

NATIONAL SECULAR SOCIETY

# Verbatim Report

OF THE

## TWO TRIALS

OF

G. W. FOOTE,  
W. J. RAMSEY AND H. A. KEMP,

FOR

Blasphemous Libel in the Christmas Number  
of the "Freethinker."

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*Held at the OLD BAILEY on Thursday, March 1st, and on  
Monday, March 5th, 1883,*

Before Mr. Justice North and Two Common Juries.

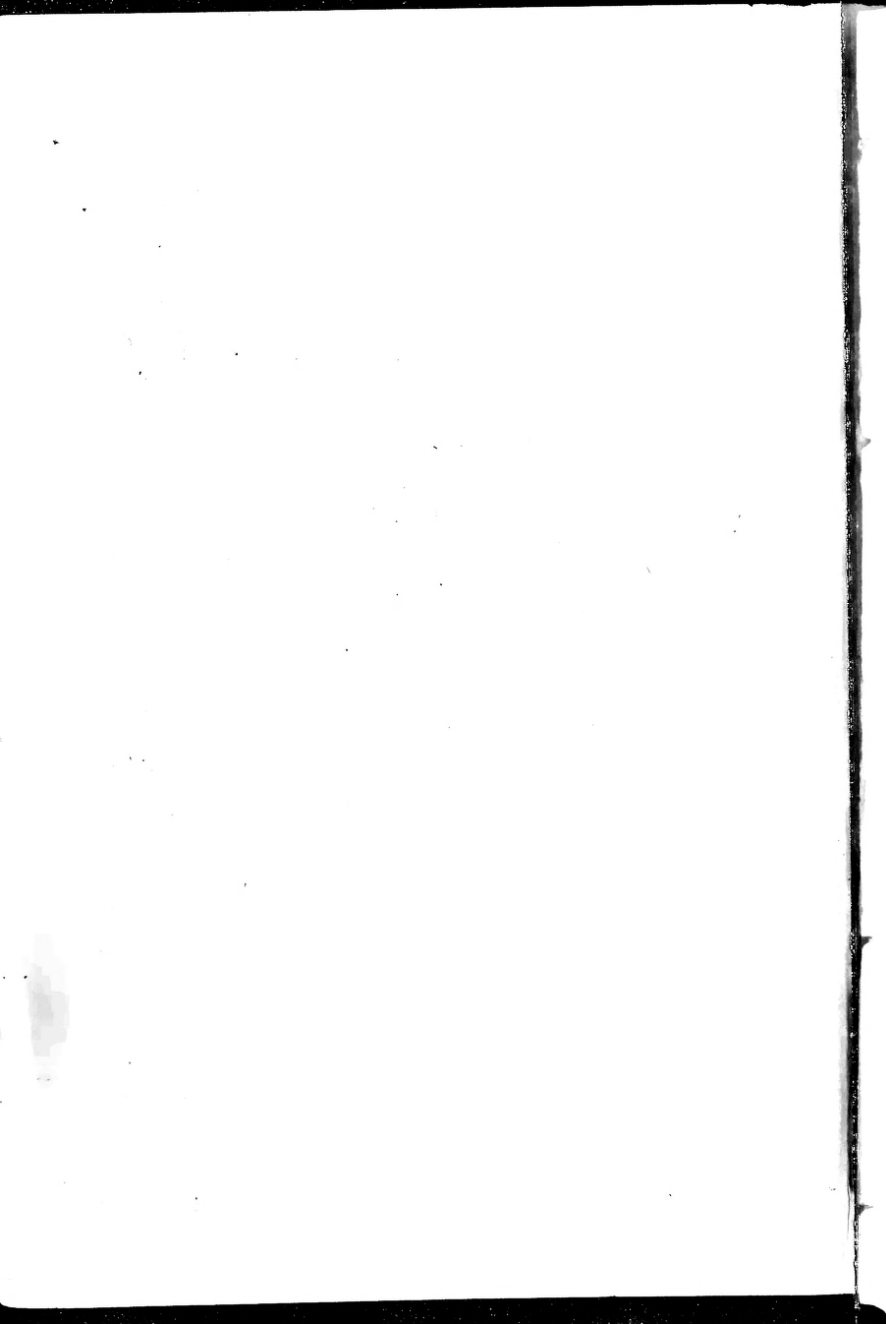
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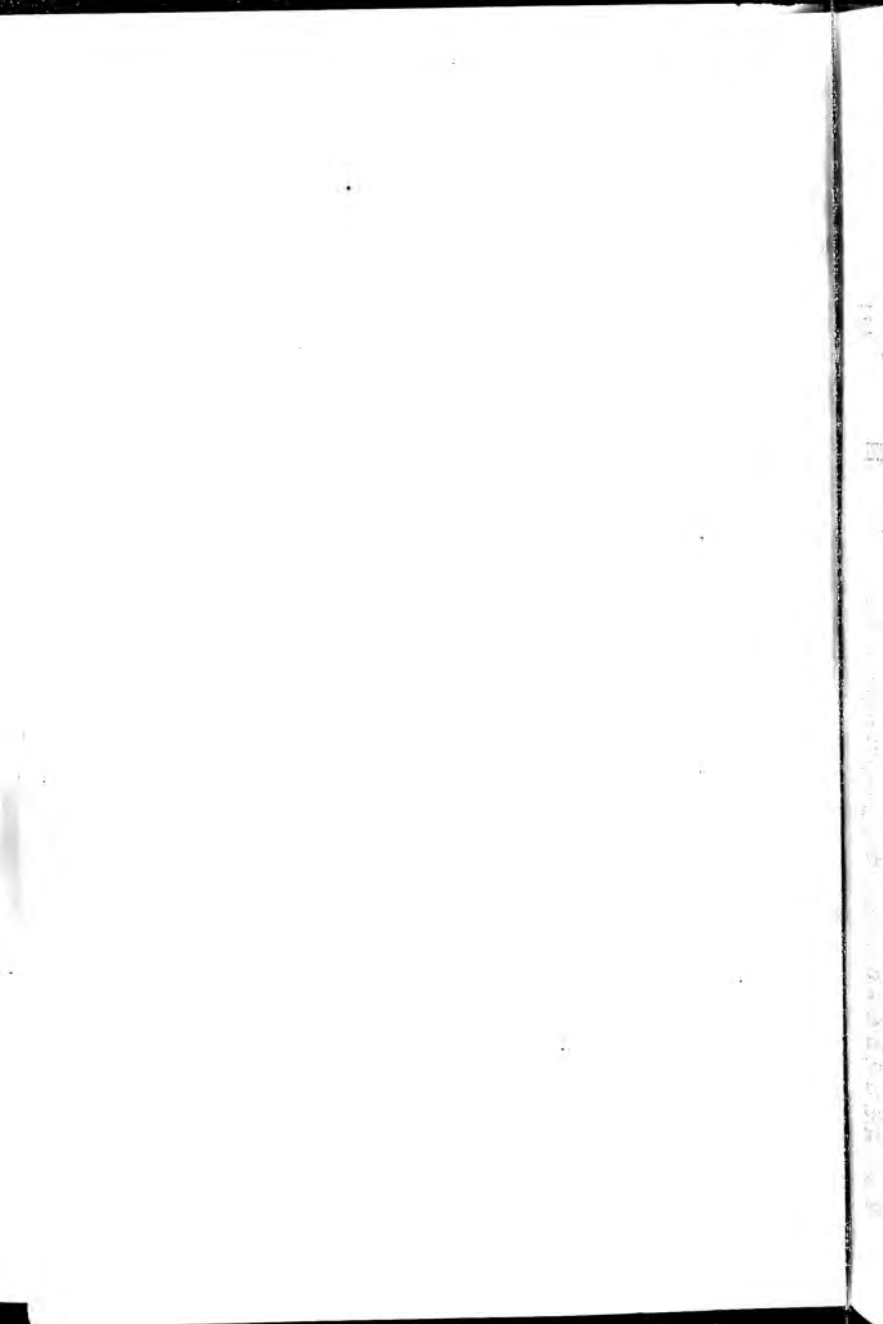
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# THE "FREETHINKER" CHRISTMAS NUMBER PROSECUTION.

CENTRAL CRIMINAL COURT, OLD BAILEY.  
THURSDAY, MARCH 1ST, 1883.

*(Before Mr. Justice North and a Common Jury.)*

GEORGE WILLIAM FOOTE, the editor; W. J. Ramsey, proprietor; and Henry Arthur Kemp, printer and publisher, surrendered to their bail to answer a charge of having published a blasphemous libel in the "Freethinker," the indictment being grounded on matter found in the columns of the Christmas Number of that journal.

Sir Hardinge Giffard, Q.C., Mr. Poland, and Mr. H. Lewis, instructed by Sir H. T. Nelson (the City Solicitor), on behalf of the Public Prosecutor, conducted the prosecution; Mr. Horace Avory appeared for Kemp, and Foote and Ramsey were unrepresented.

Sir Hardinge Giffard, in opening the case for the prosecution said that the defendants were indicted for the offence of blasphemy, and happily, prosecutions of that character were rare in this country. The offence of blasphemy consisted in, among other things, making contumelious or disrespectful reproaches against the Christian religion or the Holy Scriptures. By the law of this country Christianity was part of our common law, and, whatever people's private feelings might be, the publication of gross and violent attacks upon the Christian religion, insulting as they were to the feelings of a Christian community, was a matter which when it reached a certain point it was absolutely necessary to repress. It was said, and he dare say very often truly said, that the dragging into the light of publications of a blasphemous or indecent character sometimes did mischief by attracting public attention to that which would otherwise pass unnoticed. That observation was, however, subject to this exception, that if the

## *Report of Blasphemy Trials.*

nature or publication was such that it grieved and insulted the feelings of the community ; if, for instance, in a shop-window in a public thoroughfare, things were exhibited to every young and innocent mind which ridiculed what they had been taught from their earliest years to regard with the utmost reverence, it was the duty of the authorities to take action to put a stop to such publication. In so doing, they did not drag into light subjects which but for the interference would have remained in obscurity. On the other hand, they drove at all events from the public thoroughfares and from the public notice things which when displayed in shop-windows would necessarily attract a crowd. The authorities were either compelled to allow so great an outrage to public decency to continue, or they were called upon to vindicate the law. A great deal also must depend not only on the mode of publication, but also on the nature of the publication itself. There were some things—some doubts set forth in books and directed against the reverence which the law regarded as part of the law of the country, but which, nevertheless, were so expressed as to form no insult to those who thought differently. Doubts on many points—or many theological tenets—had of course occupied the minds of men for more than 1800 years, and so long as doubts of this description were expressed with due regard to the feelings of others, and without the intention of outrage and insult, he would be a very rash person indeed, who would think to drag into a criminal court disquisitions conceived in such a spirit, even although they might be adverse to the views which the great majority of Christian people entertained. Of course, whenever an outrage of the present character was the subject matter of complaint, it was common to hear observations directed to the supposed liberty of discussion, freedom of press and so forth. These were very plausible words to make use of, but when he called the attention of the jury to the nature of these publications, they would probably be of opinion that, quite apart from any question of theological difference, quite apart from any honest doubts people might entertain, those who were guilty of so great an outrage of public decency had no right to appeal to such topics as freedom of the press or liberty of discussion. The point to which he should have to direct the attention of the jury, was the outrage that had been committed on the feelings of a Christian community. When he said this, it was undoubtedly a fact that it had been found necessary, for instance, in our great Indian dominions, where Christianity was by no means the creed of the majority of the population, to protect the freedom of conscience, and the right of every man to hold his own faith by making criminal offenders of those who for outrage and insult thought it necessary to issue contumelious or scornful publications concerning any religious sect, though not a

Christian sect. Probably their own feelings of what was right, and of what was due to the real freedom of mankind, would teach them that people should be allowed to hold their own views and to strenuously fight for them, but it was no part of the freedom of every man to insult, and revile, and hold up to ridicule everything which other people held in reverence. He had thought it right to make these observations, because it seemed to him a prostitution of great names to bear the titles of freedom of the press and liberty of discussion made use of when he had to call attention to such ribaldry as was contained in the present publication. He would not read, nor did he think it at all desirable that he should describe what that publication was. They would have it in their own hands and would form their own judgment on it. He certainly would not be a party publicly to describe the sort of thing that he had before him at that moment. This was the Christmas Number of the "Freethinker." To make the Christmas Number appropriate, he presumed, to the season, the composers of this publication had thought it right to have a series of pictures respecting incidents in the life of our Lord and Savior. To say that they were caricatures would be an inadequate statement. Each incident, round some of which clustered the most awful mysteries of the Christian faith, formed the subject of the grossest and most degrading caricature. The Almighty himself was the subject matter of one of these pictures, and accompanied with them was letter-press, including a ribald song or poem so gross and outrageous in its character, that beyond calling the attention of the jury to it he would not outrage public decency by referring to it. Each and all of these matters were intended to insult and grieve the conscience of every man who was a Christian—nay, he would say any sincere worshipper of the great God above us, whatever form of belief he might hold. This was the object and intention of the paper of this character. If the subject matters of the indictment were not libels, he did not know what could be, for no indecency or outrage in language or picture could exceed the violence of this publication. The learned counsel then proceeded to describe the evidence he intended to produce, observing in conclusion that if the paper did not speak for itself, as to the hideous and outrageous blasphemy of its contents, he could only say that no such offence could be known to the law.

Evidence was then called in support of the prosecution.

Robert Sagar, a constable in the City of London Police Force, stated that on the 16th of last December he went to the bookseller's shop at 28 Stonecutter Street, Farringdon Road, and purchased two copies (produced) of the Christmas Number of the "Freethinker." The defendant Kemp was serving in the shop and received sixpence from him in payment for the two

copies. On the 20th of January he purchased two more copies at the shop from the defendant Kemp, and on January 31st he again saw him behind the counter.

Mr. Poland said that the numbers produced were entitled Christmas Number of the "Freethinker," and were stated on the title-page to be "edited by G. W. Foote." On the back sheet was an advertisement of Mr. Foote's publications. At the end of the book it was stated to be printed and published by H. A. Kemp, 28 Stonecutter Street, Farringdon Street, London, E.C. He put in the certificate of registration of the "Freethinker," from which it appeared that the name of the proprietor was given as W. J. Ramsey, and the signature was that of H. A. Kemp, and the date of the signature being July 31st, 1882.

In cross-examination by Mr. Avory, Sagar stated that he saw a number of books and other publications in the shop besides the "Freethinker."

John Lowe, collector of rates for the parish of St. Brides, stated that on the 7th of November he received a cheque signed by Mr. W. J. Ramsey, in payment of a rate of £2 1s. 3d., in respect of 28 Stonecutter Street.

W. G. Mitchell, cashier in the Birkbeck Bank, proved that the cheque in question had been duly debited to Mr. Ramsey's account.

William John Norrish, of 20 Fowler Street, Camberwell, who made affirmation instead of taking the oath, said that he lived for five years at 28 Stonecutter Street, and up to the time when he left in October last, it was the office of the Freethought Publishing Company. That Company had, however, removed to Fleet Street at the end of September. Witness was Mr. Bradlaugh's servant while at Stonecutter Street. Mr. Ramsey was manager of the Freethought Publishing Company, but witness was not aware that the "Freethinker" was at that time published at the shop in Stonecutter Street. The name of the publication was not painted up over the door at the time he left, although it was there now. The defendant Kemp was not employed there at the time, but he went there occasionally, and witness had seen him there since; Mr. Foote also used to look in occasionally.

In cross-examination by Mr. Avory, witness said that while he was employed at Stonecutter Street there was no printing press nor were there any facilities for printing a newspaper there, and no printing was done on the premises.

By Mr. Foote: Mr. Foote did not call often, and witness never saw him transact any business there.

James Barber, assistant registrar of newspapers, stated that the last registration of the "Freethinker" related to a change

of proprietorship—Mr. Foote becoming proprietor in place of Mr. Ramsey. This was on the 7th of February last.

William Oakhampstead, detective of the City of London Police Force, produced a copy of the "Freethinker," bought by him of Mr. Kemp, at 28 Stonecutter Street, on the 16th of February, in which appeared a notice stating that, although the Christmas Number had had a very large sale, the conductors were several pounds out of pocket by it.

Sir H. Giffard pointed out that this notice appeared after the proprietorship of the paper was transferred to Mr. Foote.

John Edward Kellan, of 19 East Street, D'Oyley Square, solicitor's clerk, produced several copies of the "Freethinker," purchased by him at the office in Stonecutter Street, at various times. He went there principally in May and June last, and he had seen all the defendants there. All the copies bore the notice "edited by G. W. Foote," and "printed and published by G. W. Ramsay, 28 Stonecutter Street." There was also a notice to correspondents directing that all business communications should be directed to Mr. W. J. Ramsey, 28 Stonecutter Street, and literary communications to the editor, Mr. G. W. Foote, 9 South Crescent, Bedford Square, W.C. In July last at the Mansion House witness gave evidence, and the attention of Messrs. Foote and Ramsay, who were then defendants, was called to these notices. Witness saw Mr. Foote at the shop on the 16th of February.

By Mr. Foote: Witness had only seen Mr. Foote at the office on one occasion—on the 16th of February.

By Mr. Ramsey: The name of Mr. Ramsey did not appear on any of the copies of the "Freethinker" witness had bought since July.

William Loy, City Constable, said he had seen the defendant Kemp in the office in Stonecutter Street every day in the week during the present year, the defendant Ramsey most days, and the defendant Foote occasionally.

Cross-examined by Mr. Foote: How long have you been watching the place? I have been on duty there for the last two years. I have not been watching the place more than others.

You were not instructed to watch it? (No reply.) Were

Further evidence was given by Mr. Foote's landlady and her servant and by two postmen, to show that he had had letters addressed to him at his lodgings as editor of the "Freethinker," but in cross-examination, all these witnesses admitted that they had never seen letters addressed to him as editor of the Christmas Number of the "Freethinker."

This concluded the case for the prosecution.

Mr. Avory said, with reference to the defendant Kemp, he did not think it right to occupy the time of the court by contesting

the fact that the defendant had been at the shop selling these papers. He was bound to accept the definition laid down by his lordship the merest office-boy would be considered a publisher in the eyes of the law, and he would therefore reserve any observation he might have to make.

Mr. Foote: My lord, at this stage of the proceedings, I am going to ask the prosecution to elect against which of the three defendants in this case they will go to the jury. There is no allegation of conspiracy, and no evidence has been presented to the court to support the charge of a joint act. I submit that even if the allegations sought to be proved, were proved—that I am editor of the particular number of the "Freethinker" against which these proceedings are taken, that Mr. Ramsey is the proprietor, and Mr. Kemp is printer and publisher,—still whatever act we have committed would not be a joint offence. There has been no evidence tendered to the effect that any copy of this paper was purchased in the presense of all of us. It is not contended that we ever acted together at one and the same time, in one and the same place. It is not urged that we all three wrote any one of the libels in the indictment; it is not urged that we all three printed; and I submit to your lordship that the offences, if any, are distinct. What I might do as editor of any particular publication, what the defendant Ramsey might do as publisher or proprietor, and what the defendant Kemp might do as printer, or even as shopman, must be considered as entirely distinct matters having no necessary connexion. For instance, I might write an article which might be a blasphemous one. I might hand it to a printer to print. In letting it go out of my hands into the printing-office I might be proved guilty of the offence of blasphemy, and it could not in any way concern the printer. If the printer prints it, he cannot in any way be concerned with any action except one commenced after the article was put into his possession, and which ends after his work is completed. The publisher's act, again, is a different act, in a different place, and can have no necessary connexion with the two previous acts, as a thing might be written, and printed, and not even published. I submit then, your lordship, there is no allegation of conspiracy. As these actions are several, and not joint, it is altogether improper to include the three of us in one indictment, and the prosecution should be called on to elect as to which they will go to the jury on. In support of this I may mention to your lordship the case of the Queen against Bolton and Park, in which the Lord Chief Justice used some language which could scarcely be exceeded in its strength. The reference is in the 12th Cox Criminal Law Cases, p. 87. The Lord Chief Justice there dwelt upon the damage which must necessarily be done to more

than one defendant joined in one indictment, on the ground that evidence which is given against one of the defendants might serve to the detriment of another defendant, while it would not be admissible if the defendants were being tried separately. There have been cases, too, in which, when several defendants have been joined in one indictment, the indictment has been subsequently quashed on this ground. There is the King against Lynn and Debney, 1, Carrington and Payne, 128; and there is also the case of the Queen against Tucker, 4, Burrows 2046. It was held by the court in these cases that the indictment was bad, because the action proved against the co-defendants was not a joint action.

Mr. Justice North: I cannot hear you say now that the indictment ought to be quashed. You should have taken that objection long since.

Mr. Foote: I am not doing so, my lord.

Mr. Justice North: That is the point you are putting to me now.

Mr. Foote: No, my lord. I am very sorry if I have misled your lordship. My point is that on this ground the prosecution should be called on to elect which of us they should go to the jury against. Indeed, in the case of the King against Lynn and Debney, the prosecution was so called on. Of course the object, my lord, is obvious. If the prosecution decline to elect, then we shall have a case for appeal in the Court of Crown Cases Reserved; if, on the other hand, the prosecution do elect, it will greatly diminish the work before the court, and it will not inflict injustice upon co-defendants, who, even if they succeed eventually in their appeal, will have, in the meantime, to undergo imprisonment.

Mr. Ramsey also urged that the prosecution should be called on to elect against which of the defendants they would go to the jury, on the ground that there had been no evidence of a joint offence.

Mr. Justice North: I see no reason for calling on the prosecution.

Mr. Ramsey: I ask your lordship to make a note of this for the consideration of the Court of Crown cases Reserved.

Mr. Justice North: Go on. As regard the note, I have made a note.

Mr. Ramsey: Thank you, my lord.

Mr. Justice North: Do not let my last observation mislead you, Ramsey. I have made a note, but I do not say I have made a note for the consideration of the court.

Mr. Foote: My lord, in my case I submit there is no evidence to go to the jury. To begin, my lord, I will go back to the 7th of February, when according to the evidence given in court,



a change was made in the proprietorship of the "Freethinker." I was then registered as proprietor, but, my lord, I submit that no registration of my proprietorship on the 7th of February could at all prove or even indicate that I was editor of a particular publication bearing whatever title, which according to the indictment it is alleged was published on the 16th of December, nearly two months before. Then, my lord, what does the evidence amount to in general against me? We have the evidence of one or two police officers who say that they have seen me at 28 Stonecutter Street, the place of publication, as it is alleged of this paper, and these police officers admit that my visits have been comparatively few, and that they have been distributed over a considerable space of time. In conjunction with this, we have the evidence of the witness Norrish, to the effect that I have been for years in the habit of occasionally calling at 28 Stonecutter Street, so that whatever there may be in the testimony of the police officers, it is only, so to speak, a continuation of the evidence of Mr. Norrish, and his evidence is that I have called at 28 Stonecutter Street occasionally in a friendly way, but that he has never seen me transact business there. Neither of the police officers say that they have seen me transact business there. Now what is the evidence to go to the jury upon as to the specific publication in which these alleged libels are to be found? I submit, my lord, that if I were proved to have been the editor of every other number bearing the title of the "Freethinker," it would not be proof that I was editor of this specific publication. It is not like a newspaper which runs from day to day, and from week to week. This is a special publication. It might or it might not have been edited by whoever is proved to have been the editor of the ordinary numbers of the paper, and I submit that there has not been the slightest shred of evidence that could connect me with the editorship of this particular Christmas Number, which is before the court. The letter-carriers cannot say that they have ever delivered an envelope directed to me as editor of the Christmas "Freethinker," or as editor of the Christmas Number of the "Freethinker." They cannot even swear that they have delivered letters addressed to me as editor of the "Freethinker" at any time whatever between November 16th and December 16th, during which time it might reasonably be supposed that my editorial work in connexion with the Christmas Number of the "Freethinker" would have been done. Then, my lord, we come to the evidence of the witness Curle. She says that she has seen envelopes addressed to me as editor of the "Freethinker." She also has never seen any envelope addressed to me as editor of the Christmas Number of the "Freethinker." She knows nothing of the Christmas Number. Then we have the evidence



of Mary Finter. She also has never seen any letters which could be connected with this specific publication; and although it is true she says she has seen a copy of the Christmas "Free-thinker" in my room, she also cannot say that there was more than one copy. She admits that she saw in my room papers of all shapes and colors, and therefore it is nothing extraordinary—when according to the prosecution that paper has had an enormous sale—that a man who has in his room papers of all shapes and colors should also have in his room a publication which has attracted so much public attention as this. There is one remark of Sir H. Giffard's which I might refer to. He said there had been no attempt on the part of the defendant Foote to deny that he was in any way responsible for this alleged publication of a blasphemous libel or of any others which had appeared in the numbers of the "Freethinker." But I am not in the witness-box, I am not before this court tendering evidence, and it is not for me to help or in any way suggest lines of argument to the prosecution, or to save them their trouble, which cannot be a very burdensome matter when they have behind them such very powerful friends with such very long purses. It is not for me to make any such statements. I am simply dealing, and I am bound simply to deal, with the evidence of the prosecution—all the evidence which great expenditure of money and a large issue of subpoenas has been able to produce; and I submit that there is no evidence to connect me with this Christmas Number of the "Freethinker," and that even if I had been proved to have edited every other number, it would not be proof sufficient that I had edited this particular number. I lay great stress upon this point, because Sir H. Giffard evidently imagines that an adverse verdict of the jury, if we should have to appeal to them, would entail upon all of us, and upon me in particular, very grave penalties. For this reason I think the court ought to be perfectly satisfied that there is ample evidence to go to the jury upon before deciding that my case should be presented to them. I submit, my lord, that there is no evidence to go the jury upon.

Mr. Justice North: You had better address the jury, Foote; I am of opinion that there is.

Mr. Foote: Does your lordship propose any adjournment?

Mr. Justice North: Presently; not just yet.

Mr. Foote: I may take considerable time.

Mr. Justice North: I do not say that there will not be an adjournment before you finish; but the usual time is half-past one. You had better begin. We will break off at about half-past one, at whatever time will be most convenient to you.

