subject I said—and I thought that I said—this shows how careful you should be—that I said what appeared to me almost a *reductio ad absurdum*; that if this were still the law of the land—I put it respectfully—I said it would be impossible to discuss any question of the law as it is, that there could be no reform, that it would not be possible to discuss the question whether a Republican or Monarchical form of Government was the best, as Harrington did in his “Oceana,” and as other writers have done, without danger of being prosecuted for a seditious libel. But this case has led me to look into such few books as I possess; and what I thought was a *reductio ad absurdum* I find is held in the case of the King *v.* Bedford. There a man is prosecuted for discussing gravely and civilly, and, as the report says, “with no reflexion whatever upon any part of the existing Government.” He was actually convicted of a seditious libel because he said hereditary principles were not the wisest. I find 150 years ago a man was actually convicted for gravely and seriously maintaining that which I thought could be seriously and gravely maintained without any infringement of the law. I need hardly say if the case came up now no judge or jury would convict. It would be monstrous such a thing should be done. That may show shortly that the bare statement that it is enough that these things are denials, utter denials, of the truth of the religion of Christ is not maintainable. I should not think that it was enough to show a mere denial of Christianity in the present to make the thing capable of being attacked. But, no doubt, whether we like it or not, we must not be guilty, and I must not be guilty, of anything

like taking the law into one's own hands, and to wrest the law from what it really is, and to convert it into what I may think in my foolish judgment it ought to be. I must lay down the law to you as I understand it and find it in books of authority. Mr. Foote, in his very able speech yesterday, spoke with something like contempt of the late Mr. Starkie. Well, he did not know the late Mr. Starkie, and how very able and good a man he was. When I was young I knew him. He was not only a man of remarkable powers of mind—perhaps he never had his rightful estimate in the world—he was a man of liberal opinions, and a person in whose hands—if law-making can be safe in anyone's hands—I should have thought it might be safely left. Whether I am right or not is immaterial, because this view of Mr. Starkie's has been again and again assented to, and it appears to me to contain a correct statement of the existing state of the law. He says : “There are no questions of more intense and awful interest than those which concern the relations between the creator and the beings of his creation ; and though, as a matter of discretion and prudence, it might be better to leave the discussion of such matters to those who, from their education and habits, are most likely to form correct conclusions, yet it cannot be doubted that any man has a right, not merely to judge for himself on such subjects, but also, legally speaking, to publish his opinions for the benefit of others. When learned and acute men enter upon those discussions with such laudable motives, their very controversies, even where one of the antagonists must necessarily be mistaken, so far from producing mischief, must in general tend to the advancement of truth and the establishment of religion on the firmest and most stable foundations. The very absurdity and folly of an ignorant man, who professes to teach and enlighten the rest of mankind, are usually so gross as to render his errors harmless ; but be this as it may, the law interferes not with his blunders so long as they are honest ones—justly considering that society is more than compensated for the partial and limited mischief which may arise from the mistaken endeavors of honest ignorance by the splendid advantages which result to religion and truth from the exertions of free and unfettered minds. It is the mischievous abuse of this state of intellectual liberty which calls for penal censure. The law visits not the honest errors but the malice of mankind. A wilful intention to pervert, insult, and mislead others by means of licentious and contumelious abuse applied to sacred subjects, or by wilful misrepresentations or artful sophistry, calculated to mislead the ignorant and unwary, is the criterion and test of guilt. Malicious and mischievous intention, or what is equivalent to such an intention in law as well as morals—a state of apathy and indifference to the interests of society—is the broad boundary

between right and wrong." Now, gentlemen, I believe that to be a correct statement of law. Whatever it ought to be, the law is not a matter for you or me. I have only to ascertain what is the law, and, having ascertained it, to explain it to you, as far as my powers of explanation enable me, and to leave you to apply the facts to the particular case before you. I cannot help saying: there is a great deal that strikes my mind in the way in which Mr. Foote dealt with this passage on these principles of Mr. Starkie, but there is more to be said, I think, than at first sight perhaps, appears; and there is a passage in this same book of Mr. Starkie's—not a passage of his own, as I understand it, though it is not quite clear whether it is or not, but I believe it to be a translation from the work of Michaelis, in which he says that which is true enough. He says it is not clear whether it is a bad thing for the libeller that he should be punished by the law rather than by the rougher handling of an angry populace. And he says: "Were the religion in question only tolerated, still the State is bound to protect every person who believes it from such outrages, or it cannot blame him if he has not the patience to bear them. But if it be the established national religion—and of course the person not believing it, is only tolerated by the State, though he enjoys its protection just as if he were in a strange house—such an outrage is excessively gross, and unless we conceive the people so tame as to put up with any affront, and of course likely to play but a very despicable part on the stage of the world, the State has only to choose between the two alternatives of either punishing the blasphemer himself, or else leaving him to the fury of the people. The former is the milder plan, and, therefore, to be preferred, because the people are apt to gratify their vengeance without sufficient inquiry, and of course it may light on the innocent. Nor is this by any means a right which I only claim for the religion which I hold to be the true one; I am also bound to admit it, when I happen to be among a people from whose religion I dissent. Were I in a Catholic country to deride their saints, or insult their religion by my behavior, were it only rudely and designedly putting on my hat, where decency would have suggested the taking it off; or where I in Turkey to blaspheme Mahomet, or in a heathen city, its gods—nothing would be more natural than for the people, instead of suffering it, to avenge the insult in their usual way—that is tumultuously, passionately, and immediately; or else the State would, in order to secure me from the effects of their fury, be under the necessity of taking my punishment upon itself; and if it does so, it does a favor both to me and other dissenters from the established religion, because it secures us from still greater evils. Therefore it is not so clear to my mind that some sort of protection of the constituted religion of the country is not a good