Mr. Foote: My lord and gentlemen of the jury. The case which is before you is one which the learned counsel for the prosecution has described as very grave; and, although in one

sense of the word I might seriously differ from him, I do agree that in another sense of the word the case is grave, because you are asked to give a verdict against me for an alleged blasphemous libel, and both the law and the punishment involved in it have come down from barbarous and illiberal times, and that makes the case all the more grave. I will ask you to divest your minds, if possible, of all prejudice; I will ask you to divest your minds entirely, if it be possible, of all memory of some of the language which was used by the learned counsel for the prosecution. I am prosecuted for blasphemous libel, and in the remainder of my remarks, for brevity's sake, I shall simply use the word blasphemy. The learned counsel used this word once or twice in his opening, but he used the words decency and indecency at least six times as often. I am not prosecuted here on a charge of indecency. I am prosecuted on a charge of blasphemy. I can quite understand that, by substituting the word decency, other associations might be raised and other ideas excited in the minds of the jury, and that while a verdict was asked for on one ground, it might be sought to be snatched on another. I would ask you, therefore, to throw aside the word decency altogether. There is no obscenity alleged. The question before us is one of blasphemy, and I shall have to ask you in the course of my remarks to dismiss from your minds also one or two misstatements of fact that were made by the learned counsel, and one of these I consider it necessary that you should divest your minds of at the present moment. Sir Hardinge Giffard told you that even in India, where there are so many diverse and conflicting sects—and, indeed, the learned counsel might have said with quite as much truth where there were so many diverse and conflicting religions, amongst them being the religion of our own country—that even in India the law had made it a criminal offence, to use contumelious language against the beliefs of others. That is not true. The law relating to the subject in India is simpler and more liberal than that. It does not deal with words or with opinions—it deals with overt acts, and even those acts must be of the nature of obtrusion. The law of India does not make it criminal for a member of one religious sect to use the most contumelious language to a member of the same sect or to any other person on whom he did not voluntarily force himself, with respect to the tenets of any other sect. No, the law of India, which of course is the law therefore of a part of our British Empire, gives the same right to every sect and every religion—unlike the law to which Sir H. Giffard appeals this morning. If you interfere with the religious worship in India of any other sect, if you commit a breach of the peace, not by words but by action, if you desecrate any shrine, or if you make a physical attack upon an idol—in that case the law of India

finds that you are interfering with the religious liberties of all. You have a perfect right, according to the law, to say what you please to people who choose to hear you, and to write what you please to people who choose to read what you write. You have no right to go further and compel people to listen to your contemptuous language, or to see you desecrate what they consider to be sacred. Quite recently in India, as the learned counsel most know, members of a body calling themselves the Salvation Army—with what right I will not now examine—have, under the law of India, been arrested, although they are Christians, and have gone to India for the purpose of converting the natives to what is, according to the learned counsel, the only true religion and the religion of this state; they have been arrested for walking in procession through the streets, on the ground that they were flaunting themselves objectionably before members of other religious persuasions, and that such conduct would naturally lead to a breach of the peace between the contending sects. The law of India, therefore, is not what the learned counsel says it is. If that law were applied to this country, as some day I hope it will be, an action could be brought against a Christian for outraging the feelings of a Freethinker. I will draw your attention, gentlemen of the jury, to a letter which appeared in the *Daily News*, signed by no less a person than Professor Hunter, of the University College, London.

Mr. Justice North: How has that anything to do with the case?

Mr. Foote: I am not going into the letter. I am only going to refer to it as containing a full proof of what I am saying to the jury. I am only dealing with Sir H. Giffard's statement.

Mr. Justice North: I am not going into that statement at all. The jury will not have to consider what the law of India is, but what the law affecting this case is.

Mr. Foote: Then, my lord, I will discontinue my remarks on this point, expressing my regret that the learned counsel should have thought it necessary to occupy the time of the court with it. (Laughter.) The learned counsel for the prosecution told you that all you had to do was to determine the question of publication—that all the rest lay with the learned judge. I submit that that is not so.

Sir H. Giffard: You have quite misunderstood me.

Mr. Justice North: I did not understand you to say that.

Sir H. Giffard: On the contrary, I left both questions to the jury—whether it was blasphemy and whether it was published by the defendants.

Mr. Foote continued: I will ask the gentlemen of the jury to take a copy of an Act passed in the 32nd year of George III., which is an Act dealing with trials for libel. It is entitled "an

Act to remove doubts respecting the functions of juries in cases of libel." The first clause runs thus:—"Whereas doubts have arisen whether on the trial of an indictment or information for the making or publishing any libel, where an issue or issues are joined between the King and the defendant or defendants, on the plea of not guilty pleaded, it be competent to the jury impanelled to try the same to give their verdict upon the whole matter in issue: Be it therefore declared and enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same. that on every such trial, the jury sworn to try the issue may give a general verdict of guilty or not guilty upon the whole matter put in issue upon such indictment or information; and shall not be required or directed, by the Court or Judge before whom such indictment or information shall be tried, to find the defendant or defendants guilty, merely on the proof of the publication by such defendant or defendants of the paper charged to be a libel, and of the sense ascribed to the same in such indictment or information." So, gentlemen, you have practically the decision of this whole matter in your own hands. I ask, my lord, that this Act shall be passed to the jury.

Mr. Justice North: I shall tell them what points they will have to decide.

Mr. Foote: May they not have a copy of the Act, my lord?

Mr. Justice North: No; they will take the law from the directions I give to them; not from reading Acts of Parliament.

Mr. Foote: Gentlemen of the jury, I hope to obtain your verdict of not guilty on much broader grounds than those which have been up to the present indicated. I hope that you will remember that, bound as you are to give no man a reason for your verdict, you are the ultimate court of appeal on all questions affecting the liberty of the press, the right of free speech, and the right of freethought, and that if some old laws which are even now unrepealed, such as laws dealing which excommunicate people, were made the ground of an indictment, you would without hesitation exercise the right which resides in you and give a verdict of Not Guilty, whatever might be the nature of the offence. I have even from the courts of law some justification for this appeal to you, because it is not so very long ago since a London magistrate refused a summons against a citizen under the law of Maintenance on the ground that the law of Maintenance was obsolete. It would be difficult to decide, if such a point were raised, what lapse of time renders a law obsolete, but I will ask you, gentlemen of the jury, to remember that it is more than fifty years since any prosecution for blasphemy took place in the City of London, and more than twenty-five years since any



prosecution for blasphemy took place in the whole of the country. That, in the meantime, attacks on religion have been published, and that some of them have been of a fierce and remorseless character, are facts of which the prosecution must be thoroughly aware. Would such a lapse of time make the law obsolete? It would be difficult to lay down any hard and fast line, but I submit, that if a magistrate has a right to refuse to grant a summons under a certain law, on the ground that such law is obsolete, a jury would have a right to say Not Guilty instead of Guilty, and refuse to send a man to gaol through their verdict, or to cripple him with a heavy fine, when they are equally aware that the law set in motion against him has not been enforced for so many years, and more, they see that men are singled out for prosecution, whose distinctive crime is not that they have used ridicule, even if all the accusations against them were proved—not that they have used sarcasm and irony, because it is well known that ridicule, sarcasm, and irony are used in all controversy, whether religious or otherwise—but simply because their publication is issued in a cheap form which brings it within the reach of the people. Prosecutions of this kind are never commenced against the rich and powerful or against the writers of 12s. books; they are always directed against men whose poverty makes them seem friendless, always against men who are speaking to the masses of the people; simply because the law under which such prosecutions are begun partakes of the nature of a police law, and was intended to keep the masses of the people in a kind of bondage, a kind of political and social slavery to those who had the making of it, and who are, therefore, interested in seeing it carried out. Now, gentlemen of the jury, I want you to observe that the law under which we are being prosecuted—as the learned judge, Mr. Justice Stephen, only recently pointed out in a decision in the Court of Queen's Bench—began with burning alive. The writ relating to heretics was only abolished in the reign of Charles II., and under that writ a man pronounced a heretic might be taken to the stake and burnt to ashes. That is a significant fact which ought to influence your minds to-day, as it shows that the origin of all such proceedings as the present is simply persecution. It shows that the law itself originated in a persecuting and barbarous age, that it is a relic of the past, a disgrace to civilisation, and a scandal to humanity; and a jury of intelligent and honest Englishmen ought not to allow themselves to be made the instruments of enforcing such a law. It is a remarkable thing that while the learned counsel for the prosecution observed that no one would think of interfering with what he called decent discussion of controverted points of religion, and while also he said that he did not think any proceedings for such an offence would lead to

anything, yet it was necessary that publications which outraged the feelings of the Christian public should be put down. Well, gentlemen, as the learned judge I have no doubt will tell you, the law is perfectly clear as to heresy and blasphemy, and one of our high judges—no less a person than Mr. Justice Stephens—has recently in his "History of the Criminal Law," stated that the real law in the matter of blasphemy is that the offence lies in the matter and not in the manner, and that any attack on the established religion of the country is blasphemous, and under that law could be punished as such. You have only to remember that what are called now controverted points of religion—such for instance as the subjects dealt with by Bishop Colenso in his great work on the Pentateuch—were points that might not be controverted only a century before, and that while Bishop Colenso can still remain a colonial bishop of the English Church notwithstanding that he is the author of these volumes, impugning the authority of these five books of the Bible, yet the Rev. Mr. Wolston was actually sent to prison, and kept there for years, for making the proposition now put forward by Bishop Colenso. To that it is only a question of the public opinion of the country, measuring itself against the rigidity of the old law. As to the statute law there can only be one opinion. There is, I believe, only one statute against blasphemy in the statute book—the 9th and 10th William III. We are not indicted under that statute, but I think it necessary to point out to you the nature of the statute, so that you may understand the spirit of these laws. I find that any person who denies any member of the Trinity to be God, or says there are more gods than one, or denies that Jesus Christ was God, or denies the inspiration of the Holy Scriptures, is, on a first conviction, to be deprived of any post he may occupy in the country; and, on a second conviction, to be sent to gaol for three years, and to be deprived of his civil rights for the remainder of his natural life, so that he would be incapable of suing any person who owed him anything, and of defending himself against any person who sued him in an unjust suit.

At this point the court adjourned for lunch, Mr. Justice North intimating to Mr. Foote that it was of no use for him to address the jury on points that were not law. The jury would take what was the existing law from him.

On the resumption of the proceedings,

Mr. Foote continued his speech as follows:—Gentlemen of the jury,—while I shall be exceedingly sorry to trespass outside my proper province and on the province of the learned judge, and while I propose not to follow the observations I was addressing to you immediately before the adjournment, I wish to call your attention to the fact that the indictment on which I

am prosecuted is an indictment at common law. Common law is a question of precedent. It is unwritten law except for precedent. The judges and juries have made it. It has contracted and expanded with the public opinion of the times, and I submit that as this indictment is under common law, with the Act of Geo. III., which I quoted before, you have a right to frame your decision upon the entire question, and the arguments I shall now address to you will be based on the assumption. Of course in what I shall say I am to a very large extent in his lordship's hands. I should be exceedingly sorry to say anything that may be misconstrued into disrespect of the court, and I trust that anything I may say will be considered as merely the effort of a man untrained in law and untrained in the procedure of courts, to defend himself for the first time in his life against a charge like this. Any unintelligible breach of etiquette I may commit will be, therefore, I am sure, overlooked. Now, we are told by the learned counsel in his opening address that Christianity is part and parcel of the law of the land. That may be true; probably the learned judge will direct you that it is true. But, after all, gentlemen, the question of blasphemy is not such a question as that of theft or murder. It must be largely if not entirely a question of opinion, because even the learned counsel, in his opening remarks, observed that some latitude of dissent from Christianity, which was the law of the land, would be permitted, though there was a certain latitude which would not be permitted. Clearly, therefore, the learned counsel is proceeding on the assumption that after all the guilt would lie in the manner and not the matter of the blasphemous libel. Now, gentlemen, I shall ask your attention to something which I consider ought to influence your judgment in this matter. I would ask you to bear in your minds the words which conclude the first count of the indictment. I am charged with having published blasphemous libels "to the great scandal and reproach of the Christian religion to the high displeasure of Almighty God, and against the peace of our Lady the Queen, her Crown, and dignity." It may be that this is merely the phraseology of indictments, but I have nothing whatever to do with that; I take the language of the indictment as it stands, and I would submit to you, gentlemen, that if one part of blasphemy consists in giving great displeasure or high displeasure to Almighty God, you cannot possibly have any evidence in support of this charge. Surely, gentlemen, the question of whether any words or pictures, which are only speeches addressed to the eye, are displeasing to Almighty God, is a question which you must be content to leave to the Deity to decide; and if you believe in a Deity, and in future rewards and punishments, you will, I am sure, be content not to take up a position of protection, not to allow the finite to champion the

interests of the infinite ; but to leave to the high tribunal in which you believe the judgment of all offences against itself.

The learned counsel emphasised the words "to the evil example of all those in like cases offending." Well, gentlemen, you cannot be ignorant of the fact, as men of the world, moving about from day to day, and week to week, and reading papers of all descriptions, that a prosecution like this even if successful in an adverse verdict, could not at all prevent the propagation of heretical opinions, even if those opinions were expressed or rather maintained with a degree of levity which you yourselves would disapprove. I do not think that the terrorism of an adverse verdict could at all influence the very large number of heretics that exist in this country ; but, on the contrary, I shall ask you to believe that it would be construed as persecution, and that persecution has, according to the showing of history, unless it has exterminated, always, by arousing the fervor of men, increased the strength of their cause. In this case, instead of an adverse verdict being deterrent, it would only excite interest in the ideas that are stigmatised by it, and would only lead to a far greater curiosity about them ; and as the learned counsel knows, curiosity in such a case as this is very unfortunate, because it frequently leads to results the very opposite to those which the plaintiffs desire. I am charged with the publication of a blasphemous libel "to the great scandal and reproach of the Christian religion." I would ask you to consider the real facts of this alleged blasphemous libel, and its publication. It is not alleged that men have been sent out into the streets to force the publication into people's hands. It is not even alleged that people had it pressed on their notice, or that any extraordinary prominence has been given to it other than that which the curiosity of the reader, who may have been informed of its existence, might imply. With this fact on your mind, what weight can you attach to the declaration of the learned counsel for the prosecution that the obvious intention was to outrage the feelings of the Christian public. The Christian public is a very wide one, and an outrage on the Christian public in the street might perhaps have a wider effect and publicity than any outrage through the press. Nothing of this kind is alleged. It is a press offence. There is no declaration whatever within the borders of the incriminated number of the "Freethinker" that its object is to outrage any person's feelings. Does not the learned counsel know—gentlemen you must—that a paper which may be considered blasphemous by authority may be written, and published, and sold, and printed, by those who believe in what is stated in the publication, for people who equally believe in it. On the very face of the thing, we must assume with respect to any publication, whether heretical or



orthodox, that it is directly intended for people who entertain for the most part the views propounded in it. If you were to start a paper in the hope that those who hold opinions directly opposite to those expressed in it, would support it, you would very soon be undeceived. That is a matter which will not create much controversy. I submit, therefore, that it is not a question of what any Christian, whether sensitive or insensitive, might dislike in a Freethought paper which may be written, printed, published, sold for people who believe in the men who are responsible for the publication, and who also believe in the policy which guides them in disseminating their views. I would, therefore, ask you not to attach any particular importance to the learned counsel's observations on this point. I submit that there has been no proof of the alleged intention; on the contrary, all the evidence is against such intention.

The last charge of the first count in the indictment is that the libel is against the peace of our Lady the Queen, her Crown, and dignity. There, again, I daresay I shall be informed that that is the legal way of stating that a blasphemous libel has been committed; but, gentlemen, these are in the nature of reasons. These are in the nature, if I may use such language, of illustrations of the concrete effects of disseminating such publications, and if these concrete results do not follow, that ought to influence you in the verdict you give. I utterly deny that there has been any evidence whatever tendered to show, or that there is any reason whatever to suppose that the publication of this particular number of the "Freethinker"—the Christmas Number—has led, or could lead, to any breach of the peace. On the contrary there has been caused a feeling of excitement of a very unpleasant character, and what may prove to be of a very detrimental character, by the commencement of a prosecution which would not have taken place if the incriminated paper had been left alone to find its own public that approved it, and to be despised, if you will, by the public that disapproved it. "Breaches of the peace," gentlemen! I think you will find that as a rule Freethinkers and heretics are not prone to breaches of the peace. You will, I think, be aware that there has been a good deal of excitement in the streets of London—not merely casual, but long continued excitement—with regard to the opposition tactics of bodies, who have used the language of that Christian religion, whose sanctity is made the basis of the attack on myself and my co-defendants. Breaches of the peace have occurred, but breaches of the peace have not been considered sufficient grounds for prosecution. The doctrines which these men profess are not arraigned in a court of law, simply because the propagation of them in a particular way

leads to breaches of the peace. I submit that the proper way of dealing with matters of this kind—the mode which public opinion is slowly beginning to appreciate—is to deal with breaches of the peace as they occur, and that it should not be argued that the expression of certain opinions in a particular form will necessarily lead to breaches of the peace, unless it can be shown that such breaches of the peace have occurred in the past, and that there are indications that they will in all probability occur in the future. With regard to these concrete results that are predicted from the blasphemous libels set forth in the indictment, I shall ask you to give a verdict of Not Guilty, and to withhold the verdict of Guilty.

Now, gentlemen, I leave the indictment for a moment, and I come to other considerations. Whether Christianity is really part and parcel of the law of the land is a question which I leave in the hands of the learned judge. He will direct you, gentlemen, on that subject. But I do affirm that dissent from Christianity is so widespread in our country that fair-play, justice and humanity, alike demand that a jury should not give a verdict of guilty in the case of a prosecution for blasphemy, unless they are fully persuaded that those who are accused really wished, really intended, and really designed, not only that the feelings of others should be outraged, but that some commotion might be raised, some violent commotion which might be called a breach of the peace, and from which it might be inferred that they designed the promotion of their own views through the disruption of society, and the violation of public order. Now, gentlemen, I told you before that one of the reasons in my opinion why the present prosecution was commenced, was that the alleged blasphemous libels were published in a cheap paper, and I asked you to bear in mind, that there was plenty of heresy in expensive books, published at 10s., 12s., and even as much as £1 and more. I think I have a right to ask that you should have some proof of this statement. I think I can show you that similar views are expressed by the leading writers of to-day—not perhaps in precisely the same language—for it is not to be expected that the paper which is addressed to the many will be conducted on just the same level, either intellectually or æsthetically speaking, as a publication in the form of an expensive book which is only intended for men of education, intelligence, leisure, and learning—but such views are put before the public by the most prominent writers of the day. You will, of course, expect to find differences in the mode of expression—and as a matter of course differences of taste; but I submit that differences of taste affect the question very little, unless, as I have said, they actually lead to breaches of the peace. But in a case like this there ought to be no distinction on grounds of taste. Surely the man who says a thing in

one way is not to be punished, while the man who says the same thing in another way is to go scot free. You cannot make a distinction between men on grounds of taste. I can imagine that if there were a parliament of æsthetic gentlemen, and Mr. Oscar Wilde were made Prime Minister, some such arrangement as that would find weight before the jury; but in the present state of enlightened opinion, I do not think that any such arrangement would be accepted by you. Now, gentlemen, I shall call your attention first of all to a book which is published by no less a firm than the old and well established house of Longmans. The author of the book—

Mr. Justice North: What is the name of the book.

Mr. Foote: The book is the "Autobiography of John Stuart Mill."

Mr. Justice North: What are you going to refer to it for?

Mr. Foote: I am going to refer to one page of it, my lord.

Mr. Justice North: What for?

Mr. Foote: To show that identical views to those expressed in the cheap paper before the court are expressed in expensive volumes.

Mr. Justice North: I shall not hear anything of that sort. I am not trying the question, nor are the jury, whether the views expressed by other persons are sound or right. The question is whether you are guilty of a blasphemous libel. I shall direct them that it will be for them to say whether the facts are proved in this case.

Mr. Foote: I will call your attention, my lord, to the remarks of Lord Justice Cockburn in the case.

Mr. Justice North: I will hear anything relevant to the subject. My reason for asking you was to find out whether you were going to quote a law book.

Mr. Foote: I will quote a verbatim report.

Mr. Justice North: I can hear that.

Mr. Foote: It is the case against Charles Bradlaugh and Annie Besant.

Mr. Justice North: By whom is your report published.

Mr. Foote: It is a verbatim report published by the Free-thought Publishing Company—the shorthand notes of the full proceedings, with the cross-examination and the judgment of the court.

Mr. Justice North: There is no evidence of that. Did you hear it?

Mr. Foote: I did not personally hear it; but my co-defendants did.

Mr. Justice North: I will hear you state anything you suggest as being said by Lord Chief Justice Cockburn.

Mr. Foote: Mrs. Besant was about to read a passage from "Tristram Shandy"——

Mr. Justice North: You have not proved the publication.

Mr. Foote: Quite so, my lord; but although this is not formal evidence and only the report of a case, I thought your lordship would not object to hear it. [Mr. Foote here handed in a copy of the report to the judge, and pointed out that the Lord Chief Justice had said he could not prevent Mrs. Besant from committing a passage to memory or from reading books if reciting from memory.]

Mr. Justice North: I will allow you to go on, either quoting from memory or reading from the book; but I cannot go into the question of whether this is right or not.

Mr. Foote: I am not proposing that. I am only going to show that opinions like those expressed here extensively prevail.

Mr. Justice North: That is not the question at all. If they extensively prevail, so much the worse. What somebody else has said, whoever that person may be, cannot affect the question in this case.

Mr. Foote: But, my lord, might it not affect the question of whether a jury might not themselves by an adverse verdict be far more contributing to a breach of the peace than the publication in which they are asked to adjudicate.

Mr. Justice North: I think not, and it shall not do so if I can help it. It is a mere waste of time to attempt to justify anything that has been said in the alleged libel by showing that someone else has said the same thing.

Mr. Foote: In all trials the same process has been allowed.

Mr. Justice North: It will not be allowed on this occasion.

Mr. Foote: If your lordship will pardon me for calling attention to the famous case of the King against Willam Hone, I would point out that there Hone read extracts to the jury.

Mr. Justice North: Very possibly it might have been very relevant in that case.

Mr. Foote: But, my lord, it was precisely a similar case; it was a case of a blasphemous libel. Lord Ellenborough sat on the Bench.

Mr. Justice North: Possibly.

Mr. Foote: And Lord Ellenborough allowed Mr. Hone to read what he considered justificatory of his own publication. The same thing occurs in the case of the Queen against Bradlaugh and Besant.

Mr. Justice North: We have nothing to do to-day with the question whether any author has taken the views which are taken in these libels, whoever the author was.

Mr. Foote: Does your lordship mean that I am to go on reading or not?

Mr. Justice North: Go on with your address to the jury, sir; that's what I wish you do. But you cannot do what you were about to do—refer to the book you mentioned for any such purposes as that you indicate.

Mr. Foote: I hope your lordship does not misunderstand me. I am simply defending myself against the very grave charge under an old law.

Mr. Justice North: Go on, go on, Foote. I know that. Go on with your address.

Mr. Foote: Your lordship, these questions are part of my address. Gentlemen (turning to the jury), no less a person than a brother of one of our most distinguished judges has said—

Mr. Justice North: Now, again, I cannot have you quoting books not in evidence, for the sake of putting before the jury the matters they state. The passage you referred to is one in which the Lord Chief Justice pointed out that that could not be done.

Mr. Foote: But the action, my lord, of the Lord Chief Justice did not put a stop to the reading. He said he would allow Mrs. Besant to quote any passage as part of her address.

Mr. Justice North: Go on.

Mr. Foote: No less a person than the brother of one of our most learned—

Mr. Justice North: Now did I not tell you that you could not do that.

Mr. Foote: Will your lordship give a most distinct ruling in this case?

Mr. Justice North: I am ruling that you cannot do what you are trying to do now.

Mr. Foote: I am sorry, my lord, I cannot understand.

Mr. Justice North: I am sorry for it. I have tried to make myself clear.

Mr. Foote: Does your lordship mean that I am not to read from any letter to show justification of the libel?

Mr. Justice North: There is no justification in the case. The question the jury have to decide is whether you, and the other persons present with you, are guilty of a libel or not. For that purpose they will have to consider whether the matters in question are a libel. If so, they will have also to consider whether you and the other defendants are guilty of having published it. If they think it a libel, and that you have published it, they will have answered the only two questions they will have to put to themselves.

Mr. Foote: My lord, in an ordinary libel case justification can be shown.

Mr. Justice North: Go on.

Mr. Foote: I do not wish to occupy the time of the court un-

necessarily, but really I think your lordship ought to remember the grave position in which I stand, and ought not to stand in the way of anything which I consider to be of vital importance to my defence.

Mr. Justice North: I have pointed out to you what I consider to be questions the jury have got to decide. I hope you will not go outside the lines I have pointed out to you, but, with these remarks, I am very reluctant to interfere with any prisoner saying anything which he considers necessary, and I will not stop you. I hope you will not abuse the concession I consider I am making to you.

Mr. Foote: I should be very sorry, my lord. I am only stating what I consider necessary. To the question of "Are we Christians?" which was propounded by the late German writer, Strauss, the gentleman to whom I refer, answers:—"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." Gentlemen, you will all have heard, I am sure, of the great name of John Stuart Mill, who was not only a great writer, which is his highest claim to distinction, but was also a member of Parliament, elected, despite the most unscrupulous use of the fact that he was a heretic, by the constituency of Westminster. John Stuart Mill says he was brought up without religion, and states that his father, who brought him up, "looked upon it 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." That is very emphatic language, and if a great writer, with not only an English or even a European, but a universal reputation can disseminate, such language as that through the agency of respectable publishers and in expensive books, surely those who occupy the same ground, teach the same ideas in their own way to those who are willing to listen to them without forcing them on anyone's attention, should enjoy immunity from such penalties as are inflicted in a case like this, and should enjoy exactly the same rights as those who differ from them—I suppose, gentlemen, I shall not trespass too much on your patience if I ask you to go back for a moment to the fact that I mentioned before the adjournment, namely, that it is a quarter of a century since there was any prosecution for blasphemy in England. The case was that of a poor Cornish well-sinker, who was sent to gaol for having chalked some silly words on a gate, which words the witnesses could not agree about. This man was liberated after a very short incarceration, because public opinion was aroused against the sentence, and the authorities found it necessary to remit the larger portion of it. A great deal of controversy was excited at the time, and among other gentlemen who took part in it was no less a person than the great historian, Mr. Henry Thomas Buckle, and he stated:—

"It should be clearly understood that every man has an absolute and irrefragable right to treat any doctrine as he thinks proper; either to argue against it, or to ridicule it. If his arguments are wrong, he can be refuted; if his ridicule is foolish, he can be out-ridiculed. To this there can be no exception. It matters not what the tenet may be, nor how dear it is to our feelings. Like all other opinions, it must take its chance; it must be roughly used; it must stand every test; it must be thoroughly discussed and sifted. And we may rest assured that if it really be a great and valuable truth, such opposition will endear it to us the more, and that we shall cling to it the closer in proportion as it is argued against, aspersed, and attempted to be overthrown."

Gentlemen, I ask you to remember this language—to remember that this great man has said in language which I would not have quoted if I could only emulate it, that we all have a right to treat any mere doctrine as we may think fit. Gentlemen, ideas are the possession of no man. The reputations of individuals in bygone generations are not the vested right of men of to-day. If we really believe that no man who ever existed in the world was possessed of divine attributes, then we ought to be as free to impugn, ridicule, and



caricature what one has done as well as another. If you should imagine, or believe, or feel thoroughly convinced, that exception must be made in the case of one reputed man, and that he had the attributes of divinity, yet, remembering that you cannot be the judges of others, and that your sentiments cannot be the criterion of other people's conduct, I think you will be disposed to accede the demands of justice, and will not give the verdict of guilty asked for by the prosecution, but will return a verdict of not guilty for the defendants. Another great writer of to-day, Professor Huxley, has used language about the dogmas of Christianity, such as, if the law as explained by the learned counsel for the prosecution were in force, would lead to his standing in this dock on a criminal charge; and if the law were carried out vigorously, would lead to his incarceration in gaol. Surely, if that be true, as every reader of the literature of to-day must know, you have to ask yourselves whether, after all, there is not a secret motive behind this prosecution which has induced the movers in it to select these particular men and to charge them with blasphemous libel, while others, guilty at law of precisely the same offence, are allowed to go scot free, and are sometimes even patronised and praised. You ought to determine that by your verdict you will show that the liberties of those who seem friendless and poor shall not be rashly imperilled in the interests of classes, but that every man, whether poor or rich, and whether he addresses his fellow men through the medium of a penny paper or a twelve shilling book has precisely the same rights. I will ask you to treat the law under which we are being tried as the magistrate treated the law of maintenance—as obsolete in this country. It is very often said, and has been said to-day by the learned counsel for the prosecution, that ridicule is not allowable, and that learned men who controvert disputed points of religion or topics of religion refrain from ridicule. I might give you the example of Mr. Matthew Arnold, son of Dr. Arnold, the celebrated head-master of Rugby School. Lord Derby, the other day at Liverpool, declared that Mr. Matthew Arnold possessed the title of original thinker if any one could make that claim. Yet we find him speaking in a book on "God and the Bible," in language which might have been used in the "Freethinker" or any other heretical publication. One of his phrases runs thus:—"Given the problem of getting the infant Christ born without the assistance of a Father." Certainly nothing stronger than that could have been quoted by the learned counsel, who had refrained from making any quotation, as if he not only intended to snatch a verdict, but also to prevent the outside



world from understanding what the offence charged really amounted to, and to induce them to think that the libels were indecent as well as blasphemous. Mr. Matthew Arnold spoke of the Trinity as "Three Lord Shaftesburys." If a poor man had done this he would have been put on his trial; but Mr. Matthew Arnold is screened because of his position. I might give you more from Mr. Matthew Arnold; but I refrain. I have quoted from Professor Huxley, but there is one passage in which he distinctly repudiates belief in the fuller part of the Old Testament, which is alleged to be blasphemously libelled in one of the drawings of the "Freethinker." Professor Huxley says that people who call themselves Christians, believe that "Adam was made out of earth somewhere in Asia, about six thousand years ago; that Eve was modelled from one of his ribs; and that the progeny of these two having been reduced to the eight persons who landed on the summit of Mount Ararat after an universal deluge, all the nations of the earth have proceeded from these last, have migrated to their present localities, and have become converted into Negroes, Australians, Mongolians, etc., within that time. Five-sixths of the public are taught this Adamic Monogenism as if it were an established truth, and believe it. *I do not; and I am not acquainted with any man of science, or duly instructed person, who does;*" and Professor Huxley in the same address, has an eloquent fling at those who, as he says, would make the myths of the Hebrews obligatory on the Englishmen of to-day, and who would degrade the people of this country to the level of primitive Judaism. Now, gentlemen, I pass by Professor Huxley and Mr. Matthew Arnold, and come to Viscount Amberley.

Mr. Justice North: Do you really think you are doing yourself any good by this mode of address to the jury, who have only to decide the questions which I have pointed out to you just now?

Mr. Foote: I do, my lord. Lord Amberley distinctly repudiates all Christian belief, and says, for instance, with respect to the subject of the libel which is referred to in the indictment as to pages 8 and 9 of the "Freethinker." [Here Mr. Foote quoted a passage which shall be given in full in the last Part.]

Now, gentlemen, is not this language as extreme as anything that has been stated or pointed out to you as forming part of the blasphemous libel before you? Just one other quotation. One of the illustrations which is mentioned as occurring in this blasphemous libel on page 7 of the Christmas Number of the "Freethinker," is called "A back view."

That, on the face of it, does not represent a Deity. It represents a Hebrew myth—a Hebrew legend, if you prefer the phrase—which, if one does not believe in its truth as history, and as matter of fact, is as much a subject of caricature, of ridicule, and of sarcasm, as the myths of the Greeks and Romans, or of any other people. Surely, gentlemen, you are not going to make it an offence to caricature the myths of Greece and Rome, which were coeval with the days of the Hebrews, who were much more barbarous than the Greeks and Romans, because they were much less informed as to natural laws, and were the most credulous and ignorant people who ever attracted the notice of the world. Another writer has said in an expensive book, “Truly if the author of Exodus,”—and the quotation under this drawing was taken from the book 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.” (“The Evolution of Christianity,” p. 25; William and Norgate; 1883.)

There are many other paragraphs following, which deal with other aspects of the character of the same Deity, all breathing the same sentiment. Gentlemen, so far I have proved my point, that in expensive books the same kind of heresy, and the same kind of language are employed, as are to be found in the publication which is now before you. I ask you, gentlemen, to believe that there must be some other reason prompting the prosecutors than those which are ostensibly on the face of their declarations, and that they are really seeking to gratify some ulterior design—probably seeking only the same objects as were sought in the previous prosecution for blasphemy, which is still pending—namely, an attack on a political opponent under an obsolete religious law, which was allowed to slumber until his enemies found it a useful weapon to employ against him for political ends. Now, gentlemen, I have given you one or two illustrations of permitted blasphemy in expensive books, and I will go on to trouble you for a minute or two with a few instances of permitted blasphemy in cheap publications which, however, are ignored because they call themselves Christian, and because those who conduct them are patronised by ecclesiastical dignitaries. One passage in a paper I hold in my hand, a Christian paper, says:—  
[Here follows a passage from the *War Cry*, impounded, but which we hope to give in our last Part.]

Mr. Justice North: Now, Foote, I am going to put a stop to

this. I will not allow any more of these illustrations of what you call permitted blasphemy in cheap publications. I decline to have any more of them put before me.

Mr. Foote: My lord, I will use them for another purpose, if you will allow me.

Mr. Justice North: You will not use them here at all, sir.

Mr. Foote: May they not be used, my lord, to show that an equally free use of religious symbols, and religious language, prevails widely in all classes of literature and society?

Mr. Justice North: No, they may not. I decline to hear them read. They are not in evidence, and I refuse to allow you to quote from such documents as part of your speech.

Mr. Foote: Well, gentlemen, I will now ask your attention very briefly to another branch of the subject—one that I have mentioned before, and one that I wish to dwell upon at greater length now. The learned counsel for the prosecution told you—and this I hold is fatal to his case, if it is to be a question of logic—that discussion on controversial points of religion, even when they are conducted warmly by learned men, would not be made the subject of prosecution at law—that nothing would result from them; by which I suppose he meant that a jury would not give a verdict against the prosecuted persons: thus showing that, in his opinion a jury has a very large discretion in the matter. I submit that this very statement carries with it a complete refutation of his argument. When these obsolete laws were being enforced against Richard Carlile and others, the prosecuted periodicals had a larger sale, and the society which was promoting them had a larger accession of strength, and was able to hold its own much better than before. John Stuart Mill pointed out at that time in the *Westminster Review* that, it is absurd to say a subject is open to discussion, and at the same time to bar one method of discussion. Ridicule, gentlemen—what is it? A logician would call it the *reductio ad absurdum*—that is to say, it reduces a thing to absurdity. Some of you must know that ridicule is a most potent form of argument as used by so great a logician as Euclid. Why then, with respect to controverted points of religion, should a man be deemed a criminal because he has applied ridicule to those points, either pictorially, or in the language of every-day life? Suppose you look around and take letters, or politics, or social matters, do you not find that ridicule plays an important and growing part in every one of them? Do you not find that the comic journals are constantly rising, that the rate of the old-established ones is constantly increasing, and that their influence is constantly extending? You do. And why is it you permit ridicule in controversy on all social matters? Simply because the whole

question is open to the fullest discussion, and you have no reservations. Ridicule is not a form of argument which is necessarily used to outrage the feelings of those from whom we differ, lent to point out absurd conclusion, and to show more clearly the ridiculous side of a thing. If the illustration takes the form of pictures instead of letterpress what essential difference can it make? It is simply appealing to the eye instead of the ear, and can make no essential difference. If you agree with the learned counsel, that discussion on points of theology is allowable, and the widest difference on such points is allowable, you cannot logically bring in a person guilty of blasphemy—simply he differs in a usual way. When you allow that religion may be discussed without any reservation you cannot exclude ridicule, which is only a form of argument, and has been found one of the most potent forms not only by philosophers and logicians, but by the greatest Christians, from Tertullian and other early Fathers, down to Martin Luther, who was the most practised hand at that, to our own time, when, if you look at the religious papers, either High Church or Low Church, you will find that they employ it most freely one against the other, considering it a fair and legitimate weapon of controversy. I will ask you to consider this question of outraging people's feelings. Whose feelings, I would ask, have been outraged by the publication of this alleged blasphemous libel? I am not arguing whether I have been proved to have been connected with it. That is a question which I have raised before; but I ask what evidence is there that this publication, notwithstanding all the denunciations of the learned counsel for the prosecution, has outraged the feelings of those who differ from the doctrines propounded in it? The learned counsel may say *his* feelings have been outraged; but, gentlemen, I do not think you will attach much importance to that. You can get any amount of denunciation from a prosecuting counsel, and his denunciations can generally be measured by the number of guineas marked upon his brief. But I will put it to the prosecuting counsel—what feelings have been outraged? They ought to have produced evidence that the feelings of certain people had been outraged. The question of outraging people's feeling is open to unlimited controversy. If a shot is being fired in a particular direction, you can say what its tendency is. If certain physical forces are working together, you can say what the resultant tendency will be, but when you say that a thing tends to outrage the feelings of others, what criterion do you set up? No criterion is possible. The only way in which such a question could be settled, is by producing witnesses. Probably, this might not be possible or practicable; but this



is not my fault. Witnesses ought to be produced, who will either solemnly affirm, or swear, that their feelings have been outraged by this publication—that it has in any way injured their digestion and disturbed their sleep. Really, gentlemen, when people talk of outraged feelings, they ought to consider that this is a two-edged argument. I do not know that any persons in this country are called on every time they put pen to paper, or use their tongues for those who in the main believe as they do, and agree with their policy—I do not know that any persons other than Freethinkers, are called upon every time they speak or write to consider the feelings of those who differ from them. You know, gentlemen, as well as I do, that if any person were prosecuted, because, either by pen or tongue, he had outraged the feelings of Freethinkers—and, gentlemen, through all grades of society, there are very many of them—the very idea would be scouted. This talk about outraging other people's feelings, is only one way of cloaking the hideousness of an old persecuting law, only a mark put before the repulsive features of that persecution, which has in the past deluged the earth with blood, which is still capable of depriving a mother of her children, and of depriving a citizen of his civil and political rights, but which is happily losing its power day by day, and is destined to lose its power altogether before long.

Now, gentlemen, I will ask you to consider in a separate way the question of a breach of the peace. What is the meaning of breach of the peace. It is exactly like the talk about outraged feelings; it is only another cloak, another mask. There has not been the slightest evidence produced that anything I have done has led to a breach of the peace or is in any way likely to do so. There has been no gathering in the streets, outside shops; no expulsion from lecture halls—in fact, there has been absolutely nothing, except the fact that people who have bought the paper for the purposes of prosecution dislike it, or say they do, in order to wring a verdict of guilty from you. A breach of the peace, gentlemen, if it were actually committed, would be rightly regarded as a grave offence. It is the active interference with the liberty of another, the violation of his individual right. If we had been proved guilty of a breach of the peace what justification could I offer or make? None. I have been proved guilty of nothing of the sort. The language of the indictment is misleading. I shall not ask you to go over the ground I traversed as to the law of India, but I will ask you to bear it in mind. India is part of our British Empire. If we hold an empire I suppose we feel obliged to rule it on principles of justice, and you cannot divorce justice from truth. Religion

can only be upheld by law, and protected by law, in so far as it is considered necessary for the public peace and safety, or as it is considered necessary for our eternal salvation, and that whoever impugns it does so to the danger of others. But if these reasons are good here, they must be good everywhere the British flag flies; they must be as good and true for India as for England. But why not attempt to force them there? Because the vast majority of the people there are not Christians. Here the majority of the people are Christians—by profession, at least—and we have an established religion in the form of a State Church. It is therefore only a question of numbers. In India Christians cannot get any special protection—although they are under the same ruler—simply because they are in a minority; but here the right is claimed of crushing out opposition to Christianity because it is in the majority. But surely such an argument should not prevail; and if you think that each man has an equal right with every other man, and that if he is not trenching on the right of any other man, he ought not to be punished, you will withhold a verdict of guilty from the prosecution, and award a verdict of not guilty to me. Let me say what it is that any Freethinker could demand. Does he ask for privileges, does he demand exceptional advantages for himself? I for one should be the very last to make any such claim, but unless you have evidence before you that this publication has been forced on the attention of others, unless you have evidence that it has been surreptitiously placed in their way and that they have unheedingly fallen into the trap, and have read it without knowing what they were doing; unless you have evidence that there has been some conspiracy to place this in the hands of children of Christian parents unknown to those parents—unless something of this kind can be proved, you ought to remember that all we ask, and that all I personally ask, is that you should yield to every other man the right which you would certainly claim for yourselves. You ought by a verdict of not guilty to allow it to go forth that you as twelve Englishmen, free men in a free country, recognise the grand principle of religious as well as civil liberty, and believe that every man has a right to say what he pleases to the people who choose to hear it and write what he pleases to people who choose to read it. No Freethinker could demand more than that. The whole history of the world, and especially the history of this country, ought to show you that those who claim what I have stated, while they demand more, will never rest satisfied with less.

And now, gentlemen, just one thing more. If blasphemy is an offence at all it can, I argue, only be an offence against

the deity blasphemed. In various parts of the world the definitions of blasphemy differ. The Christian in this country says that to deny the divinity of Christ is blasphemy; the Jew, that to affirm his divinity is blasphemy—yet even Jews and Christians, who differ so widely as to the specific character of blasphemy, are to be seen not only in the same executive branches of our national life, but even sitting together in the very legislative body that makes the laws of which we are told Christianity is part and parcel. You have Jews, Christians and heretics sitting together in the same House and helping to make our Christian laws! I have a great authority to support me in saying that blasphemy can only be committed against a specific deity in whom we believe.

Mr. Justice North: I am not going to hear any argument to the effect that blasphemy is not against the law of the land. I say it is against the law of the land. The question for the jury will be whether this is blasphemy. I decline to hear argument that blasphemy is not against the law of the land.

Mr. Foote: If blasphemy is an offence against the law of the land might not the jury be influenced in giving their verdict by the consideration as to whether the person specifically charged with the offence could really be guilty of it.

Mr. Justice North: You may say anything you please on the question of whether you are guilty of the offence with which you are charged, or not. But I shall direct the jury that the alleged libel is against the law of the land.

Mr. Foote: That may be; I am not now trespassing on that ground.

Mr. Justice North: Yes, you are, because you are addressing yourself to the question whether blasphemy ought to be the law of the land. 'That I stop?'

Mr. Foote: A great lawyer—no less a person than the late Lord Brougham—publicly asserted in a book written by him that, properly speaking, blasphemy is an offence that can only be committed by a believer in the deity blasphemed, and, gentlemen, this is a fact which I am desirous of impressing upon you. The very statute which the learned judge will interpret to you, if he deals with it at all, sets forth that persons brought up in the Christian religion are to be subject to penalties if they are proved guilty of blasphemy.

Mr. Justice North: You need not address yourself to that. We have nothing to do with the statute at this moment.

Mr. Foote: Quite so, my lord. I am only attempting to impress on the jury a fact which I think ought to constitute a part of their consideration when they are forming their judgment preparatory to giving their verdict—a fact which

stands on the great and transcendent authority of a lawyer like Lord Brougham. Now, gentlemen, I will ask your attention to what is, perhaps, after all the most important thing to consider, even from the point of view of the prosecution itself. I affirm, and I have all history to support me, that these prosecutions necessarily fail in their desired effect. Gentlemen, that ought to be a consideration that should weigh heavily with you. In the book I hold in my hand there is a poem which a jury declared to be blasphemous, notwithstanding an eloquent defence by Serjeant Talfourd. Did that stop the sale? Gentlemen, that poem is included in the collected editions of Shelley, published by all sorts of firms, in every part of the English-speaking world, including our own country; and "Queen Mab" is far more extensively sold and read to-day than it ever was before the publishers of it were prosecuted. There was another book prosecuted again and again, and its publisher, Richard Carlile, went to gaol year after year. He spent nine years in gaol, and his wife, sister, and shopman, went to gaol one after the other, while men also went to gaol in all parts of the country. You would have thought that such a sweeping execution of the law would have stopped the circulation of the book for ever, but, as a matter of fact, that book enjoys an exceedingly large circulation to-day. I am within the truth when I say that considerably over 1000 copies are sold every year. The prosecution did not stop its sale, it only gave it a wider circulation; and Thomas Paine's "Age of Reason," with his "Rights of Man," which were both the subjects of prosecution, are read more than they ever would have been if the attempt to suppress them had not given them a wider publicity, and a more extensive circle of readers. You will have in your minds, I am sure, the prosecution instituted against Mr. Bradlaugh and Mrs. Besant for publishing the book on the population question; and it will be well for you to remember that it was openly stated in court, that while the sale of this little work had only been about 100 copies a year for thirty or forty years before, it was absolutely sent up by the prosecution to the enormous circulation of 150,000. That prosecution did not succeed in putting down the obnoxious publication. I submit that no such prosecution can possibly succeed. From the point of view of the prosecutors themselves it is a mistake. You only give a wider sale; you excite a greater curiosity; you bring, as it were, within the influence of the ideas disseminated by the publication, a larger number susceptible of receiving them; and you only tend to enlarge the class of men, who, if the laws of the land were carried out, might be treated as outlaws, and deprived of all their civil



and political rights. If this be so, you have a very serious thing to consider.

Mr. Justice North: Foote, I shall tell the jury that they have nothing whatever to do with that. If the prosecution is ill-advised and should lead to a great circulation of these papers, so much the worse, but that cannot throw any light whatever on what the jury ought to decide in your case.

Mr. Foote: Gentlemen of the jury, I have only said what seemed to me necessary to influence your judgment—necessary for my own defence, necessary to obtain from you a verdict of not guilty. I again repeat that I had no intention of trespassing on the province of the learned judge. It is perfectly impossible, however, that a case like mine can be argued without occasionally something being said which the learned judge may think outside the province of a defendant, and if I were a lawyer like Sir Hardinge Giffard and had the purse of the Corporation of the City of London to supply his legal skill, it might be different. I am too poor to employ such legal assistance, and I can only use such arguments as seem to me to be likely to have their effect on your minds. I have traversed a very large space, not only of time but of ground. I have denied utterly that Christianity can be considered in the sense stated by the learned counsel for the prosecution as protected by the law. I have denied that I am guilty of the concrete offences which are stated in this indictment. I deny that there has been or can be any proof that I have done anything to the high displeasure of Almighty God; I deny that I have done anything against the peace of our Lady the Queen, her Crown, and dignity. I have also stated that this is an age of intellectual fair-play, that all kinds of argument, even the argument *ad absurdum*—ridicule—must be tolerated, and that as it is allowed in politics, literature, philosophy, and social matters, it must be allowed in religion too. I have argued that no evidence has been adduced to show that there has been any forcing of this publication on the attention of people who wish to have nothing to do with it. I have shown you, and there has been no attempt to prove anything to the contrary, that there was no malignant motive in my mind, and I believe none in the minds of either of my co-defendants, in anything we have ever done. No such evidence has been tendered, and unless you consider that there has been such malignant motive, and that we have intended to cause a breach of the peace, and to forcibly outrage the feelings of those from whom we happen to differ—unless you believe this, you should give me a verdict of not guilty. If you have the smallest doubt in your minds as to the sufficiency of the evidence, I ask you to give me the benefit of the doubt. I ask

you to act on the old English maxim that a man is innocent until he is proved to be guilty.

I told you at the outset that you are the last Court of Appeal on all questions affecting the liberty of the press and the right of free speech and Freethought. When I say Freethought, I do not refer to specific doctrines that may pass under that name, but I refer to the great right of Freethought, that Freethought which is noither low as a cottage nor lofty as a pyramid, but is like the soaring azure vault of heaven, which over-arches both with equal ease. I ask you to affirm the liberty of the press, to show by your verdict that you are prepared to give to others the same freedom as you claim for yourselves. I ask you not to be misled by the statements that have been thrown out by the prosecution, not to be misled by the authority and influence of the mighty and rich Corporation which commenced the action, has found the money for it, and whose very solicitor was bound over to prosecute. I will ask you not to be influenced by these considerations, but rather to remember that this present attack is made upon us probably because we are connected with those who have been struck at again and again by some of the very persons who are engaged in the prosecution; to remember that England is growing day by day in its humanity and love of freedom; and that, as blasphemy has been an offence less and less proceeded against during the past century, so there will probably be fewer and fewer proceedings against it in the next. Indeed, there may never be another prosecution for blasphemy, and I am sure you would not like to have it weigh on your minds that you were the instruments of the last act of persecution, that you were the last jury, who sent to be caged like wild beasts, men against whose honesty there has been no charge. I am quite sure you will not allow yourselves to be made the agents of sending such men to herd with the lowest criminals, to be subject to all the physical indignities such punishment involves, but that you will send me as well as my co-defendants, back to our homes and friends—who do not think the worse of us for the position in which we stand; that you will send us back to them unstained, giving a verdict of not guilty for me and my co-defendants, instead of the verdict of guilty for the prosecution; thus, as English juries have again and again done before, vindicating the glorious principle of the freedom of the press, against all the interested, religious, and political factions that may seek to impugn them for their own ends. (Applause in court.)

Mr. Ramsey then addressed the jury as follows:—Gentlemen, I stand indicted before you for an alleged blasphemous libel, and

upon you the law throws the duty of defining what is and what is not blasphemy at common law. And yet the meaning of the word blasphemy has strangely changed and varied during the last 250 years. Then Quakers were held to be blasphemous, and were punished as such. They were branded and flogged at the cart's tail in the vain attempt to silence their blasphemy, and jury after jury returned verdicts of guilty against men and women for holding the opinions which have proved no bar to the admission of John Bright to the Cabinet. Surely this fact alone should make a modern jury careful how they condemn any form of thought, even though it be as blasphemous in their eyes as the opinions of the Quakers were blasphemous in the eyes of the juries who condemned them, and who are now, in their turn, condemned by every rational person. Later still, Unitarians were indictable and were punished as blasphemers, although among Unitarians are found such names as those of John Milton, Dr. Priestley, the discoverer of oxygen, and Isaac Newton. Even now Unitarians are punishable under the same law of blasphemy under which you are asked to find me guilty, and are at the mercy of any common informer or over-zealous detective anxious to please a bigoted superior. You, gentlemen, have the right, by refusing to define blasphemy; by declining to bring in a verdict of guilty, you have the right to prevent the revival of blasphemy laws, which, so far as the City of London is concerned, have been regarded as obsolete for nearly fifty years. Lighty years ago the works of Thomas Paine were indicted as blasphemous libels. To-day, and for nearly two generations, they have been circulated without let or hindrance. For publishing Paine's "Age of Reason," Williams, a publisher in this City of London, was indicted before Lord Chief Justice Kenyon, and in that case, as now, it was disingenuously contended that "every man has a right to investigate with decency controversial points of the Christian religion." But then, as now, the book assailed was declared to overstep the inviolable line of criticism assumed by Christian prosecutors to conceal their hatred of any free discussion. In sentencing Williams, ~~Lord Chief Justice~~ Kenyon remarked: "Such doctrines were an offence not only against God, but against law and government, from their direct tendency to dissolve all the bonds and obligations of civil society; and upon that ground it was that the Christian religion constituted part of the law of the land; that if the name of our Redeemer was suffered to be traduced, and his holy religion treated with contempt, the solemnity of an oath, on which the due administration of justice depended, would be destroyed, and the law would be stripped of one of its principal sanctions—the dread of future punishment." Yet, despite that conviction, Paine's "Age of Reason" continued to be sold, and may to-day be bought

from any respectable bookseller throughout the country, while as to the "dread of future punishment," the law is stripped of this, "one of its principal sanctions," by men like Canon Farrar preaching, in Westminster Abbey, against the doctrine of eternal punishment. Will you, gentlemen, add your names to the shameful list of those juries who tried—and tried vainly—by verdicts of "guilty of blasphemy" to check the progress of free inquiry and free criticism. Less than a century ago Canon Farrar would, by direction of Lord Chief Justice Kenyon, have been found guilty of blasphemy. In the last century prosecutions for heresy or blasphemy were plentiful, but to-day the spread of education has created a sounder public opinion. In nearly the last indictment for blasphemy in Middlesex, Messrs. Moxon, the publishers of Shelley's "Queen Mab," were found guilty under a similar indictment to that under which I now stand arraigned; yet to-day you may buy this blasphemous poem on any railway bookstall in the country, and the inane verdict of the jury which condemned it is regarded with contempt and scorn. Is it in the company of that jury that your names, gentlemen, are to be recorded? A similar indictment might to-day be preferred against Messrs. Longmans as the publishers of the works of Bishop Colenso; Chapman, Hall and Co. and Macmillan might equally be indicted for the publication of many of the essays of the late William Kingdon Clifford; and your verdict may revive a menace against the utterances of some of our best known writers and thinkers. It is idle to say that there is no intention of prosecuting these men; any one who is vicious enough and bigoted enough can indict the most respectable bookseller for blasphemy, and the law of blasphemy deals with *matter* not with *manner*; the law of blasphemy condemns equally Professor Clifford's mocking account of the creation stories in Genesis, as it may condemn the mocking in the newspaper before you. Messrs. Macmillan publish as to these creation stories these words: "One is an account of a wet beginning of things, after which the waters were divided by a firm canopy of sky, and the dry land appeared underneath. Plants and animals and men were successively formed by the word of a deity enthroned above the canopy. Another account is of a dry beginning of things—namely, a garden, subsequently watered by a mist, in which there were no plants until a man was put there to till it. This man was made from the dust of the ground by a deity, who walked about on the earth, and had divine associates, jealous of the man for sharing their privilege of knowing good from evil, and fearful that he would gain that of immortality also. The deity had taken a rib out of the man, and made a woman of it." They publish: "Now, to condemn all mankind for the sin of Adam and Eve; to let the innocent