thing even to those who differ from it because if there were no such protection the consequences pointed out by Michaelis might ensue. It does not follow that because the objects of popular dislike differ in different ages—it does not follow (I wish it did) that the populace of one age is much wiser than the populace of another. It is not so very long ago since a Birmingham mob wrecked the house of Dr. Priestley, as good, distinguished and illustrious a man as probably has ever been an English subject. And that was not, remember, the State that did that—it was the populace that wrecked his house and destroyed his library. Therefore, it is not quite so sure to my mind, that some sort of blasphemy laws, reasonably enforced, are not to the advantage of persons who differ from the religion of the country, and who are intending and desire to destroy it. Therefore, it must not be taken as so absolutely certain that all those laws against blasphemy are tyrannical. It is not so sure, when you come to look at the matter calmly and quietly, and not from Mr. Foote's or Mr. Maloney's point of view, it is not so sure that some kind of law of this sort is not advantageous. However, the principle is to be found laid down in Starkie, and that principle is as I have expressed it to you. I think it right to say that the cases that I have quoted to you—I don't pretend that I have the time or the learning to read every case written upon the subject—but the cases which I have been able to study, do not satisfy me that the law was ever different from the way in which Starkie has laid it down. I have taken three cases, about seventy or eighty years apart, and I find that the law, as I understand it, is laid down exactly the same in all those three cases. The first case is a case decided by that great lawyer of whom Mr. Foote spoke, Lord Hale. He rightly said he was a man of absolute integrity and great intellectual force; and perhaps if he had read, as I have done, all the trial of the witches before Lord Hale, he would have seen that Lord Hale was there doing, what many a judge has to do—was administering a law he did not like, and so gave the accused person every advantage which his skill and the law allowed him, but neither the prisoners nor jury would take advantage of it. The case is a very curious one, and if any one reads it, I think it would be a very rough analysis of it to say, that Lord Hale hung people for witchcraft because of a passage in the Bible, though, no doubt, the passage was referred to. Anybody who will be at the pains to read that case will say there is more to be said for Lord Hale than the general run of mankind believe. Lord Hale in the case of Taylor had these words before him—and you must always take a case according to the subject matter it decides, and the opinion contained—these expressions, terrible to read, namely, “That Jesus Christ was a bastard, a

whoremaster, an imposter, and a cheat, and that he, Taylor, neither feared god, man, nor devil." Those were the words upon which Lord Hale had to decide in that case, and Lord Hale said that such kinds of blasphemous words were not only an offence against god and religion, but a crime against the laws and therefore punishable. He did not say that a grave argument against the truth of revelation was so punishable, but that such kind of wicked and blasphemous words were. That is what Lord Hale held in that case. That is one of the earliest cases on the subject. You may find expressions which seem to go further, but you ought to look before you cite these cases so glibly as some people do. You should look and see what was the subject matter of the decision. Lord Hale held that to be a blasphemous libel, and if it was a matter of law I should be compelled to say it was a blasphemous libel, though I trust I am not disposed to hang witches. (Laughter.) But I believe that to be a perfectly accurate description of the state of the law as it is at present. The next case which has been so much cited from Strange, although it is better reported from Fitz-Gibbon, is that of Woolston, who was convicted of blasphemous discourses on the miracles of our lord, and the Court laid very great stress on the words in the indictment "general and indecent attacks," and stated that they did not intend to include disputes between men on controverted points. That is the law as laid down by Lord Raymond. The case that has been commonly cited as bringing it down later is that of the King *v.* Waldington, which was decided by Lord Tenterden, and the words of the libel were—"That Jesus Christ was an imposter, a murderer and a fanatic." The Lord Chief Justice laid it down that that was a libel, and a juryman asked the Lord Chief Justice whether a work that denied the divinity of our savior was a libel. Now mark the answer given by Lord Tenterden, one of the most cautious and justly respected men. He answered, that a work speaking of Jesus Christ in the language referred to was a libel. His answer is that a work speaking of Jesus Christ in the language used in the publication in question is a libel, and I have read the words. That case came before the King's Bench, which consisted of Lord Tenterden, Mr. Justice Bayley, Mr. Justice Holroyd, with Mr. Justice Best. The three first-named judges being as great lawyers as ever sat upon the Bench, and I think no one would compare Mr. Justice Best with Lord Tenterden, Mr. Justice Bayley, or Mr. Justice Holroyd. When the case was moved to the King's Bench, Lord Tenterden said: "I told the jury that any publication in which our savior was spoken of in the language used in this publication was a libel, and I have no doubt whatever that it is so. I have no doubt it is a libel to publish the words that our savior

was an impostor, a murderer, and a fanatic." Mr. Justice Bayley says: "It appears to me that the direction of the Lord Chief Justice was perfectly right. There cannot be any doubt that a work which does not merely deny the godhead of Jesus Christ, but which states him to have been an impostor and a murderer is at common law a blasphemous libel." Mr. Justice Holroyd says: "I have no doubt whatever that any publication in which Jesus Christ is spoken of in the language used in this work is a blasphemous libel, and that therefore the direction was right in point of law." Mr. Justice Best gives a longer judgment, in somewhat more rhetorical language, but to the same effect; and he concludes: "It is not necessary for me to say whether it be libelous to argue from the scriptures against the divinity of Christ. That is not what the defendant professes to do." Then he says: "The Legislature has never altered the law, nor can it ever do so while the Christian religion is considered to be the basis for that law. There is a case which is often cited as an authority to show that to deny or dispute the truth of Christianity is an offence against the law, because there is a statement that Christianity is part, or ought to be part and parcel of the law of the land. That is the case of the King *v.* Waddington, which is one of the latest which binds me here, and upon which I shall be bound to direct you. I think when you come to consider the cases you will very much doubt whether the old law is open to the strong attacks that have been made upon it. I doubt extremely whether, if you come carefully and quietly to look at and read through—not merely look at—the notes and extracts read from cases, and master the facts of the cases upon which those old decisions were pronounced—I doubt if they will be found to be so illiberal and harsh as it has been the fashion to describe them in modern times. After all, I say as I said before, that Parliament has altered the law on the subject; it is no longer the law that none but holders of the Christian religion can take part in the State, or have rights in the State; but, on the contrary, others have just as much right in civil matters as any member of the Church of England has. The condition of things is no longer the same as it was when those great judges pronounced those judgments which I respectfully think have been misunderstood, and strained to a meaning they do not warrant. It is a comfort to think that things have been altered, because I observe that in the case of the Attorney-General *v.* Pearson, which is a very interesting case, decided in 1817 by Lord Eldon, it seems there was some doubt expressed as to whether the 9th and 10th William the Third as to persons denying the Trinity were still in operation. I do not want to be a defender of old things; they are shocking enough, and under this Act men are prevented

from holding any kind of office if they deny this or that; in short, if he does not hold the Thirty-nine Articles a man is liable to punishment, and after a second offence still more terrible things are to follow. It must be remembered what was the state of the country at the time that statute was passed, who was the king upon the throne, the state of political factions, what were the feelings that not unnaturally agitated men's minds. And regard being had to all that—I am not going to defend it for a moment, I do not say it is to be defended—then it is to be a good deal more explained than at first sight appears. At all events, it is enough to say no man could dream of enacting 9th and 10th William the Third at the present day; and I hope and trust that Lord Eldon's doubts as to whether some parts of these are still in existence will never be brought to a solution in a court of law which says they are well founded. Such are the rules by which you are to judge of these libels. You have heard a great deal—and here is the least pleasant part of my duty, which I wish I could avoid—you have heard a great deal very powerfully put to you by Mr. Foote, about the inexpediency of these laws, and the way these laws are worked. It might, perhaps, be enough to say that is a matter with which you and I have nothing to do. What we have to do is simply to administer the law as we find it; and if we find the law such as we don't like, the only thing to do is to try to get it altered, and in a free country, after discussion, public agitation, and excitement, a change is always effected, if it approves itself to the general sense of the community. But there is no doubt it has been very well put to you, and it is worth observation that there is a good deal to be said for the view Mr. Foote has so ably put forward. It is true if this movement is to be regarded as persecution, it is perfectly true—unless persecution is thorough-going—it seldom succeeds. Mere irritation, mere annoyance, mere punishment that stops short of extermination, have very seldom the effect of altering men's religious convictions. I suppose—because they are passed away—I suppose that, quite without one fragment of rhetorical exaggeration, I may say that the penal laws, which fifty or sixty years ago were enforced in Ireland, were unparalleled in the history of the world. They had existed 150 years; they had produced upon the religious convictions of the people absolutely no effect whatever. You could not exterminate the Irish people. You did everything that was possible by law, short of actual violence and extermination, but without the slightest effect. And, therefore, there is no doubt that the observation is a correct one, that persecution, as a general rule, unless it is more thorough-going, than, at any rate, in England, and in the nineteenth century, anybody would stand—is, generally speaking, of little avail. It is also true—and I cannot help assenting to it—