suffer for the guilty; to keep any one alive in torture for ever and ever—these actions are simply magnified copies of what bad men do. No juggling with 'divine justice and mercy' can make them anything else." Herbert Spencer writes, and King and Co. publish: "Here we have theologians who believe that our national welfare will be endangered if there is not in all our churches an enforced repetition of the dogmas that Father, Son, and Holy Ghost are each of them almighty; that yet there are not three Almighty's, but one Almighty; that one of the Almighty's suffered on the cross and descended into hell to pacify another of them." Objection is raised to the strength of the language used with respect to God, yet the City does not prosecute the "Nemesis of Faith," which says of God: "He! to have created mankind liable to fall—to have laid them in the way of a temptation under which he knew they would fall, and then curse them and all who were to come of them, and all the world for their sakes; jealous, passionate, capricious, revengeful, punishing children for their father's sins, tempting men, or at least permitting them to be tempted into blindness and folly, and then destroying them. . . . This is not God. This is a fiend. . . . I would sooner perish for ever than stoop down before a Being who may have power to crush me, but whom my heart forbids me to reverence." Mr. Matthew Arnold, published by Messrs. Smith, Elder and Co., describes the Trinity as the three Lord Shaftesburys, and terms God the Father "the elder Lord Shaftesbury." What is there in the "Freethinker" more outrageous than this? John Stuart Mill, published by Longmans, declares that "The only difference between popular Christianity and the religion of Ormuzd and Ahriman is that the former pays its good Creator the bad compliment of having been the maker of the Devil, and of being at all times able to crush and annihilate him and his evil deeds and counsels, which nevertheless he does not do. To all these considerations ought to be added the extremely imperfect nature of the testimony itself which we possess for the miracles, real or supposed, which accompanied the foundation of Christianity and of every other revealed religion. Take it at the best, it is the un-cross-examined testimony of extremely ignorant people, credulous as such usually are." If, gentlemen, you condemn me, remember that your verdict will be taken as an encouragement for prosecution of all these. I have no right to ask you to question the law, because to you and to the learned judge is given the duty of administering the law as it stands; but I would respectfully submit that the laws against blasphemy belong to a period when men foolishly sought to control opinion by legislation, and that the power of defining what is a blasphemous publication lies in your hands. To-day eminent men like Lord Shaftesbury condemn as blasphemous

the publications of the Salvation Army; and if to bring religion into mockery and contempt be blasphemy, there is none more outrageous than that committed by these fanatics. In strong terms the same Lord Shaftesbury, a few years ago, denounced as blasphemous the famous volume "Ecce Homo." This prosecution challenges really the right of free and unlicensed printing, so highly valued in England, and for which Milton so ably and earnestly pleaded; it assails that spirit of free inquiry, which is really the basis of all our progress, the spur and aid to all intellectual effort. I submit that you are not sitting as a jury to condemn us for want of good taste; that is a matter for the wider jury of public opinion; you are asked to condemn us as criminals because our opinions on theology differ from yours, and because you may dislike our modes of expressing our opinions; you are asked to send us to undergo a punishment intended for grave crimes of conduct merely because we do not share your opinions on speculative matters. However the prosecution may try to gloss it over, you are asked to revive persecution for the sake of gagging opinion, and to send men against whose lives and characters no fault is alleged to keep company with the scum of society. It is alleged that the publication of so-called blasphemy is an outrage; even if that be so it is an outrage from which no one need suffer save by his own free will; the persons whose feelings you are asked to guard by imprisoning us can guard their feelings by not buying the papers which when bought, and not till then, inflict on them pain. The use of ridicule and strong words by religionists against Freethinkers is common enough within the limits of this empire. The missionaries use mocking words of Hindu and Mahomedan forms of faith. If you would judge fairly of the criminality of the paper indicted, you should think of the pictures as depicting some god in whom you do not believe. Those who would punish with imprisonment the publisher of a print of Jupiter smoking a pipe might punish us. But no one else should do so. You may think that a peculiar picture of a pagan god is in bad taste—many people, Christians and Freethinkers, would agree with you. But a man ought scarcely to be punished as a criminal for a breach of good taste, even admitting that such has been committed. Whether this be wise or unwise is another question. My appeal to you is to widen the liberty of speech enjoyed, not to restrict it. If you hold our methods of utterance improper in form or in method, your verdict, if it mark us as criminals, will make mankind look at our punishment rather than at our error. Every attempt is being made to rouse your supposed prejudices and to excite your feelings. I ask you to remember the essential question at issue, and not to allow yourselves to be blinded by the side issues so skilfully raised to

conceal the real point. Every attempt hitherto made to suppress opinion has ended in the wider diffusion of the opinions thus attacked. Persecution does not silence, it makes of the persecuted heroes and martyrs, and gives to them a tenfold strength. No service will be done to morals by sending us to consort with criminals, and to you the sole authority is given of doing with us as three juries in this very building did with William Hone. He was indicted for blasphemy, and on three separate trials three verdicts of acquittal did then what I appeal to you to do now. They left opinion free for opinion to condemn, but refused to condemn the mere use of hard or mocking words as crime.

Mr. Justice North, after remarking that Mr. Foote had wasted the time of the court by devoting a large portion of his address to matters which the jury had not to consider, that he had allowed him to read some extracts from books which perhaps he ought to have stopped, and that the jury must excuse him for not having done so, because he had been very reluctant to do anything which might prevent a defendant saying anything he supposed to be of value in his own defence, said: You have nothing to do with the definition of a blasphemous publication. The law says what a blasphemous publication is, but it is your duty to say whether the publication in this case is what the law considers a blasphemous publication or not. The law as to blasphemy is clear, and I am going to tell you what is sufficient to constitute blasphemy. The illustrations I am going to give you, however, will not cover the whole of what may be blasphemy. Now, if by writing or verbally, any one denies the existence of the Deity, or denies the providence of God, if he puts forward any abuse or contumely or reproach with respect to the Almighty, or holds up the persons of the Trinity, whether it is our Savior Christ or anyone else, to contempt, or derision; or ridicules the persons of the Trinity, or God Almighty, or the Christian religion, or the Holy Scriptures in any way—that is what the law considers to be blasphemy. It is for you to say whether you consider the publication before you as having come within this definition of blasphemous libel or not. It is said that the law had better not pay any attention to blasphemy, and should not deal with it. It is essential that the law should do so, because blasphemous libels have a strong tendency to subvert religion and morality, and tend in a great measure to interfere with the law itself. But I do not dwell on this, because you will with me accept the law as it is, without hearing reasons for it. This being the definition of a blasphemous libel, let us consider whether this paper comes within the definition. Does it or does it not scoff at the Almighty, and throw contempt on the tenets, or views entertained by professors of the Christian religion?



I am not going to call attention in public to the details of the charge. The learned counsel, who opened this case to you, very wisely refrained from stating in public the particular matters which you have to deal with. I shall do the same. I shall not read them in public or anything of the sort. I must, however, make a few remarks in respect to the questions you must put to yourselves regarding each. Now, the first count relates to what appears on pages 8, 9, and 10 of this publication, pages 8 and 9 being occupied entirely with pictures, and there being over the top of page 10 two pictures more. Now, just look at those pictures for yourselves. Look on page 9, at the top, on the left, on the picture below that. Look at the others in the left-hand column. Look at the first, I might say, and look at the last, and consider in looking at them whether they or any of them throw contempt on religion, or treat with derision the Holy Scriptures, the Christian religion, or the Deity. The second count relates to the woodcut on page 7. In connection with that, is the stanza below—the nine lines beginning with the words, "Now Moses," which I daresay you have read. Now just look at the whole of that, looking at the picture and the words below it, and those nine lines below. What do you say to that? Then again the third is at page 3, near the bottom of the right-hand column, the third paragraph from the bottom. It begins with the word "converted." Now, just look at that. What, gentlemen, do you think of that? Something has been said about the right of free discussion, the right of controversy about matters of religion, in respect to which persons may take different views, and the right of conveying your own ideas to others. Look at that paragraph and consider whether that can possibly be justified on the ground of its being controversy or discussion or anything like it. Now look at the fourth; the fourth is at pages 4 and 5. It purports to be an account of a trial for a blasphemous libel. If you read the first four lines you will see who the alleged prisoners are; I daresay you may have seen the contents of it. I will ask you in particular to look at the second paragraph, beginning at the words "The indictment." It is after the first four lines stating who the parties are, and then comes the first paragraph "The indictment." There is one other part I will just call your attention to there. In the middle of the first column of page 5 you see the words "This concluded the case for the prosecution." Now look at the eight or ten lines following that. I myself, gentlemen, have read the whole of these pages through. I do not call your attention to these pages as being worse than the rest, but as being what seems to be a fair sample of the rest. At any rate, they are found there. The sixth count relates to a passage at page 14, the second column, the second paragraph from the top. It begins with the word

“Holy;” you see what I refer to. I ask you to consider, gentlemen, whether the proper term for that would be controversy or free discussion on a point to be reasonably considered, or whether the proper description of that would not be rather a piece of ribald obscenity. Then, gentlemen, there is only one other count, six, and that is really putting the first in a different way. After the time that has been taken up, I am not going to waste your time, and I am not going to give to this paper any of that notoriety which its authors would desire for it by dwelling on it at any length. I am not going to insult your understandings by supposing that any one of you requires any further explanation from me to enable you to form an opinion as to whether these are or are not blasphemous libels, having regard to that which I have told you as to what a blasphemous libel is—that is to say, whether this is a case of contumelious reproach or profane scoffing against God Almighty, or the Persons of the Trinity, or the Holy Scriptures, or the Christian religion. As to that, gentlemen, I will say no more, but will leave it to you to consider. That is the first part of the case—and the question you have there to consider is, whether, having regard to this definition, these different paragraphs are libels or not. I am proceeding now to the second point—but if you find that they are not libels, of course the result would be that the prisoners would be acquitted, but if you find that they are, the result would be that to that extent the prisoners are guilty. Their cases stand somewhat differently. I take Kemp first, as his learned counsel has not thought it necessary to address you. He said very properly that as the evidence showed beyond a doubt that Kemp was proved to have sold the papers he would not address you on that point. You will recollect in regard to Kemp also that it is quite clear that on the 2nd of August, 1882, he signed the register of the newspaper as the printer and publisher. Therefore, as regards Kemp, the only question is whether you are of opinion that it was a blasphemous libel or not. That he sold it is quite out of the question. Then next I take the case of Ramsey. What is his position? As regards that, the law requires that newspapers should be registered, and it says—after providing for the way in which registration is to be made, which has been carried out as regards this paper by the documents produced here to-day—that every copy and extract from the registry of these documents shall be received as conclusive evidence of the contents of the register itself, so far as the same appears in the copy or extract. I read to you from the original, which has no magic force, but a copy of it is in evidence before you, and that copy is made by the statute sufficient evidence of the matters and things therein appearing. What appears? As regards Ramsey, what appears is this, that when the “Free-

thinker" is first registered, on the 6th of November, 1881, Ramsey is the person who goes to the registry and who appears in the register as proprietor of the paper, and he signs his name at the bottom, stating that he is the printer and publisher also. On the 2nd of August, 1882, a change takes place. But before going to that, perhaps I should call your attention to these copies of the "Freethinker"—the first batch that were purchased before the proceedings at the Mansion House in July last, and of these I only take the first and last. It appears they are said to be edited by Foote, and in the notice to correspondents appears, "All business communications to be addressed to Mr. W. J. Ramsey, 28 Stonecutter Street, E.C.; literary communications to the editor, Mr. G. W. Foote, No. 9 South Crescent, Bedford Square, London, W.C." At the foot of the last page is, "Printed and published by W. J. Ramsey, 28 Stonecutter Street." Then, in August, 1882, a change takes place, and the register shows that Ramsey is continued as proprietor, but the printer and publisher then is Kemp. He is the one who signs the register as printer and publisher, but Ramsey is continued as proprietor down to and after Christmas 1882, while this Christmas publication is issued; in fact, down to February 7th, 1883. On that day a change takes place. Foote effects a new registration, from which it appears that Ramsey ceases to be proprietor of the paper, and Foote becomes proprietor. That is the history of the paper as it stands, so that Ramsey's connexion is that he was proprietor from April, 1881, down to the 7th of February, 1883. That is his position. The proprietor of a newspaper is and was liable for all libels that appear in that paper. The theory was and is that if he is the person who prints and publishes the newspaper himself he is responsible for the contents of it, and that if he does not do it himself he is responsible for the person who does it for him. That sometimes worked very hardly on the proprietor, as he was found guilty of the offences of other persons. The law in this respect was therefore changed, and now the proprietor is not liable in that case. If in an indictment for the trial of a libel a plea is put in by the proprietor that he is not guilty, and evidence is given, and the evidence established a case against him by the act of any other person, it is competent for him to prove that the publication was made without his authority, consent, or knowledge, and that it did not arise from want of due care or caution on his part. In the present case there has been no attempt whatever made by Ramsey to prove any of these things. He has not attempted to escape from his primary responsibility by proving that this was done without his knowledge or consent, or that there was wanting due care on his part, and therefore, though the proprietor, might have satisfied you that although he was proprietor you ought not to find

him guilty; no attempt has been made to do so. He might have shown that the state of things appearing from this certificate was not correct, and that he was not proprietor; but he has not done so, nor has he attempted to show that for some reason, to be proved by him, he is not responsible as proprietor for what a proprietor, generally speaking, would be responsible for—unless he proved that proper care and caution had been taken by him. Therefore, it being beyond all question that he was proprietor at that date, there is nothing whatever to show that he was not responsible. It goes further than that, because it is shown that he was connected with the particular premises, and was often there, and that he paid the rates. Well, there remains Foote; and Foote is in a different position to that, and the question is whether you are satisfied that he has committed an offence in printing, publishing, or causing or permitting to be printed or published this paper. What is the position of things? First of all, he says there is no evidence whatever to show that he had anything whatever to do with this particular Christmas Number, and you may recollect that he asked three or four persons who said that they had seen letters addressed to him as editor of the "Freethinker," whether they had ever seen letters or documents addressed to him as editor of the Christmas "Freethinker" or the Christmas Number of the "Freethinker." Of course they said no. One could hardly imagine any circumstances under which such letters should be so addressed. What is the "Freethinker"? It is apparently a weekly paper. I find here a number of the 23rd of April, and a number of the 30th of April. This purports to be, on the face of it, the Christmas Number of the "Freethinker" for 1883, price 3d. On the face of it, these words indicate that it is one of a series. The Christmas Number of the "Graphic" or the "Illustrated London News"—what would you understand by that?—not a separately sold paper, but the number for Christmas of a publication coming out in numbers. Take the Christmas Number of "All the Year Round." In considering who is the editor of this particular number, is there any reason for supposing that the editor of this number is a different person from the editor of the "Freethinker," which is coming out in numbers? We find Mr. Foote's name as editor on this number of the "Freethinker." It might be that it was put there without his authority, and it is not enough to prove and show that he is editor because it stated on the face of it that he is. It might have your name or mine on it, and it would be a monstrous thing to say that, simply because your name or mine appears on it, we had placed it there. That, I say, is not enough in itself, but it is one of several pieces of evidence to which I am going to call your attention. On the first page we have "The Christmas

Number of the 'Freethinker,' Edited by G. W. Foote." Another thing is, that if you turn to the end you get a reference to his publications. You have "Mr. Foote's Publications," and then you have "Blasphemy no Crime. The whole question fully treated with special reference to the prosecution of the 'Freethinker.'" That is one of the documents put forward with reference to Mr. Foote's publications. Then there is this additional proof to show that the prisoner Foote is editor of this and other documents. These copies of the "Freethinker," from the 6th of March, down to the middle of June, state, every one of them, that the "Freethinker" is edited by Mr. G. W. Foote, and in the middle, in the page which I called your attention just now, besides the direction that business communications were to be directed to the manager, is one that literary communications were to be directed to Mr. G. W. Foote. It is possible that this might be done without his authority and knowledge, but it is not likely. But what is there to bring it home to him? There is direct evidence that a trial took place at the Mansion House in July last, and it appears from the evidence of Kellan, who bought these numbers, and from whose custody they came, that he was examined as a witness in July last at the Mansion House. Ramsey and Foote were two of the defendants then, and Kellan proved the purchase of these numbers, all of which have "Edited by G. W. Foote," and printed and published by Ramsey. He said attention was then drawn to these matters in the presence of Foote and Ramsey. Therefore, if you believe him, you have this fact, that it was called to Foote's attention that these documents purported to be edited by him. If, knowing that it was stated they were edited by him, he does not choose to contradict it, it is very strong proof that it was done with his authority. We have the other batch of copies of this production, commencing on the 6th of August, 1882, and ending in January, 1883, and in these it appears in the same way from beginning to end, "Edited by G. W. Foote." Then we have "Printed and published by H. A. Kemp," and then what appears to be precisely the same words as before, "All business communications to be addressed to the publisher; literary communications to the editor, Mr. G. W. Foote, No. 9 South Crescent, Bedford Square, W.C." Then what other evidence is there? You have this fact, that the woman in whose house he lodges, and the servant, both speak of having seen letters addressed to him as editor—sometimes with and sometimes without his name; letters and parcels addressed to him as editor of the "Freethinker," and the postman gave as the reason why it should be pressed more on their attention than in usual cases—that several parcels came in that way that could not be put in through the door, and had to be handed in to the

person who answered the bell. You have the evidence of these four or five persons, all stating that letters addressed to Foote at that place were delivered there, left there, and were not taken away. There is another thing. He has defended himself. Has he denied that he is editor, or has he attempted to justify his opinions? Do you believe that he was defending a publication of his own or not, that the arguments he used were consistent with the contention that he is responsible for it as editor or not? There is one other thing I should say. There is evidence of this one particular number of the publication being seen in his room. That is particular evidence as regards him. I ask you to say, taking these facts into consideration, whether he published or printed, or composed this document, or caused it to be published or printed, or composed. If he was the editor of it—if you come to the conclusion on the facts that he was editor of it—you must find that he published or printed, or composed it, or caused it to be published, printed, or composed. Some remarks have been addressed to you about interfering with the liberty of the press, Freethinking, and so on. Do you suppose that in confining the authors of this infamous publication you will be interfering with the liberty of the press? Not for a moment. Do you think you will be interfering with the right of free expression? Not for a moment. We do not live in a country of unbridled license, where a man has a right to say anything he chooses to anybody. Laws are necessary in a civilised community, and if it is said that we are approaching a state of things in which a man may say that he has a right to say anything in all places, it might also be said that two women in the street at night might go on abusing one another to their heart's content, and were to be allowed to go on if they liked. It seems to me to be much more serious to say that persons should have the right of placarding and holding up to the public gaze, and asking persons to come and look at things of this kind, in order that they may be induced to buy them. If such a state of things existed, it would not be Freethought, but would be unbridled license. I do not think I need dwell on this further. You will hardly require being told that in finding persons guilty who did this, you would not be in the slightest degree interfering with the right of free speech or free discussion in any way. Something was said about the terms of the indictment. The prisoner Foote commented a good deal on the particular form of the indictment. He said, among other things, a certain thing which seemed to me to be——. Well, I would rather not touch upon it. He also said that it had not been proved that this act was a breach of the peace. The form of the indictment is publishing these documents and tending to a breach of the peace. That formal part need not take any consideration. That is the



legal result indicated. If you find that he did publish the libels, that is the formal conclusion arrived at. There is one thing further. It has been said that a prosecution of this sort does not answer any useful purpose, but that it leads to the dissemination of the libel. That is a very serious consideration for persons commencing proceedings of this sort, and no doubt it has been carefully considered by the persons who instituted these proceedings. But such a state of things may be reached that one cannot refrain from taking action. The question for you is not what the result of this will be. The fact is that you are asked to say they are Not Guilty, because it can be of no use to find them Guilty, and it will perhaps increase the harm instead of decreasing it. That you have nothing whatever to do with. This prosecution has been commenced not without serious consideration whether it would be effectual or not. If the result is such as the prisoner Foote has indicated, that would be a matter we should all regret. Putting that out of sight, do you consider that this document is a blasphemous libel? and, having regard to the evidence which has been given, do you think that the defendants have been proved to have taken part in publishing it? I merely say, in conclusion, as to the way in which the prisoners have held themselves up as if they were being treated rather as what people call martyrs, that the question is whether they have committed the offence or not.

The jury retired at ten minutes to five o'clock, and remained out until five minutes past seven, when

The learned Judge caused them to be called into court, and asked them if he could in any way assist them by explaining the law again to them.

The Foreman replied they all understood the law, but he thought there was no chance of their agreeing.

The learned Judge—Would not a further consultation be at all likely to lead you to a conclusion?

The Foreman—I am afraid not, my lord.

The learned Judge—Then I am very sorry to say I must discharge you, and have the case tried again. (To the Clerk of Arraignment) I will attend here on Monday and try the case again with a different jury.

Mr. Foote applied to be allowed out on bail, but

The learned Judge peremptorily and very harshly refused the request.

At the conclusion of the case, and on the learned Judge leaving the bench, a large number of sympathisers of the defendants ran forward and shook hands with them over the dock-rail, and there were some cries of "Cheer up!" and "Bravo jury!" The court was, however, soon cleared.

# THE SECOND TRIAL.

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CENTRAL CRIMINAL COURT, OLD BAILEY.

MONDAY, MARCH 5TH, 1883.

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*(Before Mr. Justice North and a Common Jury.)*

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GEORGE WILLIAM FOOTE (the editor), William James Ramsey and Henry Arthur Kemp, printer and publisher of the "Free-thinker," were brought up to undergo a fresh trial on a charge of having published a number of blasphemous libels in the Christmas Number of that journal. It will be remembered that on the previous Thursday the jury were unable to agree to a verdict on the charge against the defendants, and were accordingly discharged.

Sir Hardinge Giffard, Q.C., Mr. Poland, and Mr. F. H. Lewis prosecuted for Sir Thomas Nelson, the City Solicitor (instructed by the Public Prosecutor); Mr. Horace Avory defended Kemp; and Mr. Cluer watched the legal points of the case for Foote and Ramsey, who otherwise conducted their own defence.

Long before the opening of the court, large numbers of persons waited patiently in the street, and when the doors were thrown open there was a rush to obtain seats, the gallery and body of the building being crowded within a period of two minutes.

During a portion of the day, Alderman Fowler, M.P., a member of the Corporation of the City of London, occupied a seat on the bench, as he visibly winced when Mr. Foote pointedly referred to his presence and denounced the prosecution instituted by the City Authorities.

On the learned judge taking his seat,

Mr. Cluer said: My lord, I am retained, on behalf of the defendants Foote and Ramsey, to argue points of law only; generally they defend themselves. In accordance with the

practise laid down in the case of King against Parkins, I am here merely to address the court on technical points. The first point is, that your lordship should quash this indictment entirely on the ground that it is substantially bad in charging these three persons together in committing one crime, whereas, in fact, it is a distinct offence in the case of each of them, and it is contrary to the usual course of justice to put prisoners on their trial together, and so prevent them calling one another as witnesses in their defence when that can be done.

Mr. Justice North: You say the three ought to be indicted separately?

Mr. Cluer: Separately, my lord. I rely principally upon the case of the Queen against Bolton and Park, reported in 12th Cox, page 87), and the words of the Lord Chief Justice are at page 93. That case, my lord, was a charge of conspiracy.

Mr. Justice North: Are the other cases you refer to in the books belonging to the court?

Mr. Cluer: I am going to refer to one which is in court, and it is reported in Archibald. The case of the Queen against Bolton and Park was an indictment. The learned counsel having read the language of the late Lord Chief Justice Cockburn proceeded—That, my lord, merely states the Lord Chief Justice's opinion as to the procedure that should have been adopted in that case, and that was a case of conspiracy in which the law does allow great latitude to the prosecution in the way of joining proceedings together. He has also expressed his disapproval of doing so in a case of conspiracy. The strongest case in my favor is that of King against Tucker (4th Burrows, page 97), that is for exercising a trade, and it was held that it was a distinct offence and could not therefore be made the subject of a joint prosecution. This, I submit, is a joint prosecution, and the evidence distinct evidence on the part of each of the prisoners, and therefore, I move your lordship to quash the indictment, or call upon the prosecution to elect against which of the prisoners they will now proceed.

Sir Hardinge Giffard: It is a perfectly elementary proposition that in all misdemeanors they are co-defendants, and are so indicted. Where there are distinct and separate acts which may or may not form evidence of a conspiracy, it is not necessary to go into a particular act. They are charged for the purpose of showing that they conspired. It was sought to show in the case to which my friend has referred that each of them had committed a felony, and the nature of the felony was one in which it was impossible that more than two of them could be parties to the felony. The Lord Chief Justice expresses his opinion that it was undesirable, while he sought to establish a case of conspiracy, to attempt to prove that by a case of felony, which

ought to be made the subject of a specific indictment. What relation has that to this case, or the indictment before you?

Mr. Justice North: The case against those for conspiracy against trade was a misdemeanor.

Sir H. Giffard: Without the facts of that case before me, I am not prepared to say what may be the meaning of the observation. I dare say it will be found to be a very intelligible matter. As plainly dealt with by Archibald it is an elementary proposition. Your lordship will find on page 70, where several persons join in the commission of an offence the whole of them may be indicted for it, or each separately.

Mr. Cluer: What authority have you for that, Sir Hardinge?

Sir H. Giffard: Pray don't interrupt. What has been urged on your lordship is the nature of the indictment. For this purpose your lordship knows nothing about the indictment.

Mr. Justice North: I won't trouble you, Sir Hardinge.

Mr. Cluer: This is a distinct offence in each person. I think the case of *King v. Tucker* applies.

Mr. Justice North: Tell me the name of the case nearest to the passage, that I may find it.

Sir H. Giffard: The first authority quoted, the *King* against *Atkinson*. This subject was made the subject of specific argument.

Mr. Cluer: Mr. Justice Field and Mr. Justice Stephens both agreed this was a proper question to bring before your lordship at the trial, and not one they could deal with.

Mr. Justice North: It is quite a proper matter to bring before me, but I cannot accede to it. It seems to me that the prisoners may be properly charged conjointly; and having regard to the facts put before me a few days ago, I don't see how any of them can be prejudiced by being tried collectively instead of separately.

The Deputy Clerk of Arraignment (Mr. Ivory) then proceeded to call out the names of the jury, and the prisoner Foote challenged a Mr. Thomas Jackson, who was on the list.