that it is a very easy form of virtue. A difficult form of virtue is quietly and unostentatiously to obey what you believe to be god's will in your own lives. It is not very easy to do that and if you do it, you don't make much noise in the world. It is very easy to turn upon somebody who differs from you, and in the guise of zeal for god's honor, to attack somebody who differs from you in point of opinion, but whose life will be very much more pleasing to god, whom you profess to honor, than your own. When it is done by persons whose own lives are full of pretending to be better than their neighbors, and who take that particular form of zeal for god which consists in putting the criminal law in force against somebody else—that does not, in many people's minds, create a sympathy with the prosecutor, but rather with the defendant. There is no doubt that will be so; and if they should be men—I don't know anything about these persons—but if they should be men who enjoy the wit of Voltaire, and who do not turn away from the sneer of Gibbon, but rather relish the irony of Hume—one's feelings do not go quite with the prosecutor, but one's feelings are rather apt to sympathise with the defendants. It is still worse if the person who takes this course takes it not from a kind of rough notion that god wants his assistance, and that he can give it—less on his own account than by prosecuting others—or if it is mixed up with anything of a partisan or political nature, then it is impossible that anything can be more foreign from one's notions of what is high-minded, religious, and noble. Indeed, I must say it strikes me that anyone who would do that not for the honor of god, but for his own purposes, is entitled to the most disdainful disapprobation that the human mind can form. However, the question here is not with the motives—of which I know nothing—nor with the character, of which I know less, of the prosecutors, or those who instituted these proceedings, but with the proceedings themselves, and whether they are legal. The way in which that matter has been dealt with by Mr. Foote is extremely able and well worthy of your attention; and it is for you to say, after a few words from me, what effect it produces upon your minds. Mr. Foote's case is, as I understand it, this—he will forgive me if I do not quite state it accurately: “I am not going to maintain that this is in the best taste; some of it may be coarse, some of it may to men of education give offence. It is intended to be an attack on Christianity; it is distinctly intended to be an attack on what I have seen in the publications of cultivated agnosticism. It is meant to point out that in the books, which you Christians and professing Christians call sacred, are to be found records of detestable crimes, of horrible cruelties, all of which are said to have been pleasing to almighty god. I do mean to attack this representation of god. I mean to say all that is not true; I say it.

is a detestable superstition. I mean it, and if I have said it in coarse language, that is because (though he need not have said this) I have not sufficient education or culture to cull my words carefully; but I will bring before you a number of books, sold upon every bookstall, written by persons admitted to the very highest society in the land, in which not only are the same things to be found, in point of matter, but I will read you passages in which there is very little difference between the matter and the manner, and I will read you, for example, passages from Mr. John Stuart Mill, Mr. Grote, passages from Shelley, and from other persons. I mention those who are dead so as not to wound the feelings of any. Nobody ever dreamed of attacking Shelley (that is not quite correct, for the publisher was prosecuted, and he himself was deprived by Lord Eldon of the custody of his children). I will show you, says the defendant, things written by them quite as strong and as coarse as anything to be found in these publications of mine; and, says Mr. Foote, it is plain the law cannot be as suggested, because it cannot be said that a poor man can not do what a rich man may; it cannot be said you may blaspheme in civil language. And more than that, he says, "I will show you that the manner of some of these publications is no better than mine." Let me say upon that subject two things; one is in Mr. Foote's favor and one is against him. He wished strongly to have brought to your minds that in the sense in which Starkie used the words—that is the ordinary sense of the word licentious—Mr. Foote is anxious to have it impressed on you that he is not a licentious writer, and that this word does not fairly apply to his publications. You will have the documents before you, and you must judge for yourselves. I should say that he is right. He may be blasphemous, but he certainly is not licentious, in the ordinary sense of the word; and you do not find him pandering to the bad passions of mankind. That is a thing in his favor, and is entitled to be said. With regard to the other point, if the law as I have laid it down to you is correct, so far as the decencies of controversies are observed—as far as I can see, it always has been the law, and certainly I lay down as law to you now—that if decencies of controversy are observed, even the fundamentals of religion may be attacked without a person being guilty of blasphemous libels. There may be many great and grave writers who have attacked the foundations of Christianity. Mr. Mill, undoubtedly, did so, and some great living writers may also have attacked Christianity; but no one can read these articles without seeing a difference between them and the incriminated publications which I am obliged to say is not a difference of degree but of kind. There is a grave, earnest, reverent—perhaps I may say religious—tone about the

very attacks upon Christianity itself, which show that what is aimed at is not insult to the opinions of the majority of mankind, or the holders of Christianity, but a real, quiet, earnest pursuit of the truth. If the truth at which they have arrived is not the truth we have been taught, and which, perhaps, if we thought for ourselves we should arrive at, yet because their conclusions differ from ours, they are not to be the subject matter of a criminal indictment. Therefore with regard to many of the people whose writings have been very properly brought before you by Mr. Foote—with regard to many of those persons I should say they are within the protection of the law and are well within the authority of the passage I have read to you, and which I remind you of, as containing my judgment. With regard to some of the others from whom Mr. Foote quoted passages, I heard many of them for the first time. I do not at all question that Mr. Foote read them correctly. They are passages which, hearing them only from him for the first time, I confess I have a difficulty in distinguishing from the incriminated publication. They do appear to me to be open to exactly the same charge and the same grounds of observation that Mr. Foote's publications are. He says—and I don't call upon him to prove it, I am quite willing to take his word—he says many of these things are written in expensive books, published by publishers of known eminence, and that they circulate in the drawing-rooms, studies, and libraries of persons of position. It may be so. All I can say here is—and so far I can answer for myself—I would make no distinction between Mr. Foote and anybody else; and if there are persons, however eminent they may be, who used language, not fairly distinguishable from that used by Mr. Foote, and if they are ever brought before me—which I hope they never may be, for a more troublesome or disagreeable business can never be inflicted upon me—if they come before me, so far as my poor powers go, they shall have neither more nor less than the justice I am trying to do to Mr. Foote; and if they offend the Blasphemy Laws they shall find that so long as these laws exist—whatever I may think about their wisdom—they will have but one rule of law laid down in this court. That Mr. Foote may depend upon, and I admit, as far as I can judge, some of them, that they are strong, shall I say coarse expressions of contempt and hatred for the recognised—generally recognised—truths as we take or have accepted them of Christianity, and of the Hebrew Scriptures, which are said to have been inspired of god himself. Mr. Foote must however forgive me for saying that that is no argument in his favor. It is no argument for a burglar—I mean nothing offensive to him—I should be unworthy of my position if I insulted anyone in his position—it is no argument in favor of a

burglar to say that some other person has committed a burglary. Because some persons may have escaped, in the infinite variety of human affairs, that is no reason why others should not be brought to justice. If he is right in his quotations from these writers, it appears to me they are fairly subject matter of such a prosecution as this. Suppose they are, it does not show that he is not. What Mr. Foote had to show—which he did to the best of his ability, and it is not his fault if the law is against him—what he had to show was, not that other people were bad, but that he was good; not that other persons were guilty, but that he was innocent. And it is no answer to bring forward these cases, some of which I confess I cannot distinguish from some of these incriminated articles. It is not enough to say these persons have done these things if they are not brought before us. I not only admit, but I urge upon you, and everybody who hears my opinion, that whilst laxity in the administration of the law is bad, the most odious is the discriminating laxity, which lays hold of particular persons and does not lay hold of others liable to the same censure. That may be, and is so, but it has nothing to do with this case. The case is here, not whether other persons ought to be standing where Mr. Foote and Mr. Ramsey stand, but what judgment you ought to pass upon them. We have to administer this law, whether we like it or not. It is, undoubtedly, a disagreeable law, but I have given you reasons for thinking it is not quite so bad, or quite so indefensible, as Mr. Foote, from his point of view, thinks it is. On the contrary, I think it is a just law that persons should be obliged to respect the feelings and opinions of those amongst them. I assent to the passage of Michaelis, that in a Catholic country we have no right to insult Catholic opinion, nor in a Mahomedan country have we any right to insult Mahomedan opinion. I differ from both, but I should feel that I was bound to treat with respect opinions with which I might not agree. You will see these publications, and if you think they are permissible attacks upon the religion of the country you will find the defendants Not Guilty; but if you think that they do not come within the most liberal and the largest view that anyone can give of the law as it exists now, as I have laid it down to you, then, whatever may be the consequences, and however little you may think the prosecution wise, or however little you may think the thing itself desirable, however little you may think any kind of publication should ever be made subject matter of attack, yet it is your duty to administer the law as you find it, not to strain it in Mr. Foote's favor because you think he ought not to be prosecuted, still less to strain it against the defendants because you may yourselves not agree with the sentiments which they advocate, as you certainly are not likely to agree with the manner in which they

advocate them. Take these libels into your consideration and say whether you find Mr. Foote or Mr. Ramsey Guilty or Not Guilty of the publication.

Mr. Maloney: Would your lordship give the jury the papers?