Mr. Jackson was accordingly put in the witness-box and asked by Mr. Cluer: Have you expressed an opinion adverse to the defendants in this case?—Yes.

Mr. Cluer: Thank you.

The learned Judge: Sir Hardinge, is it not better to withdraw this jurymen at once? Whatever the verdict of the jury, I should be sorry to have a man among them who had expressed himself as prejudiced.

Sir Hardinge Giffard: Oh yes, my lord; I withdraw him. It will be much more satisfactory to the Crown and everybody else concerned.

Mr. Jackson accordingly withdrew.

Sir Hardinge Giffard then proceeded to open the case for the prosecution in similar terms to those he employed in the previous trial.

[We do not propose to repeat the evidence of the whole of the witnesses, which was substantially the same as that given in the first prosecution, and shall confine ourselves substantially to their cross-examination.]

The first witness called was

Robert Sagar, who was cross-examined by Mr. Avory.

This shop is an ordinary bookseller's shop?—Yes.

With many other publications of different kinds there?—

Yes.

Did you say for what purpose you wanted this?—No.

Or on a subsequent occasion?—No, sir.

Mr. Foote: You purchased the first two copies of the Christmas Number on the 16th December?—Yes.

Who told you to purchase them?—I had instructions from my superiors.

From your superior officer?—Yes.

Who was that?—Detective Inspector McWilliams.

Who gave you the money to purchase them?—I paid for them out of my own pocket.

Who paid you back again?—No one yet.

Do you expect to be refunded?—Yes.

When you went a second time to purchase the two copies, who sent you then—the same gentleman?—Yes.

Did he give you any money then?—No.

Have you had any since?—Not for those copies.

What, then, have you had money for?—Travelling expenses.

Do you expect to be refunded for those second two copies?—

Yes.

Have you any idea where the money will come from for your superiors to pay you with?—Yes.

Where?—The City Solicitor.

Sir Thomas Nelson?—Yes.

The gentleman who is in court now?—Yes.

When you purchased the first two copies did you see me in the shop?—No.

Did you see me when you purchased the second two copies?—No.

Cross-examined by Mr. Ramsay: Do you remember having any conversation with me about this case?—You spoke once or twice about it.

Do you remember me saying the City were spending plenty of money in engaging Sir Hardinge Giffard, who would not come without a large fee?—Yes.

Do you remember saying the City had plenty of money, and

were quite prepared to spend it?—I don't remember saying that.

Will you swear you did not?—No. I may have said so.

Have you any recollection?—None at all. I recollect you mentioning Sir Hardinge Giffard's name.

Don't you remember saying the City had plenty of money, and were not afraid to spend it?—No.

You may have said so?—Yes.

Re-examined by Mr. Poland: McWilliams is your superior officer?—Yes.

You were acting under his instructions in this matter?—Yes.

When you purchased the copies in the shop, do you say there was a stock in the shop?—I saw a pile of them.

When was it you saw Foote in the shop?—After I purchased the two second copies on the 20th of January.

Lewis John Lowe was cross-examined as follows:—

By Mr. Avory: Whose name was on the rate-book?—Charles Bradlaugh and Annie Besant.

Mr. Justice North: The names, you mean, that were then on the rate-book?—Yes, my lord.

By Mr. Avory: My question to you is, Whose name is there now?—The same names are still there.

Re-examined by Mr. Poland: The rate is dated 5th of October?—Yes.

The cheque that you received was in payment of that particular rate?—Yes.

How long is a rate made for?—For six months.

The usual demand note is sent in?—Yes.

This cheque is for the full rate?—Yes, up to the end of this month.

I suppose the practice is, when you get notice of change of occupation to alter the rate-book?—Yes.

William John Norrish was cross-examined by Mr. Avory as follows:—

Were you there at Stonecutter Street as a weekly servant?—I was.

You were there in the service of the Freethought Publishing Company at a weekly salary?—Yes.

Did you act there simply as a shopman to sell?—Simply as a shopman.

Under orders in everything you did?—Yes.

Cross-examined by Mr. Foote: You have seen me, Mr. Norrish, only occasionally at Stonecutter Street?—Only occasionally.

The "Freethinker," I believe, had been sold at Stonecutter Street a considerable time before you removed to the employment of the Freethought Company?—Yes.



And during the period it was so sold did you often see me there?—No.

Did you ever see me transact any business there?—Never.

Had you any reason to suppose I was transacting business there?—None whatever.

By Mr. Ramsey: Was I manager of the Freethought Publishing Company at the time you lived at Stonecutter Street?—You were.

Was I manager when you went to Fleet Street?—You were.

Am I manager now?—You are.

Did we remove to Fleet Street in consequence of requiring larger premises?—We did.

Was I entirely engaged in Fleet Street in managing the business of the Company?—Not entirely.

By Mr. Avory: Was there any facility for printing at Stonecutter Street?—None whatever.

The learned Judge: I think you said the other day no printing whatever was done there?

Witness: Yes, my lord.

By Mr. Poland: When Foote came to Stonecutter Street, did he remain in the shop or go into a private part of the house?—Sometimes he would visit my own apartments.

That is in a private part of the house—the rooms you occupied?—Yes.

Mr. Justice North: That is what you mean?

Witness: Yes, my lord.

Mr. Poland: I suppose Ramsey would sometimes be in the shop and sometimes in that part of the house?

Witness: Yes.

Mr. James Barber, who proved the registration of the "Freethinker," was not cross-examined.

Okehamsted, an officer in the City police detective department, was being shown a number of the "Freethinker" dated 18th of February, and asked whether he purchased the copy at Stonecutter Street, when

Mr. Cluer said: I object to this evidence.

The learned Judge: On what ground?

Mr. Cluer: I submit he has no right to produce the paper.

The learned Judge: How can I say he cannot produce a paper?

Mr. Cluer: The date has been mentioned. My friend can read to the jury as evidence of the Christmas Number.

Mr. Justice North: It can be used in that way. It doesn't follow it is in evidence in that case.

Mr. Cluer: I was obliged to interfere in order that it should not be tendered to the jury.

The learned Judge: I cannot say it is not evidence. It would

not be evidence if used as indicated by Mr. Cluer, but it might be evidence in other ways. I cannot reject it.

Mr. Poland: When did you purchase it?—On the 16th of February.

Mr. Poland: Of whom?—Of the defendant Kemp.

Mr. Poland: At the shop in Stonecutter Street?—Yes.

Mr. Poland: I propose to put that in evidence. I think I have established my right.

The learned Judge: You are going to read a certain paragraph. Show it to Mr. Cluer, and if he has any legal objection I will hear him.

Mr. Cluer: I submit my friend has no power to put this in evidence against all the prisoners. It only shows what very learned judges have held the extreme indiscretion of binding the prisoners altogether. There is no power to put this in against all the prisoners. He must state against whom it is directed, and he must prove who are the persons referred to in this paragraph, and who are the publisher and proprietor and printer of this particular number.

The learned Judge: Look at the end.

Mr. Cluer: That is in evidence. My name might be printed there as publisher unknown. It is published on February 18th, and bought on February 16th by this witness. I have no right to cross-examine the witness. I submit the witness has contradicted himself as to this. I want my friend to prove who are the publisher, printer, and proprietor.

Mr. Poland: I submit I have proved that already.

Mr. Cluer: It was bought on the 16th of February.

Mr. Poland: I tender it as evidence against Foote.

Mr. Cluer: It was published before he was proprietor.

The learned Judge: It is bought from Kemp; and I consider it evidence against Foote.

Mr. Cluer: It was purchased by this witness on the 16th.

The learned Judge: It is published whenever it is issued. It was proved it was handed to the witness on the 16th of February.

Mr. Cluer: I submit my friend cannot contradict his own evidence. He puts before the jury February 18th.

Mr. Justice North: He proves a paper dated the 18th of February was handed to the witness on the 16th.

Mr. Poland: You made this note that you had bought it?

Mr. Justice North: That is in evidence.

Mr. Poland: Are you sure?

Witness: I am positive. You can get them on a Thursday. They are all dated up to the Sunday following in each week.

Mr. Justice North: Is this a Sunday paper?—It is dated for Sunday.

Mr. Poland : I propose to put this in evidence. The paragraphs I think it necessary to read are those beginning with the words "The Christmas Number of the 'Freethinker' has had an incredible sale," etc. (To witness) I think you said you bought that of Mr. Kemp?—Yes.

Mr. Poland : Just look at this notice (produced). Did you serve a notice, of which that is a copy, on Mr. Foote, by leaving it at 9 South Crescent, Bedford Square, on February 22nd?—Yes.

The learned Judge : There was another notice this witness produced. That, however, is not material.

Mr. Poland : That is not material, my lord.

Mr. Justice North : All that is proved at present is that this notice was left at Foote's house.

Mr. Foote : The prosecution seem to have forgotten that they have joined us in one indictment. (To witness) With whom did you leave this notice? The servant, Mary Finter—Miss Finter.

You did not see me at that time?—I did not.

Have you been doing anything in this case besides serving notices and subpoenas?—Yes, buying some numbers.

Who told you to buy them?—My inspector.

Inspector McWilliams?—Yes.

Did he give you money to purchase them?—No.

You expect he will?—No, I don't expect he will.

Mr. Justice North : You advanced it yourself, and you expect it will be repaid?—Yes, my lord.

Mr. Foote : That is what I asked you. He said, my lord, he did not expect to be repaid.

Witness : Not from Inspector McWilliams.

Mr. Foote : You expect to be paid at some time from somebody?

Witness : Yes.

The learned Judge : I put it more shortly, Foote. You expect to be paid at some time from somebody?

Witness : Yes.

By Mr. Foote : Have you any idea when?—Not when.

Have you any idea from whom?—Yes.

From whom?—The City Solicitor.

Cross-examined by Mr. Ramsey : Have you any idea where the funds are to come from for this prosecution?—Not further than from the City Solicitor.

Do you think he is finding it out of his own pocket?—I have no idea.

You cannot answer?—I cannot answer.

Mrs. Curle was not cross-examined ; she did not add anything to her evidence on the previous occasion. Mr. Lewis examined

her as follows:—Have you a servant named Mary Finter?—Yes. She waits upon Mr. Foote.

Did you as his landlady occasionally go into his room?—Occasionally; very seldom.

The learned Judge: Does he live there down to the present time?—Yes.

Mr. Lewis: Did you see the Christmas Number of the "Free-thinker" in Mr. Foote's room?—I would not swear. I did not notice any book particularly.

To the best of your belief?—I may have seen it.

To the best of your belief have you seen the Christmas Number of the "Freethinker" there?—I would not swear.

The learned Judge: You are asked whether to the best of your belief you have or have not.—I could not swear.

The learned Judge: That will not do. You are asked as to the best of your belief.

Witness: I have seen divers colored books there.

Mr. Lewis: Have you to the best of your belief seen a number of the "Freethinker" there with that yellow cover?—I have seen that cover or one the color of it.

Containing a Number of the "Freethinker"?—Not a number of the "Freethinker," to my knowledge.

Have you seen copies of the "Freethinker" in his room?—I may have done.

What is your belief. To the best of your belief have you seen there numbers of the "Freethinker"?—I may have done, but I could not swear to it.

I mean something like that in that particular number?—I may have seen that. I am not interested in it. I have never examined any book.

The learned Judge: The question is whether, to the best of your belief, you have or have not seen a number of the "Freethinker" there?

Witness: I have seen the color.

The learned Judge: We are not speaking to you about the color, but about the document handed to you.

Witness: I could not swear.

Mary Finter, the servant to the last witness, was examined in chief by Mr. Poland as to having seen numbers of the "Freethinker" in Mr. Foote's room, and as to the reception of letters addressed to Mr. Foote, and

Mr. Poland called upon Mr. Foote to produce the letters in which he was described as "G. W. Foote, 'Freethinker,'" or "G. W. Foote, Editor, 'Freethinker,' 9 South Crescent, Bedford Square."

Mr. Cluer: I object, my lord, to that.

The learned Judge: I don't trouble you, Mr. Poland, about



the words addressed to him, but as to the rest of the notice I will hear Mr. Cluer.

Mr. Cluer: It is not proved this notice has been served on Foote.

The learned Judge: He has lived at this house.

Mr. Cluer: That is not enough.

The learned Judge: Not to produce the documents?

Mr. Cluer: Certainly not, my lord.

The learned Judge: Do you wish to ask him any more questions?

Mr. Poland: No, my lord.

Mr. Cluer: It is not even proved this is Foote's servant.

The learned Judge: I will hear all your objections.

Mr. Cluer: My objections, my lord, are, first, that it is not sufficient service; secondly, that my friend has not proved that the defendant was there at the time it was served.

The learned Judge: What do you mean by not being there?

Mr. Cluer: My learned friend does not ask any question as to whether Foote was there at the time, and whether the notice was handed to the defendant or not.

The learned Judge: It is unnecessary to hand it to him if the first service was properly effected.

Mr. Cluer: The second point is that the notice to produce letters involves describing him as "Mr. G. W. Foote, 'Freethinker,'" or "G. W. Foote, Editor 'Freethinker.'" My friend is not entitled to produce these in evidence against the defendant.

The learned Judge: They are not proved yet.

Mr. Cluer: There is another objection. The notice was served too late, last Tuesday the 27th.

The learned Judge: Six days ago.

Mr. Cluer: No, my lord; it was served only thirty-six hours before the trial.

The learned Judge: That took place last Tuesday.

Mr. Cluer: The notice must be served a reasonable time before the trial. They cannot rely upon this being served now.

The learned Judge: As to the length of notice, I don't trouble you. What do you say about the service?

Mr. Poland: It is proved defendant was living at this place at this time, and notice was delivered to the servant who attends on him at the house at which he is living. It is not necessary to prove personal service.

The learned Judge: It might be served on a solicitor.

Mr. Poland: It might be served on a solicitor if proof be given he is his solicitor at the time.

The learned Judge: It need not be personal service.

Mr. Poland: The question is whether there is reasonable

ground for believing it would find its way to his possession. I submit that is the usual way of serving notice. That is sufficient if it is proved he is living there at the time.

Mr. Cluer: That has not been proved.

The learned Judge: That is in evidence.

Mr. Cluer: That it was served on him is not proved, and that he lives there up to the present day is positively untrue.

Mr. Poland: It was served on his servant.

Mr. Cluer: Not on his servant.

Mr. Poland: The servant to Mrs. Curle.

The learned Judge: The person who waits upon him.

Mr. Poland: I submit, my lord, that is reasonable service.

The learned Judge: I don't think there is sufficient notice.

Mr. Poland: Very well, then, my lord, I shall ask a further question upon that. (To witness Finter) Was defendant living at this address last week?

Witness: Yes.

Until the trial, did he sleep there every night?—I cannot say.

Was he there every day?—Yes.

When papers are left for him, what do you do?—I take them and put them in his room.

Do you remember the witness Okehampsted giving you a paper last week?—Yes.

What did you do with it?—I took it up to Mr. Foote's room.

You remember going down to the trial last week?—Yes.

Did Mr. Foote sleep in the house the night before the trial?—Yes.

The learned Judge: You mean Foote slept in the house last Wednesday night?

Witness: Yes.

The learned Judge: This is put in his room.

Mr. Cluer: I submit it is not proved it is served properly. It must be served a certain time according to law. My learned friend must prove that it was served before a certain hour. That is not proved yet. Is it proved conclusively that this has come to the defendant's knowledge? It is said it was put in his sitting-room, but that is not sufficient.

The learned Judge: When did you put it in his room?

Witness: Directly it was given to me.

The learned Judge: About what time?

Witness: About half-past five in the afternoon.

Mr. Cluer: Would your lordship ask if Foote slept there on Tuesday night?

The learned Judge: Yes, certainly. Do you remember if he slept there the night before?



Witness: I don't think he did.

Mr. Cluer: I submit that is not sufficient service. The servant only says that she left it in his room on the Thursday, and on the Tuesday night he did not sleep there.

The learned Judge: I think that is sufficient.

Mr. Cluer: She is not his servant.

The learned Judge: She is the person who waits upon him. It does not appear he had a settled servant of his own. I presume he is a lodger there, who pays for lodging.

Examination of witness continued by Mr. Poland:—

I suppose there is a letter-box at your house?

Witness: Yes.

Do you take out the letters in the morning?—Yes sir.

What do you do with letters addressed to Mr. Foote?—I put them on the hall table.

Are his rooms on the ground floor, or on the first floor?—On the third floor.

How were those letters addressed to Mr. Foote?

Mr. Cluer: I object to that question, my lord. I submit that whatever he may have been called, or whether he was addressed as editor of the "Freethinker," would be no evidence against the defendant. If a person chooses to address me as Bachelor of Arts, it is no proof.

The learned Judge: If letters are addressed to you as editor of a newspaper, and you receive them, is not that evidence?

Mr. Cluer: I submit, my lord, it is not the sort of evidence in a criminal case that should go to the jury. I think your lordship should withdraw such evidence from the jury.

The learned Judge: Receiving letters so addressed without objection on his part would be evidence to submit to them for what it is worth.

Examination continued by Mr. Poland: How were letters addressed there?—Some to G. W. Foote, 9 South Crescent, Bedford Square, and some were addressed to the editor of the "Freethinker."

The learned Judge: Tell me that again.

Witness: Some were addressed to the editor of the "Freethinker," but very seldom.

Mr. Foote: She said, my lord, that letters were addressed to me as Mr. Foote, and that letters were also addressed to the editor of the "Freethinker."

The learned Judge: There are some letters, but very seldom addressed to you as editor of the "Freethinker."

Mr. Foote: No, my lord, that is not so.

The learned Judge: Tell me what you say. Had some Mr. Foote's name as editor?

Witness: Some had, and some had not.

Mr. Cluer: Your lordship rules that the continuous reception of letters is evidence?

The learned Judge: There is always difficulty in dealing with the admissibility of evidence in connexion with letters one has not heard of. I only put to you the case.

Cross-examined by Mr. Foote: You could not say you had seen more than one copy of the Christmas Number of the "Freethinker" in my room.

Witness: I could not.

You don't believe you have?—No.

You have seen in my room papers of all shapes, sizes, and colors?—Yes sir.

Did you ever see any letter or envelope with the words "Editor of the Christmas Number of the 'Freethinker'" on?—No sir. Never.

Could you swear that you saw any envelope or any document addressed as "Editor of the 'Freethinker,'" between the 16th of November and the 16th of December?—I cannot say.

You are quite certain that you had only occasionally, and indeed but seldom, seen letters addressed to the editor of the "Freethinker"?

The learned Judge: Very seldom is what she said.

Mr. Foote: In order that there may be no doubt as to the witness understanding, I ask, Have you ever seen an envelope addressed to G. W. Foote, and also on the same envelope the words "Editor of the 'Freethinker'"?

Witness: I have seen it.

Mr. Foote: Am I entitled to ask this witness a question arising out of her examination, as to my being at 9 South Crescent in time to receive the notice a witness said he served?

The learned Judge: Certainly to ask any question relevant in any way. You must make it relevant to that case. Subject to that there is no limit.

Mr. Foote: You received this notice to produce about five on Tuesday afternoon?

The learned Judge: This matter has been gone into by your counsel; it has been exhausted, but I won't stop you. You may put any question you like.

Mr. Foote: It is only a question to show the time.

The learned Judge: I am allowing you to put it.

Mr. Foote: Did you see me at any time between the receipt of that notice and the following morning?—I cannot say.

To the best of your belief was I in the house between the serving of that notice to produce and the following morning?—You may have been, but I did not see you myself.

You didn't see me?—No.

You answer the door, do you not?—Yes, sir.

Mr. Foote: That is all, my lord, I wish to ask.

Mr. Poland: You answer the door, do you?

Witness: Yes.

Mr. Poland: Do lodgers have keys to let themselves in?

Witness: Yes.

Mr. Poland: Had Mr. Foote a latch key?

Witness: Yes.

Thomas James Alford, in the employment of the Postmaster-General, proved delivering letters at 9 South Crescent, Bedford Square, addressed "G. W. Foote, Esq., Editor of the 'Freethinker.'"

Cross-examined by Mr. Foote: Did you ever make any memorandum at any time of a delivery to 9 South Crescent, of letters addressed to me as editor of the "Freethinker"?—I have since Christmas.

You have no memorandum before Christmas?—No.

By Christmas of course you mean the 25th of December?—Most decidedly.

Who served you with your subpoena?—The police-officer Okehamsted.

Had you seen him before he served you with the subpoena?—Yes.

Had you any conversation with him about this prosecution?—No.

Will you swear you have had no conversation with him upon this prosecution?—He called at the office.

What office?—Our district office.

The post-office?—Yes. I was called upstairs to see the district postmaster.

Was this gentleman who served you with a subpoena there then?—Yes.

Will you tell us what took place in his presence?—The postmaster asked me several questions. He asked me if I knew Mr. Foote. I said I did. He also asked me if I had delivered any letters addressed 9 South Crescent.

Did he ask you if you had delivered any letters addressed to the editor of the "Freethinker"?—No.

When did this interview take place?—I cannot say.

The learned Judge: How long since about? How many weeks since?—It is about a month back.

Mr. Foote: Had you had any conversation with any one about this prosecution before the interview?—No.

What induced you then to make a memorandum of the delivery of letters as far back as Christmas?—If I am instructed by my superior officer I must do it.

You were instructed to do this by your superior officers?

—Yes.

The learned Judge: When?

Witness: I should say about a month ago.

Mr. Foote: My lord, I must go back on the question. (To witness) I ask you again, as you have only given me in reply something which took place about a month ago, what it was induced you to make memoranda or a memorandum of a delivery of letters as far back as Christmas?

The learned Judge: He has not said he began to make memoranda at Christmas. It is only since Christmas he began.

Mr. Foote: The words would certainly bear that meaning. You only began making these memoranda after that interview with the person who served you with a subpoena and after the orders of your superior officer?—Just so.

And that is about a month ago?—I should say about a month ago.

You have no memorandum going further back than that?—No.

The learned Judge: Have you got the book here?

Witness: Yes.

The learned Judge: Well you can tell us the day on which you made the first memorandum.

Witness: The 10th of February.

Thomas Campbell, another letter-carrier, gave evidence as to delivering letters at 9 South Crescent, some of which were addressed "G. W. Foote, Esq.," and others "Mr. G. W. Foote, editor of the 'Freethinker.'"

Cross-examined by Mr. Foote: Have you ever made any memorandum of the delivery of letters addressed to me at 9 South Crescent?—I have since I saw the detective who served me with the subpoena.

How long ago was that?—I believe on the 9th of last month.

The 9th of last month is the earliest day of any memorandum you have?—I did not make any memorandum on that day. The first I took was on the 10th.

Do you often deliver letters or packets to the editor of the "Freethinker"?—I often recollect letters, but I only recollect one packet.

You had often seen on letters "Editor of the 'Freethinker'?"—Yes.

What made you so particularly notice this large packet?—It is the only large packet I can recollect delivering with the address on. It was too large to put through the box, and I had to wait for the servant to answer the door.



This happened three or four months ago?—Yes.

Could you say whether it is nearer three or four?—Might not be as long as four months?—Yes.

Might it not be longer?—Yes, it might be longer.

Will you swear you delivered any letter, packet, or document of any kind, addressed to the editor of the "Freethinker," 9 South Crescent, Bedford Square, any time between the 16th of November, and the 16th of December?—I cannot swear that I have, because I didn't take any notice.

You would not be at all surprised to learn that you hadn't?—I should be rather surprised to learn that I hadn't.

Why?—Because my belief is, I have delivered letters pretty well every week to you so addressed.

But you could not swear as to that individually?—No, I could not.

How long before the subpoena was served upon you had you any conversation about this prosecution?—I believe it was on the 9th of February.

That was the first time you had any conversation upon the subject?—Yes.

You have not been paid anything to come here to-day?—I expect to be paid my expenses. It has cost me six shillings to come here.

I have no doubt you will get it. Have you been paid anything besides?—I received half a crown the night my subpoena was served.

Anything besides?—Nothing else besides.

William Loy, a constable, proved that he knew all the defendants, and was examined as follows:—

Mr. Lewis: When did you last see Kemp on the premises in Stonecutter Street?—On Wednesday last.

And Foote: On the 16th of February.

And Ramsey: On Tuesday or Wednesday last.

In a general way, how long have you seen any of the defendants at the shop?

Mr. Cluer: I object to that.

Mr. Lewis: How long have you seen Kemp there?—Several months.

And Foote: Four or five months.

And Ramsey: I have seen Ramsey for the last two years.

By Mr. Avory: Where have you seen Kemp?—I have seen Kemp serving customers.

Standing behind the counter acting as shopman?—Yes, sir.

What is the earliest time in the morning you have been out?—Six o'clock.

Have you ever seen Kemp come to open the shop?—I cannot say that he has opened the shop.

Have you ever seen anyone open the shop?—Yes.

Within the last three or four months?—Yes.

Can you say who closed it?—I have seen a boy.

How many times?—I cannot say.

As far as you know within the last few months, has anyone slept there?—Not to my knowledge.

Have you seen Kemp there serving persons who went into the shop with books and publications of different kinds?—Yes.

Books and other publications?—Papers generally.

Have you seen books in the shop for sale?—Yes.

Can you fix the earliest day when you saw Kemp there at all?—I cannot say.

Well approximately?—Four or five months back.

I understand four or five months back is the earliest time you saw him there?—Yes, it may have been, but I cannot fix the date.

The learned Judge: How far was it back?

Witness: Four or five months to the best of my recollection.

Cross-examined by Mr. Foote: You say you have seen me at Stonecutter Street occasionally?—Yes.

How many times might that be altogether?—Four or five times.

How long is it since the first time you saw me there?—I cannot fix the earliest date.

But about?—The earliest day I remember was on the 28th of January, but I had seen you before that time.

The learned Judge: Without fixing the date, how far back do you think?

Witness: About four or five months.

The learned Judge: You cannot exactly fix the date?

Witness: No, my lord.

Mr. Foote: What you mean is, you have seen me in Stonecutter Street three or four times during the past four or five months?

The learned Judge: Four or five times.

Mr. Foote: My estimate as to three or four times was very excusable. Do you remember how many times you said you had seen me in your evidence before the Lord Mayor? Do you remember how many times you said you had seen me in Stonecutter Street in your deposition before the magistrate?—Four or five times, I think.

You would not be surprised to hear after all it was three or four times?—It might be three or four times.

Instead of four or five?—Yes.

Do you know what you deposed before the magistrates as to the period of time over which those three or four times extended?—Several months.



In your deposition before the magistrates you told them that these three or four times extended over two or three years. You now tell us you have seen me four or five times instead of three or four, and that that occurred during the last three or four months.

The learned Judge: Four or five months.