Lord Coleridge: I beg your pardon, there are some cartoons that are offensive. Mr. Foote's excuse is that they are not attacks upon, and not intended to be a caricature of almighty god. If there be such a being, says Mr. Foote, he can have no feeling for him but a profound reverence and awe, but this is his mode of holding up to contempt what he calls a caricature of that being as it appears in the Hebrew scriptures. That is for you to try. You must look at them and judge for yourselves whether they do or do not come within the law.

On the conclusion of the summing-up which occupied an hour and forty-five minutes, at twenty minutes past twelve o'clock the jury retired to consider their verdict, taking with them the incriminated publications.

Shortly before two o'clock, Lord Coleridge, who had received a communication from the jury, said: I have been informed that they are not able to agree to a verdict, and I ought to be at Westminster to meet the Lord Chancellor and the judges who are members of the Rule Committee. Indeed I ought to have been there at ten o'clock this morning, but I was anxious to dispose of this case. The jury inform me that there is no prospect of an agreement, but perhaps they have not been long enough in consultation to be able to say that it is impossible that they should come to an agreement. I have spoken to Mr. Serle, my associate, and I have mentioned an hour at which the jury, in the event of their not being able to agree, shall be discharged. What do you propose to do, Mr. Maloney if they should disagree?

Mr. Maloney: I should like, my lord, to consult with Sir Hardinge Giffard as to that, and let the case stand on the list.

Lord Coleridge: Is he in the building?

Mr. Maloney: Within the next quarter of an hour I will see him. My own desire is that the case should stand in the list for trial at the next sittings.

Lord Coleridge: Why at the next sittings? Why should I postpone it?

Mr. Maloney: I merely say that, my lord, for the convenience of all parties.

Mr. Avory: On behalf of the defendants my lord, I have to say that I do not desire it to be postponed, and would prefer if it is to be tried again, that it should be tried without further delay.

Lord Coleridge: I have already intimated that is my view. In case the jury disagree, Mr. Maloney, you must be ready with your answer to-morrow morning, as to what course you intend to pursue.

Mr. Maloney: In the case of Mr. Bradlaugh, your lordship allowed the jury to have the prints.

Lord Coleridge: They have got them.

Mr. Maloney: I beg your lordship's pardon, I was not aware of that.

Lord Coleridge: Supposing that there should be a verdict of Guilty, I would pass sentence to-morrow morning. Supposing there should be a verdict of Not Guilty, it is not necessary to consider the matter further. Supposing there is a disagreement, I shall want to know in the morning what the prosecution intend to do.

Mr. Maloney: I shall try to find out before half-an-hour what Sir Hardinge Giffard intends to do.

Lord Coleridge: I cannot stay; I ought to have been at Westminster at ten o'clock.

Mr. Avory: If there should be a verdict of Guilty, I should move for an arrest of judgment.

Lord Coleridge: That would be very improper.

Mr. Maloney: If there should be a verdict of Guilty and your lordship proposes to sentence to-morrow morning, I should be prepared on the part of the prosecution to say that they desire to have a lenient view taken of this particular case.

Lord Coleridge: If they are found guilty of it, the defendants must appear to-morrow morning before me. If you think it is in the interests of your clients to raise that then, you may do so.

Mr. Maloney: Very well, my lord.

Lord Coleridge then retired.

At three minutes past five the jury came into court, when, the Associate addressing them said:

Gentlemen of the jury, are you agreed?

The Foreman: No.

The Associate: Then gentlemen of the jury you are discharged, but I must ask you to attend on Saturday at half-past ten in case you are wanted.

THIRD DAY.

At the sitting of the Court this morning (Thursday), Mr. Foote and Mr. Ramsey, coming down again in the custody of

the Governor of Holloway Gaol, were present by the direction of his lordship given on the previous day, in the event of the jury disagreeing in their verdict. This, as will be seen from our report of yesterday's proceedings, they did, and they were then discharged.

On the Associate calling over the case of the Queen against Ramsey and Foote,

The Lord Chief Justice, addressing Sir Hardinge Giffard, said: Sir Hardinge, what course do you propose to take?

Sir Hardinge Giffard: My lord, if your lordship desires that this case should go on now, I am ready to go on now.

Lord Coleridge: Just as you please.

Mr. Foote: My lord, I respectfully beg your lordship's indulgence. I am not practically prepared to defend myself now. I didn't know how much prison diet and confinement had weakened me, until I had to make an effort for my defence the day before yesterday, and the Governor of the Gaol can inform your lordship how physically prostrated I was after it.

Lord Coleridge: I have just been informed, and I hardly knew it before, what such imprisonment as yours means, and what in the form it has been inflicted upon you it must mean; but now that I do know of it, I will take care that the proper authorities know of it also and I will see that you have proper support.

Mr. Foote: Thank you, my lord.

Sir Hardinge Giffard: Will next week suit your lordship to take this case? Of course I am quite in your lordship's hands.

Mr. Foote: Could your lordship take the case next Tuesday?

Lord Coleridge: Yes, I think I can if that will suit you. It is so entirely unusual to pursue a case in this way that I will do anything you wish.

Mr. Foote: Thank you, my lord. If your lordship would fix it for that day it would suit us.

Lord Coleridge: Very well.

Mr. Foote: If your lordship pleases—

Sir Hardinge Giffard: After your lordship gives that opinion, I should certainly feel it my duty to recommend my client to acquiesce in anything your lordship should suggest.

Lord Coleridge: It is extremely unusual when a conviction has been obtained upon substantially the same sort of thing to go on with another prosecution.

Sir Hardinge Giffard: Your lordship knows that this is another indictment.

Lord Coleridge: I am perfectly aware of that.

Sir H. Giffard : And that the indictment contains different libels.

Lord Coleridge : I am aware of that, too.

Sir Hardinge Giffard : The second indictment, your lordship will remember, was preferred against the defendants by the Corporation of the City of London.

Lord Coleridge : I am quite aware of that, and I am also aware that they were different subject matters. That is the reason I said the same sort of thing.

Sir Hardinge Giffard : This is the earliest in point of date.

Lord Coleridge : Yes, I know.

Sir Hardinge Giffard : I only want your lordship to have the facts before you. Anything your lordship suggests I will advise my client to accede to.

Lord Coleridge : I have acted upon one rule throughout the whole of this case. In any other case I might have said a great deal, but in this I decline to make the slightest suggestion of any kind or description. I must leave it entirely in the hands of the prosecution on their own responsibility. But as I have had information from the highest source—the Governor of the Gaol—that Mr. Foote is physically suffering from the prison discipline (the Governor of the Gaol cannot help it); but as Mr. Foote is physically suffering from it, I will certainly do all I can to put him in a physical position to defend himself, and I will take the defence whenever he pleases.

Sir Hardinge Giffard : After what your lordship has said I quite acquiesce in the adjournment until Tuesday, and in the meantime I will consult those who have instituted this prosecution, for what they believe to be right and proper purposes, and I will take their direction as to what shall be done, and then ask them to take into account the imprisonment of the defendants and the disagreement of the jury. I have no doubt all that will be fully considered by those for whom I act.

Lord Coleridge : As I said yesterday—and I don't say it satirically—the names of the parties who have instituted these proceedings are unknown to me, and of their motives and character I am absolutely ignorant.

Sir Hardinge Giffard : If it should be determined not to go on with this prosecution, probably it would be unnecessary that the defendants should be brought here again, because in that event notice would be given, and the bringing up of the defendants from the gaol be unnecessary?

Lord Coleridge : As you please about that. At any rate, it can stand for the present, and the case be taken on Tuesday. Does that suit you?

Mr. Foote: Yes, my lord. As the trial in that case is a matter of contingency, I would ask your lordship to direct the Governor of the Gaol to allow us proper food in the interval.

Lord Coleridge: I believe I have no authority over the Governor of the Gaol. Let me do him the justice to say if it had not been for his communication, I should not have known that you were suffering from what he is obliged to do by law. He is a minister of the law.

Mr. Foote: Quite so, my lord.

Lord Coleridge: If there is any difficulty about it, I will take care that the Home Secretary or the Prison Inspectors, or whoever are the proper authorities, shall know of this, if there is any difficulty in the way.

Mr. Foote: Thank you, my lord. I am quite content to leave it there.

Lord Coleridge (addressing the Governor of the Gaol) said: You will understand that the same facilities are to be continued to Mr. Foote and Mr. Ramsey for preparing their defence, as I ordered before.

The defendants then left the court in custody, after shaking hands with numerous friends who crowded round.

It is only fair to the Governor of Holloway Gaol to say that owing to his kindness, Mr. Foote and Mr. Ramsey appeared in court in their ordinary dress instead of the prison garb.

APPLICATION FOR A *NOLLE PROSEQUI*
TO BE ENTERED.

[Before the LORD CHIEF JUSTICE, on Saturday, April 28th.]

Mr. Maloney said: Will your lordship allow me to mention the case of the Queen *v.* Foote and Ramsey? What occurred on Wednesday was communicated to the prosecutor, and he has accordingly informed those who act for him—Sir H. Giffard and myself—to state to your lordship that it is his desire that a *nolle prosequi* should be entered against the defendants Foote and Ramsey.

Lord Coleridge: I cannot do that; it is for the Attorney-General to do it.

Mr. Maloney: It is our intention to apply to the Attorney-General for his permission.

Lord Coleridge: The Attorney-General must do it for himself.