Mr. Foote: How do you explain this tremendous discrepancy?

Witness: I have seen you there once since the first hearing before the magistrates.

Mr. Foote: You now say you have seen me a certain number of times during a certain number of months, and before the magistrates you say you saw me three times during a period of two or three years.

The learned Judge: He answered that by telling you three or four times, and he has seen you once since the trial.

Mr. Foote: That does not explain the difference between the months and the years.

The learned Judge: As to one, he has explained. As to the other, he has not, and you have a right to get it.

Mr. Foote: How do you explain this discrepancy between four and five months and two or three years?

Witness: I had been on duty there two or three years.

Mr. Foote: The words, my lord, are very plain: "I saw you three or four times." Did you say this then?

Witness: Three or four then, and four or five now.

Mr. Foote: You don't know whether it was during four or five months or two or three years?

Mr. Poland: You had no special reason for watching?

Witness: No.

Mr. Poland: And do you account for the difference in that way?

Witness: Yes.

Mr. Foote: Can you offer any explanation as to this vast difference?

Witness: I had no special reason for taking dates.

Mr. Foote: I am speaking of the period over which the times are distributed.

Witness: I have no further explanation to offer.

Mr. Foote: What was the last time you saw me there?

Witness: 16th of February.

Mr. Foote: You have no precise recollection of the first time?

Witness: I have not.

Mr. Foote: Have you seen me during any of those unfixable times transacting what looked to be business?

Witness: No, I have not.

Mr. Foote: You have seen me go into the shop and come out of it?—Yes.

Were my stays long, do you know?—That I cannot say.

By Mr. Ramsey: Do a large number of people go in and out?—Yes.

A great number of books and papers are sold there?—I saw a great number in the shop. I cannot say what are sold out.

You have seen a number of people go in and out?—Yes.

You have seen me go in and out?—Yes.

Like the others?—Yes.

Who instructed you to watch the premises?—Detective Sager spoke to me on the subject a week or ten days before the first hearing. He said, "Just take notice of whom you see go in and out."

Did he say, "You will be wanted to give evidence as to Ramsey going in here"?—No.

Did you depose to that effect before the magistrate?—I don't remember.

Is it true?—I don't remember it.

Did he say, "You will be wanted to give evidence as to Ramsey going in there"?—I don't remember.

Did he or did he not say so?—I don't remember.

Will you swear he did not say so?—He may have said so.

You won't swear he didn't?—No, and I won't swear he did.

If you said in your deposition before the magistrate you would be wanted to give evidence, would that have been true? Supposing you said so before the magistrate, was that true? Would it have been true if you had deposed that before the magistrate?—I don't remember.

Mr. Ramsey: My lord, I am putting a very plain question.

The learned Judge: Oh yes, it is quite plain enough, and he says he doesn't know.

Witness: I don't remember.

John Edward Kelland, clerk to Messrs. Batten, and Co., solicitors, of Victoria Street, Westminster, said in reply to Mr. Poland:—During the last year, I went frequently to the house in Stonecutter Street and purchased there weekly numbers of the "Freethinker." I know the whole of the defendants. I have seen them at Stonecutter Street. In July I purchased copies of the "Freethinker" from Ramsey. I have got the numbers I purchased from Ramsey. Each of these I produce was purchased from Ramsey. Ramsey was one of the defendants examined at the Mansion House in July. Foote was also there, but Kemp was not. The numbers I purchased were given in evidence in the presence of the two defendants. Attention was called to the fact that they appeared to be edited by G. W. Foote. The notice to

correspondents, which directed letters and literary communications to be sent to G. W. Foote, editor, 9 South Crescent, was also called attention to. That notice appeared in these numbers, and at the end is a statement that they were printed and published by Ramsey at Stonecutter Street. The first I produce is dated March 26th, 1882, and the last, June 18th, 1882. After that occasion at the Mansion House, I purchased various other numbers at the same shop, the majority of them from Kemp. Those begin August 6th, and run on every week to December. In the number for December 3rd, the Christmas Number of the "Freethinker" is advertised. In the Number it says, "Ready next week the Christmas Number of the 'Freethinker.'"

The learned Judge: Tell me what the date of the latest number of that parcel is.

Witness: January 28th, my lord.

The learned Judge: Do you remember about what time you saw Mr. Foote at Stonecutter Street?

Witness: On the 16th of April.

Examined by Mr. Ivory: What was the earliest day you saw Kemp there?—I cannot say the precise day. It was soon after the prosecution at the Mansion House.

When did you purchase the first copy from Kemp?—I cannot say.

May it have been two or three months after the first prosecution?—Before then I should say.

Would you swear you ever purchased one until September?—I cannot say the precise date.

You were clerk to the solicitor who was prosecuting the matter in July?—Yes.

Did you ever ask Kemp for anything else except the "Freethinker"?—Yes the "National Reformer."

Anything else?—No other papers.

Did you see other things there?—Yes a great number of other books and publications.

Cross-examined by Mr. Foote: When did you first see me at Stonecutter Street?—On the 16th of February.

Did you ever purchase a copy of the Christmas Number of the "Freethinker" in my presence?—No.

How do you recognise the numbers of the "Freethinker" you have put in?

Witness: I don't understand what you mean.

The learned judge: Where do they come from?

Witness: From Stonecutter Street.

Mr. Justice North: They were handed in at the Mansion House?

Witness: Yes.

Mr. Justice North: In whose custody were they before they were handed in?

Witness: In the custody of the solicitors to the first prosecution.

By Mr. Foote: What leads you to recognise these as the copies you purchased when they are put before you?—My signature.

Did you put your signature on them at the time of purchase?—I did.

Inside the shop?—At the office.

Did anyone see you sign them?—No, not particularly.

Did you make any note of the fact?—No.

In any memorandum book?—No.

Did you make any memorandum of the purchase?—No.

You are with Messrs. Batten and Co.?—I am a clerk in their office.

They are solicitors to Sir H. Tyler?—They are.

The firm gave you money to purchase these copies?—Yes.

You have reason to suppose Sir H. Tyler will refund the money?—That I know nothing about.

Do you make out bills of costs?—I don't.

Do you see them when they are made out?—No.

Messrs. Batten are still Sir H. Tyler's solicitors?—Yes.

How did you come to put these numbers into the hands of the prosecution in this case?—Because I was subpoenaed to do so.

Had you any conversation with any of them before you were subpoenaed?—No.

No conversation about the numbers which you have purchased since the first prosecution?—No, only when Mr. Poland asks me to produce them I do.

Are you aware how Mr. Poland became aware of your possession of them?—I am not.

Do you think it is likely your employers tendered them?—No they didn't tender them at all.

Do you think it is likely they informed the prosecution where they could be had?—I cannot say; it has nothing to do with me.

To the best of your belief has there been any interview or correspondence between your employers (Sir H. Tyler's solicitors) and the prosecutors in this case?—There may have been.

But are you aware whether there has or not?—There were two or three letters.

There have been letters?—There may have been. I cannot say; I don't look after the letters.

Mr. Foote: You just said there had been.

The learned judge: There might have been.



Mr. Foote: He said some letters passed. He said there had been two or three letters.

The learned judge: He said there had been some letters passed.

Mr. Foote: Had there been?

Witness: I cannot say; there might have been.

Mr. Foote: You could not swear that letters had not passed?

Witness: No.

Mr. Foote: Have you any idea in your mind, speaking without reservation, as to how the prosecution became aware of the fact that your employers had deposited with them copies of the "Freethinker," since the first prosecution, which you have purchased?

Witness: I don't know, I am sure.

Mr. Foote: Will you get any extra payment for this case?

Witness: That I don't know.

Mr. Foote: Do you expect any?

Witness: I don't know whether I expect any or whether I don't.

Mr. Foote: You expect to be treated liberally?

Witness: Yes, I suppose I may say so.

Mr. Foote: Then that is all, my lord.

Cross-examined by Mr. Ramsey: You say you have purchased copies of the "Freethinker" before July last—I understand you to say—chiefly from me?—Yes, that is so.

Was I in the habit of being in the shop when you came?—Yes.

Serving behind the counter?—Yes.

Have you bought any since July of me?—I don't think I have of you.

Re-examined by Mr. Poland: In July you were examined before the Lord Mayor?—Yes.

Sir H. Tyler was the prosecutor?—Yes.

That related to some of these numbers?—Yes.

Did you give your evidence in open court in the ordinary way?—Yes.

And were your depositions taken and signed?—Yes.

Were you examined on the 28th of July and various other days?—Yes.

Were you called more than once and the depositions taken on such occasion?—Yes.

Do you attend by subpoena in this case?—Yes.

And it was tendered in the ordinary way?—Yes.

Mr. Poland: That, my lord is the case on the part of the prosecution.

Mr. Cluer: As regards the defendant Ramsey I submit there is no evidence to go to the jury on any single count on

the charge brought against him. The only evidence, as far as I can gather from the notes, is that he was not the registered proprietor at any time, but that he was the manager of the Freethought Publishing Company before and after removal.

The learned Judge: Are you aware he is the registered proprietor from 1881 to 1883? That is in his own handwriting.

Mr. Cluer: I beg your lordship's pardon. My bad sight has led me wrong. Beyond that there is absolutely no evidence whatever.

The learned Judge: What more do you want?

Mr. Cluer: That does not connect him with this Christmas Number.

The learned Judge: Doesn't it?

Mr. Cluer: The prosecution must prove it is published in order to prove their case. They must prove that they composed, printed and published, or caused and procured to be published, the libel in question. The only evidence there is to go to the jury that Ramsey had anything to do with it is the certificate of the registration to him as proprietor of the journal and nothing else.

The learned Judge: Assuming there is nothing else, what more is wanted for this action?

Mr. Cluer: There is no publication proved, my lord.

The learned Judge: There is ample evidence of publication.

Mr. Cluer: If there is it must be pointed out to me. It has not been shown. It is a matter of the person who published. I submit all that has been proved is that this was sold by Kemp on two occasions, two numbers each time. It is said that Kemp was a servant of Ramsey's. It seems to me that the sole facts that the prosecution have proved against Ramsey, are that he was registered as proprietor and that the policeman sometimes saw him enter the shop in Stonecutter Street during the last two years, and that copies were bought of him by the last witness. As regards Ramsey I submit there is no case to go to the jury.

The learned Judge: I think there is ample evidence to go to the jury, Mr. Cluer:

Mr. Cluer: I have to submit on this indictment that your lordship should call upon the prosecution to elect against whom they will proceed.

The learned Judge: I have already decided that.

Mr. Cluer: I am moving after evidence has been given. I was then moving as to whether the indictment should be quashed as it stood. I am now moving that the prosecution should be called upon to elect whether they will proceed



against Kemp, Ramsey, or Foote. I base my application upon the fact that the evidence is insufficient, and I think that it is exceedingly clear.

The learned Judge: Don't mind what you think about it, Mr. Cluer.

Mr. Cluer: The charge is a joint offence. They are charged jointly with a joint offence. They are not charged separately with having committed an offence, but charged jointly with having published blasphemous libels in the Christmas Number of the "Freethinker." I ask to be shown any word of evidence that supports that charge of a joint offence in publishing, writing, or composing this Christmas Number. In the case of the King against Lynn and Daveney, reported in Carrington and Payne, which was a case of obstruction of the highway, there was evidence of obstruction separately, although the parties were charged jointly; and the learned judge said the prosecution should elect against which they would proceed. I submit there is no evidence of a joint offence. If they are charged jointly the evidence must be proved jointly. I deny that the prosecution has proved anything of the kind, and on the authority of this case I ask your lordship to call upon the prosecution to elect against which they will proceed.

The learned Judge: My opinion is against you.

Mr. Cluer: Will your lordship reserve the point?

The learned Judge: I see no reason. No. I forbear giving my reasons because I could not give them without stating my opinion of the evidence, and that I wish to avoid.

Mr. Cluer: Will your lordship reserve this point, because I consider this one of importance?

The learned Judge: I don't think it is.

Mr. Cluer: Will you consider it? I think it is a fit case.

The learned Judge: I don't want you to tell me what you think. I know it is only your way of speaking. I see no similarity between this case and the one you have quoted.

Mr. Cluer: They were charged with a joint offence.

The learned Judge: No, I don't reserve anything on that.

Mr. Cluer: I ask you to withdraw the case from the jury as regards Foote.

The learned Judge: Your first point is on behalf of Ramsey alone; your last point was on behalf of both. Now it is on behalf of Foote.

Mr. Cluer: The evidence is that of the detective Sagar, who produced two certificates of the registration of the "Freethinker," and the second one of February 7th, 1883, shows it was transferred to Foote as proprietor. The other evidence is that of Norrish, who had only occasionally seen Foote at

Stonecutter Street. He did not see him often or see him transact business, nor had he reason to suppose he transacted business. The only other evidence I can find, is the fact of letters being addressed to him as editor of the "Freethinker." I have to submit that that is not sufficient to convict him of having published this particular number on which he is indicted jointly with the other defendants. The evidence goes to this, that he has been seen at the place and that the paper bears his name as editor of the "Freethinker." That I submit is not to be taken as an admission by the defendant in any way of the prosecution having proved he was editor, or transacted any business, or did anything to show that he wrote or published the print. I submit the prosecution have failed to prove that Foote has in any way published this Christmas Number of the "Freethinker."

The learned Judge: I think there is evidence to go to the jury upon the point. Portions of the evidence that bear upon Foote I will point out by and bye.

Mr. Avory: With regard to the defendant Kemp, I don't feel in a position to contest the fact that he has been selling these papers over the counter, and his share in the responsibility is rather a question for your lordship. The general question I leave to be dealt with by the other defendants.

Mr. Foote in a most eloquent and able address said: Gentlemen of the jury, I stand in a position of great difficulty and disadvantage. On Thursday last I defended myself against the very same charges in the very same indictment. The case lasted nearly seven hours, and the jury retired for more than two hours without being able to come to an agreement. They were then discharged, and the learned judge said he would try the case again on Monday with a new jury. As I had been out on bail from my committal, and as I stood in the same position after that abortive trial as before it commenced, I asked the learned judge to renew my bail, but he refused. I pleaded that I should have no opportunity to prepare my defence, and I was peremptorily told I should have the same opportunity as I had had that day. Well, gentlemen, I have enjoyed the learned judge's opportunity. I have spent all the weary hours since Thursday, with the exception of the three allowed for bodily exercise during the whole interval, in a small prison-cell six feet wide, and so dark that I could neither write nor read at midday without the aid of gaslight. There was around me no sign of the animated life I am accustomed to, nothing but the loathsome sights and sounds of prison life. And in these trying and depressing circumstances I have had to prepare to defend myself in a new trial against two junior counsel and a senior counsel, who have had no difficulties to contend with, who have behind them

the wealth and authority of the greatest and richest Corporation in the world, and who might even walk out of court in the perfect assurance that the prosecution would not be allowed to suffer in their absence. Now, gentlemen of the jury, I want you to bear in mind who it is, or rather who they are, that instigated this prosecution, commenced it, have found all the money for it, and are still carrying it on. There can be no doubt in your minds after the examination and cross-examination you have listened to, that all the money for this prosecution will be found by the Corporation of the City of London, a body which seems to have more money than it knows what to do with, a fact, however, which will not surprise you when you consider that such a body can go to the expense of £30,000 to give a dinner to a prince. Some of you may have noticed within the precincts of the City of London—holy as they are—certain publications hawked about the streets, with which there is no interference; publications hawked about in a manner intended to excite prurient curiosity on the part of the people who purchase them. These periodicals are not interfered with, while the periodical which is before you, or rather the publication which is before you, considering the small publicity that appears to have been given to it before the Corporation of London gave it such a splendid advertisement, seems to have been ferreted out from comparative obscurity in order that a ground of indictment may be found against those who are alleged to be connected with it, and in order that the City of London may show—before the Government absorbs it into a larger and, I hope, more effective and beneficent Corporation—a last remnant of its old character; may go back for fifty years of its own history to apply again principles that have never been appealed to since the prosecution in London of the Rev. Robert Taylor; may show to the whole of the Kingdom that the City of London, with almost its last breath, is determined to uphold those principles which are, I have no doubt, at its base in the past, and to show how much evil it can do before it is abolished for ever. It is alleged I am the editor of the "Freethinker." Supposing it were true, I am not in the witness-box and I am not here to give evidence. Neither affirmations nor denials are my business. Suppose I had edited every number of the "Freethinker," that would not give you sufficient proof to warrant you putting me in peril of the grave penalties that your verdict of Guilty would render me liable to. Even that would not show I was really responsible for the publication which lies before you. Again I say you must judge from what evidence has been tendered by the prosecution. Of course if men may be committed for trial on speculation and sent to gaol on suspicion, it may be pleaded that there are many old precedents which would even justify such a course as



that, but I think, gentlemen, you will agree with me that such a course ought not to be, and shall not be justified, if you have any power of deciding this by the verdict you give. The evidence against me, technically speaking, is rubbish. You have one or two witnesses that really speak as if they mean all they say, and all the evidence they can give against me is that I have been seen at Stonecutter Street a few times, amounting, as one witness said, to four or five times, over a period of several years. Some other persons who say they have seen me go in and out are very shaky in their evidence, and if the policeman is only as shaky on his legs as in his evidence, it is a wonder to me he can continue to be an efficient officer of the force. What value is there in the testimony of a witness like this, who deposes before one court that there are four or five times extending over as many months, and in another court that there are three or four, extending over two years? You have the fact alleged, and it may be considered proved, I supposed, by the learned counsel for the prosecution—I don't know whether he takes that view of it or not—that on the 6th of February there was a change made in the registration of the proprietorship of the "Freethinker," and from that time I stood in the position of proprietor. That is a considerable distance from the 16th of December, when, according to the indictment, the blasphemous libels are said to have been committed. The reference which has been read to you from a recent number is one which in continuity of business would evidently be made by anybody concerned in it. These things don't call for public statements to readers of papers. What is said in a police court or criminal court like this is naturally authoritative. What is said in newspapers is only with a view to the interest of the publication and the just curiosity of the readers in certain matters and certain words. Evidence has been tendered that letters addressed to me as editor of the "Freethinker" have been delivered at South Crescent to me, but neither of the two postmen can swear he delivered any document so addressed to me between the 16th of November and the 16th of December, when you would naturally say any editorial work connected with the publication would have to be done. The evidence of the servant girl Finter is that she saw one copy of the Christmas Number of the "Freethinker" in my room. She admits that she saw, and has seen in my room, papers of all shapes, sizes, and colors. The learned counsel for the prosecution read you an extract from a number of the "Freethinker" to the effect that it had a large circulation, and I feel quite sure in my own mind that no Christmas Number nor any other Freethought publication would be interfered with unless it had a large sale. So long as a Freethought publication has a small sale there is no danger; it is only when it thrives and when its principles are

beginning to permeate large sections of society that men think it necessary to interfere on behalf of their own threatened interests. All indications point to the fact that this publication would have a large sale, and it would not be a wonderful thing if a copy of the paper were found in the room of a man whose room is littered with papers of all sorts, colors, and sizes. I make no statements or denials; I merely deal with the evidence. I say there is not a shred of evidence which would justify you in your position, having to give a grave legal verdict, to say in that position and capacity that I am responsible for this or any blasphemous libel which can be found within the corners of the publication. I will leave all that. It is not a kind of business in which I am particularly skilled or interested. I respect the talent, ability and character of the learned gentlemen, but I should not care to make it my business to participate in such work as they have to do. I will proceed with what to me is of more interest, the consideration of the grounds of this prosecution, not from a technical point of view as the evidence concerns myself, but from the broader point as it may concern myself and co-defendants alike. What is it? Were I in your position, and a man were brought before me on a grave criminal charge, I should ask this question—Under what statute is he prosecuted? I am perfectly aware you will get your legal directions as to the law as it now stands from the learned judge, but I am not less aware that in defending myself I have all the privileges of a counsel, that I have a right to deal with everything included within the borders of the indictment; and I submit if there is any distinction to be made between a counsel in the law pleading for his client, and a defendant who can only plead for himself, because his purse is not long enough to purchase that legal defence—if any such distinction is to be made, it should be made in favor of the man who stands in such a position of danger as I have the misfortune to stand in now. If you ask under what statute I am prosecuted, you will have as an answer, no statute. This is an indictment at common law. Common law is what? Judge-made law. I have the very highest respect for the intellectual power, the legal accomplishments, and the character of the learned judges who occupy our bench, but I do say that all judges—no matter what their position might be; no matter however wise or disinterested their judgments may be on ordinary criminals—necessarily from their position, are inheritors of that old and bad tradition of the priority of the Crown in all Crown prosecutions, especially when they touch the liberty of the press or the liberty of association, and the right of free speech, bad traditions which have, unfortunately, as every reader of Government-allowed prosecutions during the last 150 years knows, stained our legal records and too often turned courts of justice into halls of

oppression. Now, gentlemen, I am making no invidious comments; I am only stating general principles and general facts; and it is because of these facts and the principles which are implied in them that I want to impress upon you, the necessity of not allowing yourselves to be enmeshed by merely legal cobwebs. You have to give a decision on this very grave question, which I shall have to show you later on in my address, will have far reaching consequences whichever way your verdict goes, to give that decision on the broad grounds of common sense and equity, with a due regard to what I have to say and a full regard to what the learned judge may have to say to you in his direction. I said the common law was judge-made law. We have been told by the learned counsel for the prosecution, that we cannot permit insults to the Christian religion, that we may permit discussion on controverted points of religion, but we cannot allow insults to Christianity. I have to complain that while the language of old decisions is referred to, absolute and accurate language is not cited. I defy anybody to point out a single case in which any man has been prosecuted, much less in which any man has been convicted and sentenced, on a charge of merely bringing the true religion into contempt. The word contempt has always been coupled with the word unbelief or disbelief—to bring the Christian religion into disbelief or contempt. You must see the reasonableness of so coupling it. You must couple the truth of the thing with its immunity from insult, and so in all decisions the word disbelief was used with contempt. The phrase, “controverted points of religion” has never been used. It was held by Lord Justice Abbot, that while no general attack on Christianity could be permitted or tolerated, discussion on controverted points was allowable. Now, the learned counsel for the prosecution did not even dare to put the language of the learned judges to you in its old and, as I think, hideous nakedness; but he used the word religion, implying you were to believe that controverted points of religion in general were to be discussed, but that no religion was to be insulted. I affirm broadly, and I don't think it can be contradicted, that it is only religion established by law which has any standing in this country.

In proof of this, Mr. Foote quoted the case of the Scorton Nunnery, reported at page 196 in the third volume of “Russell on Crimes,” and proceeded:—

So that you see here the learned judge lays it down that Mahomedans, Jews, and even Roman Catholics, may be insulted with impunity, so long as you only insult the latter sects on those points on which they happen to differ from the religion established by law in our own country. Does not that show that we are dealing simply with a judge-made law, called common law, for the protection of the Church as by law established?



Some very grave remarks on that will occur a little later on. I ask you to consider, what is it really that lies behind all this? There can be no doubt whatever that the basis of all law against blasphemy, whether statute or common law, is priestcraft. It is a commonplace of the history of English law, as well indeed as of the law of Christendom at large, that all laws against heresy were originally not only punishable by, but tryable by, ecclesiastical courts. I don't mean that the ecclesiastical courts punished the offender, but they pronounced sentence upon him, and then handed him over to the secular power to be dealt with according to the judgment of the Church. Mr. Justice Stephens says that law is not abolished yet; but what I want to show you is that the common law was really brought effectively into operation after the abolition of the writ *de heretico comburendo* in the reign of Charles II., that the common law is the after glow of the setting sun of persecution, and that the judges brought it in not to serve the public, but to serve the Church. Who was the first man who used the words that "Christianity is part and parcel of the law of England"? Sir Matthew Hale was the first judge who used those words. Without referring anybody to the statute on which he relied, the judge sentenced people to be burnt to death for witchcraft, or to be hung; and no doubt his common sense was quite as great in the one case as the other. What is the prosecution of Freethinkers but the outcome of the same superstition which in the old days burnt and hanged poor women and children for a crime we know now to be impossible? And the time will come when we shall recognise the crime of blasphemy to be impossible. When a great Roman Emperor, Tiberius, was asked by an informer to allow a prosecution for an offence against the gods, his reply was that the wrongs against the gods must be dealt with by the gods. That is a point you will have to consider more fully when you come to the indictment. The spirit which underlies all prosecutions for blasphemy has its origin in priestcraft in the past, and the credulity and ignorance thus engendered support it to-day. Samuel Taylor Coleridge, the poet, well said that the statement that Christianity is part and parcel of the law of the land is as absurd as if one were to say—supposing there to be a law to protect carpenters and builders in the exercise of their profession—that architecture was a part of the British Constitution. Let us see if Christianity can be declared to be part and parcel of the law of the land. What is the source of law? The House of Commons and the House of Lords, and the Crown giving its assent to bills passed by those two Houses. The House of Commons initiates matters of legislation. But are all the members of that House Christians? The Christian oath every member was obliged to take before he took his seat—the oath of allegiance—has been

broken down for many years, and a theistic oath substituted for it; so that we have in the House of Commons—Jews, who certainly are not Christians, whose ancestors crucified Jesus Christ, whom Christians believe to have been, and to be, God,—Jews, who believed that Jesus Christ was not God, and that he was a blasphemer—and they have a hand in making the laws of the country in which Christianity is part and parcel of the law of the land! There are many men inside the House of Commons who had not the same odium and obloquy to encounter as Mr. Bradlaugh, but who still, in secret, are known to be sharers in his views. We had lately returned to the House of Commons, as member for Newcastle, Mr. Morley. He is well known as a Positivist. A Positivist is one who believes in Auguste Comte's philosophy, a man whom the late Léon Gambetta declared to have been the greatest thinker of the 19th century. What was the object of Comte's philosophy? It was to reorganise society by the systematic cultivation of humanity. Mr. Morley is a believer in that. Mr. Morley took to spelling god with a small g, and the *Spectator*, in retaliation, printed Mr. Morley's name with a small m. Mr. John Morley is returned by the electors of Newcastle, and takes his seat in the House of Commons to help to make the laws of the country in which Christianity is part and parcel of the law of the land! You have not only Jews and heretics in that House, but you have men shaky in their religious belief. I suppose if one said several of the Radical members of the House were Christians, one would be asked if he had been dining too much. There are men of all shades of opinion, not only of opposite opinions, but opinions antagonistic to Christianity, sitting in our national Legislature, helping to make the laws of the land. How, therefore, can it be said that Christianity is part and parcel of the law of the land? It has been said, and said in this court—not to-day, but on a previous trial—under this very same indictment, that a belief in the divinity of Jesus Christ as lord and savior, and many other doctrines of Christianity, are necessary, because without them you have no guarantee for morality, and you have without them no guarantee as to the evidence tendered in a court. The phrase used was that it interfered with the proper administration of the law. How can a disbelief in Christianity interfere with the administration of the law? The judges have over and over again said that the great sanction of the oath was a belief in future rewards and punishments. I scarcely condescended to examine such an argument, which makes—

“The fear of hell the hangman's whip  
To hold the wretch in order,”

and which degrades a being far below the level at which I would

call him a man. I scorn to examine such an argument, but I want you to see this. If a belief in the doctrine is the great sanction of the oath, the oath has been practically abolished by legislation, because though it is true the oath is taken in a court of justice, it is also true that the oath may be replaced by an affirmation; and the prosecution know very well that the evidence of the men given on affirmation is as good as that given on oath. It is clear that there is no compulsory oath now, and that consequently there is no reason whatever for saying that if certain doctrines be perverted, the sanctity of the oath is gone too. You know there is a large amount of perjury takes place in the courts of justice. Who are the perjurers—the people who give their evidence on oath or who give it on affirmation? Gentlemen, it is a fact that the perjurers don't come from those who give evidence on affirmation, but from those who give it on oath, so that the sanctity of the oath may be one thing, and the sanctity of a man's word another thing. Just glance for a moment over one or two instances of prosecution that have occurred under these laws. I will carry you back to the time of Naylor who, for blasphemy, was brought up before Lord Commissioner Whitelocke. They had whipped him, imprisoned him, and they wished to put him to death. Lord Whitelocke gave it as his opinion that the time had passed for putting people to death. He said the power has lapsed, and Naylor was not put to death. So that you see what is considered blasphemy in one age, and for which a man may be put to death, in another age may not be so considered, clearly showing that blasphemy is a matter of opinion amongst rival contending sects, and that those who have the upper hand would make a denial of their doctrines blasphemy. I want you to bear that carefully in mind. I now come to the last century. Woolston was sent to gaol and lingered there for years, because he did not believe that the five books of the Pentateuch were inspired. Bishop Colenso can prove the same thing to day without refutation, and still remain a Bishop of the English Church. We have changed very much, I think, since then. Peter Annett was sentenced to a month in Newgate, ordered to stand in the pillory twice, had to undergo a year's imprisonment, and was brought back to Newgate until he found sureties for his good behavior. What was his offence? His offence was denying the authenticity of the Pentateuch. The same thing is done by the Bishop of Exeter, one of the contributors to "Essays and Reviews," which Lord Shaftsbury declared to be blasphemous productions vomited forth from hell. You, gentlemen, have heard the name of Gibbon, who said that the religions of the ancients were thought by the philosophers as equally false, by the people as equally true, and by the statesman as equally useful. Gibbon was a sceptic. You



know of Hume, one of the greatest metaphysicians that ever lived, and of Bolingbroke, the great orator and statesmen, both of whom were Freethinkers. These men's writings, all men of learning and leisure read. Nobody ever thought of interfering with them, but when the men of the people come and utter the same doctrines they propounded, and sell them at the people's price, in the language of the people, it is called blasphemy—thus clearly showing that blasphemy only means heresy written for the people at the people's price. You have always had blasphemy prosecutions against cheap papers, showing the clear motive in the minds of those who institute those proceedings. The seller of the works of Thomas Paine was prosecuted. Richard Carlile spent nine years in gaol for selling prosecuted publications, but in the end he triumphed; and I say that the exertions of that man and those who took part in the struggle with him, gave us more than a generation of peaceful enjoyment of one of the grandest principles—the liberty of the press, which is seriously threatened by proceedings like this. For if you get a verdict against one paper for one offence, you may bring prosecutions against other publications; and I see there is an association started with a live secretary, whose object it is, seeing that the monster of Persecution has been roused out of its lair, to prosecute such writers as Professor Huxley, Professor Tyndall, Mr. Herbert Spencer, and others of that class. It is therefore clear that these bigots will be overjoyed if you give a verdict against us, because they know that then bigotry in this country will become active and give them support, so that they may crush down those who turn back from the darkness of the past and throw out the effulgent light of the sun of knowledge and progress, in whose meridian beam will bask the generations of those who follow us. Supposing you believe there is proof of publication against me and my co-defendants of the alleged blasphemous libel which lies before you, still the proof of publication does not suffice. You have to bear in mind that belief on your part that this is a blasphemous libel does not suffice. You have to find there was malice in the case. Our indictment charges us with having wickedly published this, so that you must find there was malice in the case before you can bring in a verdict of Guilty.

After quoting from Folkard on the "Law of Slander and Libel," Mr. Foote proceeded: We, as the defendants, say that there has been no malice whatever. There has been no evidence tendered as to malice. There is plenty of money behind the prosecution; plenty of detectives have been engaged; plenty of spies may be purchased at a price. Those spies may have been paid to follow us, to listen to our conversation, to hear what we say, and whether we ever stated our object was to outrage public

feelings or to make malicious insults. Nothing of that sort has been done, for the simple reason that no such evidence ever existed and could not be proved by any number of spies or detectives. There has been no malice proved, and I don't know that it is necessary to do anything except to draw your attention to Folkard, who says malice must be proved before you can bring in a verdict of Guilty. It has not only not been proved, but there has been no evidence tendered; therefore you are bound to believe there has been no malice, and bring in a verdict of Not Guilty, and withhold your verdict of Guilty from the prosecutors, who have the Corporation of the City of London behind them. One of the members (Alderman Fowler) of the Corporation is now sitting on the bench while the case is being tried. Now, gentlemen, when we talk about outraging people's feelings, I want to know whose feelings are referred to. Does the prosecution really think it can get you to believe that the polemical language of Christian controversies is not as outrageous to the feelings of those they are opposed to, as anything you can find in the pages of that publication? If I give you a few choice epithets used by Christian polemicists, you will agree there is nothing exceptional. The following epithets are all extracted from one ecclesiastical historian, and as he was a Christian, you can find no fault with him there. In Mosheim we find the following choice epithets:—"A set of miserable and unthinking creatures;" "Malignant and superficial reasoners." That refers to Free-thinkers. When you remember that there was no prosecution for this language, and when you remember it has been said that the blood of martyrs is the seed of the Church, and notice the persistent use by Christians of weapons of ridicule against Paganism, which was the established religion of the Roman people, then you will be able to measure at its true value the charge against us—that we have used ridicule and malice in our attack on religion established by law in our own land. Some of these phrases which were applied to the Romans were "servile;" "perfidious;" "bloodsuckers;" "ignorant, wretched;" "exercised unnatural lusts;" "procuring abortion;" "consecrated" "brothels to divinites;" "brutish stupidity;" "ferocious;" "licentious people;" "bigoted multitude;" "savage tyranny of Roman Emperors." Here is a description of Christians:—They are "guilty of many forgeries;" have "given us a series of fables;" their martyrologies bear marks of "ignorance and falsehood;" the early history of the apostles is "loaded with fables, doubts and difficulties;" shortly after Christ's death there were "several historians full of pious frauds and fabulous wonders;" they were "superstitious;" "ignorant;" Christian books were "corrupted and interpolated by Christians;" men have "forged books in the name of Christ and his apostles." These beautiful descriptions

are to be found in "Mosheim's Ecclesiastical History," and give a good idea of how Christians treat their enemies or those who differ from them in religion. Mr. Foote next submitted, from the same book, Christian descriptions of ancient philosophers:—"Enslaved to superstition;" "perfidious accusers;" "virulent;" had recourse to "wild fictions and romantic fables;" "malignant calumniators;" "trifling cavillers;" "supercilious;" "voluptuous;" "sensual." Christian description of heretics and their beliefs: "None had real piety at heart;" "wild and fanatical;" "monstrously abused Christian religion to the encouragement of their vices;" "pretended reformers;" having "licentious imaginations;" "delusion;" "folly;" "impious;" "extravagant;" had "fictitious writings;" "blasphemers;" "fictitious miracles;" "vile impostors;" "pernicious;" "odious magicians;" "lunatics;" "fornicators;" "grossly immoral;" believed in a "multitude of fictions;" "impious doctrines;" favored the "lusts and passions" and "all sorts of wickedness;" "impious, blasphemous, absurd notions;" "full of impiety;" "most horrid licentiousness;" "enormous wickedness;" "ignorant fanatics." Christian description of priests of other religions: "Licentious;" ministered to "vice," "cunning;" "crafty;" "cheats;" "lazy and selfish;" "rabble;" "perfidious;" "virulent;" "bloody priesthood;" "bloodthirsty;" "little better than atheists." Christian descriptions of Jews: "Gave vigor to every sinful desire;" "sunk in ignorance;" "profligate wickedness;" "licentious;" "hypocrites;" "virulent and malignant;" "abandoned people;" "inhuman;" "perfidious." Christian description of the sacred things of the Jews: "Extravagant and idle fancies;" "idolatry." Christian ridicule of the religion of others: "Grossest idolatry;" offered "prayers void of piety and sense;" transacted things "contrary to modesty and decency;" "object of ridicule and contempt;" "wretched theology;" "inhuman rites;" "vulgar superstition;" "corrupt and most abominable system of superstition;" "fables of the priests;" "superstition of the heathen priests." Christians description of gods of other people: "Famous for their vices;" "egregious criminals." Christian description of Roman magistrates: "Suborned false accusers;" were "corrupt judges. Mr. Foote continued as follows:—

When one sees all the sects have been doing and saying of one another, one can only settle as to which to believe by adopting Voltaire's plan, who, when he saw two old ladies quarrelling said, "Well, I believe them both." In all ages contending parties have reviled each other. Lucian lampooned the Christians, and they were as severe on the Pagans. The "Octavius" of Minutius Felix is a dialogue in which, while Cæcilius (the heathen) complains that Christians spit on Pagan gods, Octavius (the Christian) satirises the Pagans for, of all things, what think you?



—for worshipping the cross with a man upon it. Irenæus calls his opponents "slimy serpents" and many abusive epithets, and ridicules the *æons*. Tertullian abuses Marcion and Her-mogenes, as will be seen in Gibbon's account of the Arian and Mother of God controversy. It was the same with Clement of Alexandria and other writers against heretics. A large number of Lollard ballads, writings, and prints were satirical, and in the times of the Reformation caricatures on religious subjects were common. Erasmus' "Praise of Folly," which was illustrated by Holbein, who caricatured the Pope, is full of gibes and sarcasms. This work, says D'Aubigné, did more than anything else to confirm the sacerdotal tendency of the age. The Catholics, said Erasmus, laid the egg and Luther hatched it. The Reformers were treated with the grossest abuse and scurrility, which they amply repaid. D'Aubigné, in his "History of the Reformation of the 16th Century," says:—"Luther's name resounded everywhere from the pulpits of the Dominicans, who addressed themselves to the passions of the people. They called the bold doctor a madman, a seducer, and a demoniac. His doctrine was cried down as the most horrible heresy. 'Only wait a fortnight, or a month at most,' said they, 'and this notorious heretic will be burnt.'" Luther wrote, but did not publish, a little treatise, "De Execrandâ Venere Romanorum," which, I think, had best be left untranslated. Luther was a Protestant, and Henry VIII. became a Protestant too, after quarrelling with the Pope because he would not gratify his lust by giving him a divorce from his wife Catherine of Arragon). Luther said:—"I will not be gentle towards the King of England. At length I will show myself more terrible towards these furious beasts, who goad me every day with their horns. I will turn mine upon them. I will provoke SATAN until he falls down lifeless and exhausted. 'If this heretic does not recant,' says Henry VIII., the new Thomas, 'he must be burnt alive!' Such are the weapons they are now employing against me: the fury of stupid asses and swine of the brood of Thomas Aquinas." Luther often repeats such epithets of the Pope and other cherished persons. The polemics of Christians are full of abusive epithets towards those who differ from them. Hear what the Rev. Robert Hall in his "Modern Infidelity" says of infidels:—"They love darkness rather than light, because their deeds are evil" (preface). Again, "Atheism is an inhuman, bloody, ferocious system, equally hostile to every useful restraint, and to every virtuous affection; that, leaving nothing above us to excite awe, nor round us to awaken tenderness, wages war with heaven and with earth; its first object is to dethrone god, its next to destroy man." Christian sects pay little attention to each other's feelings, and nothing to those outside of the churches and creeds. If you

take up the journals devoted to the promulgation and maintenance of rival ideas, you will find they are full of abuse of each other, the Protestant papers speaking of the Roman Catholics as being professors of a religion which they describe as the — I will not use the strong expression they employ—the scarlet lady of Babylon. Do not they call Catholics idolators and blasphemers, and do not the Roman Catholics turn round and call the Protestants heretics and blasphemers? Do not men calling themselves the Salvation Army go about and use the symbols and the time-honored expressions of the creed, and associate them with the most brutal language of military camps; yet, because they wear the label of Christians, they are not blasphemers. Nobody in this country, whatever his religion, is called upon to respect the feelings of anybody else. It is only the Freethinker who is told to respect the feelings of people from whom he differs, and to respect them how? To respect not when he enters the place of their worship, not when he stands side by side with them in the public streets in the business or pleasure of life, but to respect their feelings even when he reads only what is intended to be read by Freethinkers without even knowing that a single pair of Christian eyes is to scan the page. Is not that similar to what is attempted here? I think you will agree that it is. Whose feelings have been outraged? Would it not have been well to have put some one in that box who was prepared to swear that his feelings had been outraged? With the wealth of the Corporation of the City of London a quantity of any feeling of outrage against this or any other publication can be manufactured. Whose feelings have been outraged by the publication which lies before you? It bears its name outside; there is nothing surreptitious about it; anybody who purchased it would do so with his eyes open; those who purchase it must want it; it is not thrust into their hands by some one who said, "I am a Freethinker, I want your feelings outraged, your sense of decency scarified, and therefore I put this into your hand" Nothing of the sort has been done, nothing of the kind has been proved. Those who purchased the paper have done so by going for it into the shops themselves. Whose feelings therefore have been injured? Nobody's except those who went into the shops to purchase copies of the paper to prosecute, and whose feelings are not worthy of your consideration. Come for a moment to the question of ridicule. Take the comic papers. They contain sometimes ridicule of a serious nature. You must never suppose because a man pulls a long face that he is wiser and better than others. You must never imagine because a man has a serious look that his judgment is better than that of a happy-looking person. Often the finest wit in the world has been summed up in an epigram, and some of the greatest men

who have ever contributed to the liberal progress of mankind have been men of wit, and they have been hated by their opponents because they had no wit of their own. The only thing that made Voltaire hated was his wit. Only recently one of the comic papers went to the length of representing Mr. Gladstone as "No 1," whom the detectives are looking after. Did the Liberal Party on that subject say "We want a summons against the editor of that paper because our feelings have been outraged and ridicule employed against us?" They would never be so stupid, because they employ ridicule too, and therefore, they can retaliate with the same. Gentlemen, really, if Freethinkers cannot employ the ridicule with which they are assailed, it is so much the worse for those who differ from them. In politics we can ridicule people. In science we can employ ridicule, and so in social matters and everyday life. Why is this? Because in all those departments of human activity the freest play of mind is allowed, and if you admit that any controverted points of religion may be discussed, you cannot debar ridicule as one of the methods of argument. Ridicule is employed not only by comic papers, but by daily papers and serious writers. If a man comes before you with some silly proposition, and you show him how ridiculous it is, the consequence is that he begins to recognise its absurdity. Suppose you were to take the case of one of the pictures called "A back view." Looked at from the point of view of the Freethinker, it is absurd. Looked at from the point of view of the simple credulous Christian, whose state of mind is like that which allowed the Christians of the middle ages to depict god and Jesus, and even Jesus and the holy ghost, and the virgin, and the saints and archangels, in pictures and on walls, it may be impressive; but looked at from the point of view of the Freethinker, putting the plain matter of scripture before you, you reduce it to an utter absurdity. For it is preposterous in an age like this to believe such a thing, when the foundations of the old faith are disrupted; in an age full of scholarship, to believe in writings written by no one knows whom, at a time no one knows when, and at a place no one knows where. It is impossible, I say, that any one can believe in the old Hebrew myth ridiculed in that picture. Can you believe that god the infinite, the spirit of the universe, as you are bound to believe he is if you are theists, ever stopped on the top of a hill and sent down an invitation to a man to come up and stay a few days with him? Can you believe that that god talked to that man face to face as a man would to his friend? Can you believe that the deity asked him to let him go and destroy his own people, his own creatures, and that the man kept him back? Can you believe that deity put that man in the cleft of a rock, put his hand over the rock, and then took it away and allowed the man

to see his back parts? I shall not trouble you with any comic extracts from the Bible, but I might give you plenty of illustrations of ridicule from the Bible. Don't you remember that altercation that took place between the prophet Elijah and the priests of Baal? They built altars and they called respectively on their gods. The priests of Baal cried and cut themselves, but the fire would not come. What did Elijah do? Did he say "I have been reading your philosophical treatise on the subject of Baal, and I find there a difficulty in the way of accepting your creed?" Did he say "there are controverted points which I think we ought to dispute about and settle"? Nothing of the sort; he turned to them with the gravest irony and said: "Where is your god? Is he asleep? Has he gone on a journey?" Gentlemen, that is the language of ridicule, and if what the learned counsel for the prosecution has told you to-day be true, the priests of Baal would have been perfectly justified in turning upon the prophet Elijah and settling him upon the spot; but they seemed to have more sympathy than even the learned counsel for the prosecution. Ridicule is only irksome to priests and preachers of religion. They are the only people who ask to be protected from ridicule. Did you ever hear of a man going to a court and asking for a summons for ridiculing an astronomer? Did you ever hear of a summons being demanded for ridiculing a geologist? You never heard of such a thing as an astronomer, a geologist, chemist, or man of science, asking to be protected from ridicule. If you went to a physiologist like Professor Huxley and laughed at the truth of his deductions he would say "Laugh away, but it doesn't touch the truth;" therefore he would never think of seeking protection. Why?—because he has got the truth, and the truth can protect itself. These men don't dread ridicule because they know they have the truth and can prove it to every inquiring mind. It is only priests and preachers of religion who claim protection. I am a Freethinker, but I know my Bible well, and perhaps knowing it so well has made me a Freethinker; and I know, gentlemen, the life recorded in that book of the founder of Christianity. I know, gentlemen, whatever failings or flaws Freethinkers may think they find, not so much in his character as in his teaching, and which I can quite understand as he was not in the possession of the knowledge of to-day, yet we can say this, that he never gave any instructions to his disciples to bring men who differ from them or who would not receive their doctrine before the magistrate. He never told them to spend their money in employing learned counsel to prosecute those men before the judges and juries in order to cast them into gaol or cripple them by fine. He tells his disciples all were to agree together, and that the separating of the



wheat from the tares was to be left to a greater wisdom than theirs. From the Atheist point of view that is the true doctrine. Surely god must know his need! Surely he is powerful enough to avenge an insult against himself! Surely the all-searching eye of him, who you believe can pierce into the recesses of other men's hearts and know all, must disapprove of avenging his insulted majesty by bringing an impeachment against men such as befits those who lived in barbarous times, and who were excluded from the light of science and scholarship which we enjoy to-day! It is only priests and teachers of religion who claim protection, because they feel that their authority depends upon privilege. They feel that unless they make a bold stand for their hold upon law, their hold upon the people may slip. They feel that it is necessary to guard their dogmas from the rough approach of common sense, and therefore those laws are always enforced in their interests. I ask you whether it is not a ghastly mockery to say when after 1800 years of Christianity, which is supposed to be divine, there are men who not only disbelieve it, and men in growing numbers who disbelieve it, men who can actually assail it as they think in the interests of the salvation of mankind, that there should be such a prosecution as this? Surely the god who said, "Let there be light and there was light," when he sent religion, would know of its effect upon the world: and the fact that the world is not convinced is to my mind conclusive proof that god has not spoken, for if he had no one could have resisted his voice. Why may not Christianity take its chance? If it is argued against let it defend itself, not by the policeman's truncheon; let it defend an artistic or intellectual attack by intellectual or artistic weapons, and not confess itself beaten and then rush to drag its adversaries before judges, just as the Jews and Pagans dragged Christians when they could not put them down. The time has passed for certain ideas to be privileged, and every doctrine must take its chance. You will find that we are charged in the indictment with "publishing blasphemous libels against the Christian religion, to the high displeasure of almighty god, to the scandal and reproach of the Christian profession, and against the peace of our Lady the Queen, her Crown, and dignity." The high displeasure of almighty god is a matter you will not touch. If you believe in god, and the words of your oath imply you do, then you know he is omnipotent, that he is all-seeing, that he is all-wise, all-just, and you must leave to that high tribunal the punishment or the forgiveness of any offence against itself. It has often been said in books of law that it is not for the protection of god, or even for the protection of the Christian religion as such that these blasphemy laws are applied; but to prevent the scandalising of the name of



almighty god, which tends to a breach of the peace. That is the last clause stated here. The high displeasure of almighty god we dismiss. The reproach to the Christian religion we may also dismiss pretty briefly. As a matter of fact, the reproach to the Christian religion is being carried on to-day by the leading scholars and scientific men, not only of England but of every country in the civilised world. It is as well you should reflect upon this. I have already mentioned certain names selected by the Protestant Prosecution Society to be proceeded against: Professor Huxley, Professor Tyndall, Mr. Morley, and others. These men are all writing to the scandal of the Christian religion. Is it not a greater scandal to religion to say it is false than to laugh at it? Is it not worse to call a man a liar than to laugh at him? There can be no greater offence to Christianity, if it is to be fenced about by law, than that which nine-tenths of the leading writers in every country are committing. The clergy bewail it every year; the bishops are constantly lamenting the decline of religion, and one of them has said that god is being pushed from our popular life, and that the intellect of the nation instead of supporting the Christian religion is arrayed against it. What greater scandal can there be than that? I can understand the logical bigotry of the men who want to prosecute leading blasphemers. John Stuart Mill, who was brought up without any Christian belief, whose father said that the idea of deity which the Christian religion taught was the highest conception of wickedness—John Stuart Mill disbelieved Christianity. He has left it on record in his autobiography, and in the "Essays on Atheism" published since his death. Those are two instances. Herbert Spencer speaks in the freest way in his books about the Trinity, in which one person is offended for the sins of persons outside the Trinity, and another person of the Trinity makes atonement, and yet all three are one. In his "Sociology" he cites many instances of the lengths to which bigotry and credulity have gone. He illustrates the absurdity of the Trinity by three persons endeavoring to stand on one chair. If the "Freethinker" made a drawing of that kind to show the absurdity of the Trinity it would be a blasphemy, but a Christian, although a philosopher, is not a blasphemer when he gives the illustration I have mentioned. As reading quotations is a weariness of spirit to the reader and listener, I shall only trouble you with a few, but I shall run over the cases of one or two men outside the churches, and I will go to two dead men besides John Stuart Mill. I speak of them as of to-day because their writings are of to-day, and the spirit of their works lives with us. You have heard of Shelley's "Queen Mab." That work has been sold for a generation and is being sold now by the leading publishers of

England and America. No person would think of prosecuting for the sale of Shelley's "Queen Mab" now, and yet it is full of the completest dissent from, and reproach to, the Christian religion and all religion. I don't propose to read you any extract from that. Mr. Foote having referred to Byron's poem in reply to Southey's, in which the king is described as slipping into heaven, and concluding with the lines—

" When the tumult dwindled to a calm,  
He left him practising the Hundredth Psalm,"

he remarked that nobody ever thought of proceeding against the sale of Byron's works. He next proceeded to refer to Professor Huxley's works, and quoted the following from his "Lay Sermons": "The myths of Paganism are as dead as Osiris or Zeus, and the man who should revive them, in opposition to the knowledge of our time, 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 modern physical science, the cosmogony of the semi-barbarous Hebrew is the incubus of the philosopher and the opprobrium of the orthodox." Having referred to the "Evolution of Christianity," from which he read an extract, Mr. Foote read the following two quotations from "Mill on Liberty": "No Christian more firmly believes that Atheism is false, and tends to the dissolution of society, than Marcus Aurelius believed the same things of Christianity; he who, of all men then living, might have been thought the most capable of appreciating it. Unless anyone who approves of punishment for the promulgation of opinions flatters himself that he is a wiser and a better man than Marcus Aurelius—more deeply versed in the wisdom of his time, more elevated in his intellect above it, more earnest in his search for truth, or more single-minded in his devotion to it when found; let him abstain from that assumption of the joint infallibility of himself and the multitudes which the great Antonius made with so unfortunate a result. . . . The man who left on the memory of those who witnessed his life and conversation such an impression of his moral grandeur, that eighteen subsequent centuries have done homage to him as the almighty in person, was ignominiously put to death, as what?—as a blasphemer. Men did not merely mistake their benefactor; they mistook him for the exact contrary of what he was, and treated him as that prodigy of impiety which

they themselves are now held to be, for their treatment of him." Mr. Foote also quoted in support of his argument from Mr. Leslie Stephens, who, in the current number of the "Nineteenth Century," contended that there ought to be no interference with expressions in papers or from platforms of opinions on religious matters, even when expressed in an abusive or ridiculous manner, because everybody had the remedy in his own hands.

Mr. Justice North: Be good enough to tell me the name of the book you are now quoting from?