Mr. Maloney: The prosecution will apply to him to enter a *nolle prosequi*, and whatever steps may be necessary for that end will be taken.

Lord Coleridge: You must not assume that he will do it. As I have always understood when the Attorney-General does this, he takes upon himself a certain responsibility. I did it myself once or twice when I was Attorney-General. It is the prerogative of the Attorney-General.

Mr. Maloney: I have made some inquiry at the Crown Office about it.

Lord Coleridge: No doubt it can be done. The Attorney-General can do it if he likes, but you must not assume in a case of this kind that he will release you from the responsibility of going on, or not going on. That is what I mean.

Mr. Maloney: It is intended to make application to the Attorney-General.

Lord Coleridge: I am much obliged to you for telling me this, but I can make no order upon it; therefore the matter must stand until Tuesday. It is impossible to say what the Attorney-General may say as to this. I may say it is not a case in which on behalf of the Crown I will interfere; the

prosecutor must act upon his own responsibility. He can either go on or not, just as he pleases.

Mr. Maloney: If the prosecutor is willing not to go on, I suppose it is optional with him?

Lord Coleridge: I say nothing about it except this; that you put upon the Attorney-General a personal responsibility which he may be willing to accept or not; but that is entirely for him to say.

Mr. Maloney: My instructions are, that the prosecutor wished whatever steps might be necessary to be taken for the withdrawal of the prosecution, should be taken.

Lord Coleridge: That is another matter, if he is willing to appear on Tuesday and offer no evidence.

Mr. Maloney: I think some difficulty might arise out of that, because it might lead to the supposition that the papers charged in the indictment were not blasphemous, and lead to their being re-published again.

Lord Coleridge: I only point out that when you tell me that you assume on the part of a great public functionary that he will take the responsibility, it is by no means certain that he will accept it. If he likes to take it, by all means let it be so; but I only point out to you that you must not assume he will do it as a matter of course, and so relieve you from a responsibility which at present lies upon you. That is all I mean—he may not take the responsibility.

Mr. Maloney: I thought it right that I should mention it to your lordship at the earliest possible moment.

Lord Coleridge: You are quite right to do so; the case must stand in the paper for Tuesday morning.

Mr. Maloney: Very well, my lord.

ABANDONMENT OF THE PROSECUTION.

In the Court of Queen's Bench on Tuesday, May 1st, before Lord Coleridge, the Lord Chief Justice of England, on the case of the Queen *v.* Ramsey and Foote being called,

Mr. Maloney (in the absence of his leader, Sir Hardinge Giffard, Q.C.) said: After mentioning this case to your lordship on Saturday a petition was drawn up and lodged with the Attorney-General yesterday morning, for a *nolle prosequi* on behalf of the prosecutor, and this very instant the Attorney-General's clerk has handed in his fiat granting a *nolle prosequi*.

Lord Chief Justice: Very well; you must let me see it, please.

Mr. Maloney (handing the fiat to the Lord Chief Justice): Your lordship sees the petition.

Lord Coleridge (after reading the fiat) said: I have said not a word about this being inadvisable, not one single syllable. The statement in this petition is absolutely inaccurate. That I have intimated in the slightest manner whether it was advisable, or the contrary, is absolutely untrue. I took particular care to leave the responsibility with the prosecutor, and I have intimated not a word as to whether it was advisable or not to go on. I find the petitioner states that I thought it was inadvisable to proceed. I said nothing of the sort.

Mr. Maloney: I don't remember, my lord.

Lord Coleridge: I took particular care not to say anything at all, one way or the other.

Mr. Maloney: Will your lordship allow me to read the words?

Lord Coleridge: Do you mean to say the word "inadvisable" is not there? If it is not you may contradict me.

Mr. Maloney: No, my lord, I don't mean to say that.

Lord Coleridge: Then I don't understand your application. I take exception to one word, which is utterly inaccurate. If that word is not there, contradict me in what I say. I have nothing further to do of course, if the Attorney-General has entered a *nolle prosequi*. I cannot have anything further to do. I don't know exactly what is done in these

cases. I shall, of course, not think of going on with the case. After the Attorney-General has entered a *nolle prosequi* there is an end to the case as far as I am concerned. Something, however, must be done.

Mr. Maloney: The usual course, my lord, is for the Queen's Coroner to draw up a *nolle prosequi*, and to enter it upon the record. That is as I understand the practice. That fiat is the Attorney-General's authority to the Crown to act, and it is lodged at the Crown Office.

Lord Coleridge: The Crown Office doesn't open until eleven, and, technically speaking, I cannot proceed for ten minutes, (it was ten minutes to eleven). Of course, under these circumstances, I should not think of proceeding. You will undertake to see that this is done now, Mr. Maloney?

Mr. Maloney: Yes, my lord.

Lord Coleridge: Under those circumstances I have nothing further to do than to call the next case.

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