Mr. Foote: "Essays in Freethinking," my lord. He proceeded further to refer to Professor Huxley, who, speaking of the story of the creation, said: "There are those who represent the most numerous, respectable, and would-be orthodox of the public, and are what may be called 'Adamites,' pure and simple. They believe that Adam was made out of earth somewhere in Asia, about six thousand years ago; that Eve was modelled from one of his ribs; and that the progeny of these two having been reduced to the eight persons who were landed on the summit of Mount Ararat after a universal deluge, all the nations of the earth have proceeded from these last, have migrated to their present localities, and have become converted into Negroes, Australians, Mongolians, etc., within that time. Five-sixths of the public are taught this Adamitic Monogenism, as if it were an established truth, and believe it. I do not; and I am not acquainted with any man of science or duly instructed person who does." Mr. Foote quoted from Mr. Matthew Arnold, who said that the personages of the Christian confession and their conversations were no more a matter of fact than the persons of the Greek Olympus and their conversation. Viscount Amberley, speaking of the incarnation of Jesus, says: "That some among these many female followers were drawn to him by that sentiment of love is, at least, highly probable. Whether Jesus entertained any such feelings towards one of them it is impossible to guess, for the human side of his nature has been carefully suppressed in the extant legend." Again, the same writer remarked: "As to the god of Israel, one of these two charges he cannot escape. Either he knew when he created Adam and Eve, that their nature was such that they would disobey, or he did not. In the first case he knowingly formed them liable to fall, knowingly placed them amid conditions which rendered their fall inevitable; and then punished them for the catastrophe he had all along foreseen, as the necessary result of the character he had bestowed on them. In the second case, he was ignorant and short-sighted, being unable to guess what would be the nature of his own handiwork; and should not have undertaken tasks which were obviously beyond the scope of his faculties." He did not believe in the perfection of the character of Jesus

even as a man, and he believed the gospel narrative not to be divine but to have been put in human form. Professor Clifford, and the Duke of Somerset might be added to the list of writers he had quoted from. Those should satisfy them that belief in the old testament as a piece of mythology was common in the highest circles of literature, and though they had not been made the subject of reproach, yet those who expressed the same thing in plain language, by plain illustration, were prosecuted. The defendant quoted a very amusing passage from the works of Colonel Ingersoll, to show how ridicule was used, and went on to ask, why are we singled out for prosecution? You will remember hearing me ask one of the witnesses, Kelland, in whose employ he was, and his answer was Messrs. Batten and Co., solicitors. They are the solicitors to Sir Henry Tyler. Sir Henry Tyler is a man whose name you are somewhat familiar with by this time. All sorts of rumors have been flying about with reference to this gentleman. He has relinquished his position as president of the Brush Light Company. He is a man of excessive piety, although it is true the shareholders don't like him much. In the House of Commons he made himself especially obnoxious—not to Mr. Bradlaugh personally, but to the House generally, and the members of his own Conservative party marked their disapproval of his conduct by walking out of the House and leaving him alone, when he put his question, not in his glory but in his shame. He put questions with reference to ladies associated with Mr. Bradlaugh by ties of blood, knowing that—owing to the discreditable interference with the right of an English constituency—Mr. Bradlaugh would not be in his place in the House to speak, and knowing also that the ladies were not present. Sir Henry Tyler is a very pious man, who considers that blasphemy should be put down. He supported a former prosecution against the "Freethinker," but he was particularly careful to drag into the prosecution the name of Mr. Bradlaugh, although there was no evidence that he had been editor, publisher, proprietor, or in any way connected with it. Sir H. Tyler is a political opponent of Mr. Bradlaugh's, and Mr. Bradlaugh was therefore, in the most unwarrantable manner, involved in an expensive litigation. Mr. Newdegate was suing him at the same time for £500 not due and not yet paid. The suit was very protracted, and Sir H. Tyler and other personages thought if Mr. Bradlaugh could only be brought in Guilty of a blasphemous libel, and if the penalties of the statute of William IV. could be imposed upon him, he would not only be deprived of his position in the House of Commons, but would be declared without right for the rest of his life to be a party to any suit—so that this would be a disfranchisement under the statute, and Mr. Newdegate would get his £500 and costs. Sir

H. Tyler is a political opponent of Mr. Bradlaugh's, and a political opponent of the most pronounced type; and when political opponents of the most pronounced type take to denouncing each other on a charge of blasphemy, you can understand very readily that the motive is not so much religious as political, and it is pretty sure that if they can only cripple him in a political point of view, they will not trouble themselves about his religion. Sir T. Nelson (the City solicitor) and Sir H. Tyler are working together amicably, and it occurs to me there may be a malicious motive behind this prosecution, a motive of political animosity, and that it is sought to strike at Mr. Bradlaugh through men known to be connected with him in public and other work. May it not be hoped by these very political adversaries, that if a verdict of Guilty can be snatched in this case, which is being hurried on with such indecent haste, it will be easier to get a verdict against Mr. Bradlaugh in the other case, and that then he may be crippled in political life—a desire that his enemies wish so ardently to see realised. I hope you will decide, whatever may be the opinions of the prosecutor or others in this case, on the strictly legal merits, without being influenced by any religious or political considerations. I hope you will show by your verdict that you are not going to allow yourselves to be made the prosecuting instruments in a political fight, but that you will let them fight it out in the arena of politics without recourse to the political weapons which they put in your hands, when they are afraid to strike themselves. Our indictment says we have done what?—we have done something to the displeasure of almighty god and to the danger of the peace. A breach of the peace is a very serious and grave thing, and it quite justifies Mr. Justice Stephens in putting in a clause of reservation at the end of a sentence in which he disapproves of blasphemy prosecutions in his "Digest of the Criminal Law" (quotation read). Here we have one of the very highest judges, who says he thinks no temporal punishment should be inflicted on a charge of blasphemy unless it can be shown that the blasphemy tends to a breach of the peace. That is a perfectly reasonable reservation. Then if it be a reasonable reservation it is only proper that its condition should be fulfilled by the prosecution. There has been no evidence to show that anything we have done has tended to a breach of the peace. You must not understand as tending to a breach of the peace something which differs from what you hold and that you may dislike. Before you come to the conclusion that a thing has a tendency to a breach of the peace you must be perfectly satisfied it would lead to an actual breach of the peace. What breach of the peace could the offence with which we are charged lead to? There has been no allegation that even a crowd assembled to look at it. The "Free-



thinker" was exposed for sale in shop-windows, but the prosecution don't show that anybody was tempted to break a pane of glass in consequence. There has been no allegation of tumult in the street. Not even a boy has snatched another boy's hat over the subject; there has not been a single blow struck, not a single disturbance or obstruction of thoroughfare; and if that be so, and there be no evidence tending to show anything to the contrary, you ought, considering there has been no breach of the peace, and no probability of any breach of the peace occurring, to pronounce your judgment on this very reasonable reservation, and say, that as its conditions have not been complied with, you will not give a verdict of Guilty but one of Not Guilty, and show that the time has arrived for the abolition of temporal punishment for a spiritual offence. There is good reason to believe that most people of any liberality of mind object to prosecutions of this kind. Dr. Hynes stated, on the 19th of May, 1819, that these Acts being enforced against Richard Carlile and others, did not stop the publications. He further said that Christianity disclaims them, that reason was every day gaining ground, and that they ought to abandon those prosecuting statutes, fit only to bind demons. Jeremy Bentham, in his "Letters to Count Toreno on the Proposed Penal Code of the Spanish Cortes," speaking of blasphemies, said: "To no end could I think of applying punishment in any shape for such an offence." Bentham further speaks of "the liberty of the press as the foundation of all other liberties." Let me give you the opinion of Professor Hunter, Professor of Roman Law at University College, London. Professor Hunter, in a letter to the "Daily News," says: "The English law on the subject of blasphemy is a relic of barbarism and folly. It owes its place in our law-book simply to the fact that it has been a dead letter. To enforce it is to invoke all that is just and honorable in public opinion to demand its destruction. It is a weapon always ready to the hand of mischievous fools or designing knaves." I don't know in which category he would place this prosecution, whether that of mischievous fools or designing knaves. Buckle took exactly the same view. Mill, in an article on Religious Prosecution, in the "Westminster Review," July, 1824, shows that "the line between argument and reviling is too difficult for even legal acuteness to draw; that he who disbelieves and attempts to disprove Christianity can put his arguments into no form which may not be pronounced calumnious and illegal; and that therefore the only mode of securing free inquiry is to tolerate the one as well as the other." He also says: "To declare that an act is legal but with the proviso that it be performed in a gentle and decorous manner, is opening a wide door for arbitrary discretion on the one part and dissatisfaction on the other. The difficulty is greatly increased when the act itself

is offensive to those who sit in judgment upon the manner of its performance." Carlyle, in "Sartor Resartus," says: "Wise man was he who counselled that speculation should have free course, and look fearlessly towards all the thirty-two points of the compass, whithersoever and howsoever it listed." Sir W. Harcourt, replying to Mr. Freshfield, said: "I think it has been the view for a great many years of all persons responsible in these matters that more harm than advantage is produced to public morals by Government prosecutions in cases of this kind." Again the Home Secretary, in reply to Mr. Redmond, observed: "I stated the other day that I thought it not wise to proceed legally against such publications." Mill speaks of the injustice of debarring "a man who may have a comprehensive and vigorous, though a vulgar and coarse mind, from publishing his speculations on theological topics because his style lacks the polish of that of Hume and Gibbon." Again, says the same writer: "If the proposition that Christianity is untrue may be legally conveyed to the mind, what can be more absurd than to say that to express that proposition by certain undefined and undefinable selections of terms, shall constitute a crime?" No infidel so-called—a name every Freethinker disclaims—would disclaim any such protection as that which Mill pleads for. All we demand is equality—equal right with all our fellow citizens. We are with them citizens of one State, and should be equal in the eye of the law. Our lives are as public as other men's, and is it found we are worse than other men? In the case of Mr. Bradlaugh, you know that everything that malice could invent has been invented with reference to him since he was elected to represent Northampton; but although the fierce light of scandal has beaten upon him, yet even scandal, however vicious, and calumny however unfounded, has never been able to fasten upon a single foul spot in his life which could be held up for the reproach and the indignation of mankind. Our lives are as good as the lives of others. Our doctrines may be different, but they are ours. If we speak in our homes, nobody need cross the thresholds; if we write in papers we don't give them away—people who want them must buy them. Everybody outraged has his remedy: he need not buy our paper; he need not listen to our doctrines or read them; and why should people who did not force their publications on him not be allowed the enjoyment of their tastes? There is one thing I wish to call your attention to, and that is that these prosecutions never succeed. It has been said that the blood of the martyrs is the seed of the Church. Although one doesn't want to pose as a martyr, still this prosecution is nothing less than martyrdom. It is not we who stand here of our own free will; it is not we who sought incarceration ever since Thursday in the dungeons behind. We would much rather have been about our business

and our pleasure. We only wish for freedom to do what we think is right. These prosecutions never succeed; it is impossible that they should. In his article in the "Nineteenth Century," Mr. Leslie Stephens says, and says truly, that there is only one form of persecution that you can justify on grounds of policy if you believe in the principle which underlies it, and that is extermination. Heresy may be treated by the orthodox Christian as he pleases, but then you cannot stamp out the disease by attacking a person here and there; unless you can stamp out the germ you can do nothing. You cannot crush out a party which numbers its tens of thousands by prosecutions of this description, while adherents are found from one end of the country to the other; you cannot crush out a party here whose representatives in France are actually in possession of the governmental affairs of that country. You cannot expect to crush out a party so multitudinous as that unless you exterminate it. It is impossible to succeed thus. In attempting it you would only deal a blow at your own faith and general liberty, and as for the men who are thrown into gaol or crippled by fine, do you think your treatment would strongly and favorably impress them with the reasonableness of your faith? You don't teach in that way now. You cannot, as in the old days, thrash ideas into children with the stick. The policy doesn't succeed; and endeavoring to thrash Christianity into people by means of a foulsome prison and a crippling fine, is worthy only of the times when the policy was adopted of enforcing argument on children, as it has been aptly described *a posteriori*, instead of trying to put argument into the child's brains through the eyes and ears. Gentlemen, that policy will not succeed, and you must know that it won't. I ask you by your verdict of Not Guilty to show that you believe it, and to send us back to work, to take our part in the business of life, and to do what is incumbent upon us in our relationships as brothers, sons, husbands, citizens. Gentlemen, carry your minds back across the chasm of eighteen centuries and a half. You are in Jerusalem. A young Jew is haled along the street to the place of judgment. He is brought before his judge. There is nothing repulsive about his lineaments. People who knew him—not the people who were prosecuting him—loved him; and their verdict after all is the right one. There is even the fire of genius smouldering in his eyes, notwithstanding the depressing circumstances around him. He stands before his judge; he is accused—of what, gentlemen? You know what he is accused of—the word must be springing to your lips—Blasphemy! Every Christian among you knows that your founder, Jesus Christ, was crucified after being charged with blasphemy; and, gentlemen, it seems to me that no Christian should ever bring in a verdict of blasphemy after that, but that the very word ought

to be wiped from your vocabulary, as a reproach and a scandal to Jesus Christ. Surely, Christians, your founder was murdered as a blasphemer, for, although done judicially, it was still a murder. Surely you will not, when you have secured the possession of power, imitate the bad example of those who killed your founder, violate men's liberties, rob them of all that is perhaps dearest to them, and brand them with a stigma of public infamy by a verdict from the jury-box! Surely, gentlemen, it is impossible that you can do that! Who are we? Three poor men. Are we wicked? No, there is no proof of the charge. Our honor and honesty are unimpeached. It is not for us to play the Pharisee and say that we are better than other men. We only say that we are no worse. Our honor and our honesty are unimpeached. What have we done to be classed with thieves and felons, and dragged from our homes and submitted to the indignities of a life so loathsome and hideous, that it is even revolting to the spirits of the men who have to exercise authority within the precincts of the gaol? You know we have done nothing to merit such a punishment. Therefore you ought to return a verdict of Not Guilty against us, because the prosecution have not given you sufficient evidence as to the fact; because whatever shred there is to gain from the decisions of judges in the past must be treated as obsolete, as the London magistrate treated the law of maintenance. On the ground that we have done nothing, as the indictment states, against the peace; on the ground that our proceedings have led to no tumult in the streets, no interference with the liberty of any man, his person or property; on the ground, gentlemen, that no evidence has been tendered to you of any malice in our case; that there is no wicked motive animating anything we have done; on the ground, if you are Christians, that the founder of your own creed was murdered on a very similar charge to that of which we stand accused now; and, lastly, on the ground that you should in this third quarter of the nineteenth century, assert once and for ever the great principle of the absolute freedom of each man, unless he trench on the equal freedom of another, assert the great principle of the liberty of the press, liberty of the platform, liberty of free thought and liberty of free speech; I ask you to prevent such prosecutions as are hinted at in the *Times* this morning; not to allow sects once more to be hurling anathemas against each other, and flying to the magistrates to settle questions which should be settled by intellectual means and moral suasion; not to open a discreditable chapter of English history that ought to have been closed for ever; but to give us a verdict of Not Guilty, to send us back home and to stamp your brand of disapprobation on the prosecution in this case, that is I say in certain interests of religion, and is degrading religion by associating it with all that

is penal, obstructive, and loathsome; to stamp that prosecution with the brand of your condemnation; to allow us to go away from here free men, and so make it impossible that there ever should again be a prosecution for blasphemy; and have your names inscribed in history as the last jury that decided for ever that great and grand principle of liberty which is broader than all the skies; which is a principle so high no temple could be lofty enough for its worship, so broad that the earth could not afford a foundation for it, which is as wide and high as the heavens,—that grand principle which should rule over all—the principle of the equal right and the equal liberty of all men. That is the principle I ask you to lay down by your verdict of Not Guilty, and thus close this discreditable chapter of prosecution once and for ever, and associate your names on the page of history with liberty, progress, and everything this is dignified, noble and dear to the consciences and hearts of men.

During the address of Mr. Foote which occupied three hours in delivery, there were frequent bursts of applause, which were promptly suppressed.

Mr. Ramsey then said:—Gentlemen of the jury,—I have to speak to you to-day under circumstances of extreme difficulty, and I must ask you to bear with me during my defence in consideration of the peculiar circumstances under which it has been prepared. When on Thursday last the jury before whom I was tried on this same indictment could not agree on a verdict his lordship thought it right, in the exercise of his discretion, to remit to prison myself and my co-defendants, refusing to accept the bail tendered for our due reappearance, and on which bail I had duly surrendered for trial. It is not my duty or even my right, gentlemen, to comment on the unusual course the learned judge thought it right to take, nor to complain of the strange harshness which sent to prison men charged with a bailable offence, as to whose criminality in speculative opinion a jury had declared themselves unable to agree. But it is my right to ask you to pardon any deficiencies in my defence, when you remember that I have been deprived of every ordinary opportunity of consulting a library or of holding counsel with my advisers, except such counsel as might be taken in seven minutes through a double iron grating within earshot of a police officer. A man in my position has always been allowed to come here and surrender himself, bringing with him all he requires for his defence. I come here after spending three days and four nights in gaol, undergoing prison discipline although uncondemned, and although I had made no effort while at liberty to evade the jurisdiction of the court. I stand indicted before you for an alleged blasphemous libel, and upon you the law throws the



duty of defining what is and what is not blasphemy at common law; and I desire, gentlemen, with all due respect to the court, to press upon you that on *you* by statute lies the responsibility of making this decision. It is by statute for *you* to say whether the publication indicted comes or does not come within the definition of blasphemy. In the long struggle for civil and religious liberty in this country the gradual emancipation of thought and action has been largely wrought by English juries. They have gradually widened our freedom by refusing to find men guilty for publishing speculative opinions, and have thus rendered obsolete barbarous laws, passed in savage and persecuting times; they have stood between prisoners and judges pressing for a harsh construction of a harsh law, and have delivered from cruel sentences over and over again men of untainted moral character but of heretical opinions. Your deliverance is here supreme, but your verdict once spoken your power is gone. If, by bringing in a verdict of Guilty you hand us over to the law, then that law, cruel as it is, can be exercised in its full severity, and no disapproval on your part of a vindictive sentence will be of the smallest avail. That sentence will really be of your inflicting, for you know what the law permits as punishment for heretical thought, and you have the power to prevent the infliction by returning a verdict of acquittal. Already one jury has refused to hand us over to such punishment, and I press upon you at least not to fall below the level of their verdict. You are not dealing here with a crime of conduct: you are dealing with an alleged crime of speculative thought and of the expression of that thought.

Mr. Ramsey then urged the arguments used in his speech to the former jury, and concluded by saying: Gentlemen, I ask of you a verdict of deliverance from this cruel law—a law born of religious persecution, which has caused more misery, broken more hearts, and ruined more lives, than the worst war ever waged. Supposing all was proved that the prosecution allege, to what does it amount? That I have permitted a paper, of which I was the registered proprietor, to be used for the purpose, not of attacking Christianity—for that of itself, the counsel for the prosecution has told you, would not be prosecuted—but of attacking it in a manner which overstepped the bounds of good taste. Surely such torture as I have undergone during the last few days is far more than all the pain this paper has inflicted—to be caged like some wild beast in a den. Think what it is to one, to whom freedom and liberty are dearer than life itself, to be surrounded with an atmosphere of crime, to herd with wretches whose very presence is like some noxious pestilence. All this is loathsome to the

last degree. Think, gentlemen, of what it is to pace a narrow cell, thinking, thinking of the anxious, loved ones at home until the heart aches with very weariness. I would not plead thus, gentlemen, if we had done wrong to anyone, if we had robbed, if we had injured; but we have not. We are not criminals—we are not of that class of wretches who prey on their fellow-men. Like all who have been persecuted by these hateful laws, we are honest, sober, peaceful citizens. It is my pride and my boast, which I will keep till I die, that, throughout my life of nearly forty years, I have never wronged, never injured, never slandered a human being, nor made an enemy of an honest man. We are men to whom the ties of home, of love, of friendship, are the very essence of our lives. Think of lying on a wretched pallet unable to close your eyes all night from the knowledge that other eyes are sleepless and tearful on your account, that little lips have gone sobbing to bed because you were not there to kiss them good-night, and then ask yourselves whether all the annoyance that this paper could possibly have caused can equal one hour of this. I ask you, gentlemen, for a verdict of deliverance from this cruel law, that we may return to our homes and make them once more happy; to our friends and make them once more glad. I ask you to say that you will not permit the serpent of religious persecution to again rear its head. It has lain dormant for fifty years, and some of us hoped, for the credit of humanity, that it was dead; but bigotry has warmed it into life again, and now, gentlemen, it is for you to place your heel upon it, and crush it for ever.

Many remarks were made by persons in court as to the marked inattention shown by the jury during the defence.

Mr. Justice North: Gentlemen of the jury, it is now the usual hour, six o'clock, for the rising of the court. Would you prefer that I should address you now or to-morrow morning?

The Foreman of the Jury: We should prefer your lordship to proceed now.

Mr. Justice North: Very well, gentlemen. A great many topics have been introduced and urged upon you very eloquently and powerfully with which you have nothing to do, and which you must dismiss entirely from your attention. What you have to consider is not what the law ought to be, but what the law is. The two questions you have to ask are—First, whether these passages from this paper which are the subject of the present indictment, are or are not blasphemous libels; then, in the second place, whether each of the prisoners respectively is responsible for its publication. Those are the two questions for your consideration. A passage has been

read from the introduction by a living and learned judge, to what he calls a "Digest of the Criminal Law;" a statement as to what the law is, or rather what he considers it is. It is his suggestion, and in the course of that he states what he considers the law is. The passage he quoted was not fully quoted. The learned judge having read the whole, proceeded: This prosecution could not have been instituted without the sanction of the person appointed to look after prosecutions of this description, whose consent is rendered necessary by the Act passed since that time. The consent not only of the Attorney-General but also of the Public Prosecutor is requisite. That has been obtained for this prosecution. You have to consider whether this document is or is not a blasphemous publication, and that is the opinion he gives—that is what he says is the law now, as distinguished from the suggestion put forward as to what the law ought to be and how it should be altered. To put it shortly as regards the definition, what you have to consider is—Is there any contumelious or profane scoffing against Holy Scripture? I leave out the other parts. Is there any contumelious reproach or profane scoffing against, the Holy Scriptures, or anything exposing the Holy Scriptures to ridicule, contempt, or derision? That is the question you have to put to yourselves. Are any of those passages put before you calculated to expose to ridicule, to contempt or derision the Holy Scriptures or the Christian religion? I must ask you to look at the passages, because I am not going to read to you any of the contents. I will only refer to them incidentally as they are all before you. I will ask you to look at the pictures on pages 8 and 9. There you will find the words "A New Life of Christ." One of the prisoners said that he was familiar with his Bible and knew what was stated in the Scriptures with respect to Christ and the Christian religion. What we know is this. He went home with his parents and was subject to them. Look at picture number 5 on page 8 in the left hand column, and consider whether you find anything in the volume referred to that enables you to—I won't say justify—say that it is fair, honest criticism, with respect to the topic to which that picture refers. Look again at any one of the pictures in either of those pages, and ask yourselves whether it is contumelious contempt or profane scoffing at the Holy Scriptures and the Christian religion. Look at the second page: look at pictures 10 and 11; those are the two at the top, and ask yourselves again, is that fair or honest argument upon a point that might be open to controversy? You have heard a good many extracts read from various publications written by some very eminent men. Has anything been quoted from those

works corresponding with the passages you find here? Has anything like it been produced from any source? Look again at page 10: look at the first of those pictures. We know the history that is given to us, and the way in which the disciples acted at a time of extreme sadness and tribulation, at a time in which they believed they had lost a person for whom they had respect. Look at that; look at our savior and say, gentlemen, what you think of that. The next is that at page 7. That is one upon which one of the prisoners has made certain remarks to you. The picture at the top you also see—those clouds, or whatever they are, and then you come to a piece of poetry, with reference to which I ask you, first of all, to look at the title, "Jocular Jehovah." Then omitting the first nine lines, which are not the subject of a particular count, the next nine lines are the subject of the second count—that is a thing which is said to be a blasphemous libel. I don't know whether you have read those nine lines, but if you have not I would ask you to do so. Look at the last line but one in particular, and say what you think of that. Then the next is at page 3, I think. There you will see a greater portion of two columns is taken up with a piece of poetry. At the bottom of the second column there are four paragraphs. The second of these paragraphs is the subject of the third count. Does that suggest no meaning? Is it argument? Is it reasonable? Is it a fair putting forward of the view a man may take upon a matter in dispute, or is it profane scoffing? Now turn over to page 4. There is a picture at the top of page 4, and then comes what purports to be a report of a trial. If you look at the first four lines you will see who the prisoners are described to be. Then look at the next paragraph beginning with the words "the indictment." Then again there is another passage I call your attention to, and that is about the middle of the first column of page 5. You will see there is a reference to a certain person, who on rising stated so and so. Just look at the first two lines of that. I call your attention to these passages and desire you to pay them special attention. The subject of the other count is to be found on page 14. In the second column there are notices to correspondents. I ask your attention particularly to the name of the correspondent (Holy Gh—t). Just look at the next but two notices to that, and say what you think of it. I call your attention to these, not because it is the libel charged here, but it is in the Answers to Correspondents, and you may legitimately use it. You see that beginning "One of the Wise Men." I ask you to read that. Look at the one after, beginning with the words "Long-faced Christians." There is one other I would ask you to look at; it is the fifth below that,

beginning with the words "Happy Sal." I ask you again to put to yourselves the question—Is it or is it not a contumelious reproach or profane scoffing against Holy Scripture and the Christian religion? A few observations I must make upon the topics that have been urged upon you. It has been said you are the persons who are to say what the law of libel is. It is nothing of the kind. What you are to say is, taking the law from me, whether these particular things are or are not blasphemous libels, having regard to the definition of a blasphemous libel. It is said you are the arbiters as to whether these persons are to suffer sentence or not. You are nothing of the kind. You are simply to answer the question, Are or are not these documents blasphemous libels? It is said that these prosecutions are a mistake, that they should never have been commenced and that they do harm. As to that I may say that it is open to considerable doubt. It is said that these prosecutions only gain for the parties additional notoriety, and that it would have been better to have allowed them to wallow in their own filth. This is a serious matter to take into consideration. Something has been said about the real prosecutor, and reference has been made to his antecedents. The real prosecutor is her Majesty the Queen, and the person by whom this prosecution is instituted is the Public Prosecutor, without whose sanction it could not have been commenced. It has been, you may rely upon it, considered most seriously whether it would or would not be wise to prosecute the parties who publish this paper, and whether it would not be better to prevent them obtaining any notoriety that a prosecution of this nature might give them. You may think that the prosecution is a mistake, that it would have been better to have left it alone and better if nothing had been done to give it notoriety. There may be other persons who take the view that feelings ought not to be outraged with impunity in the thoroughfares of London, and that the authorities should use their best endeavors to put such down and bring the persons responsible for it to justice. What I want to put before you is this—you have nothing whatever to do with that. We are not responsible for this prosecution. We have not commenced it; we cannot prevent it. All that is to be done by you is not for you to consider whether it was wisely or unadvisedly commenced. It is brought here and it is for you to say whether having been brought here, it is what I have defined to be a blasphemous libel. A good deal has been said of the effect which a verdict would have upon liberty of speech, liberty of thought, liberty of the press, and other things of that kind. A good many fine phrases have been brought into play, but these are not material to the purposes of this inquiry. It is



for you to consider what the document is. Do you suppose that any of the public writers whose works have been referred to ever used such arguments, such a mode of putting their views before the public in their books—many of them containing expressions of opinion with which you may or may not agree? From some of them you may differ or you may agree with them. At any rate they have been put forward by persons with a feeling of responsibility, and the fact that they have expressed their views strongly is perhaps not a matter for which they are to be blamed. They have expressed them in a decent manner, and not in such a manner as to outrage the community. Are the passages like those to which I have directed your attention in this publication? You may depend upon it that, whatever the view you take, there is not a respectable paper in the country that would have sullied its pages with these passages. Whether justifiable or not you need hardly say that such matters as these should not be put forward. It has been suggested that it has not been proved that what has been done here is done wickedly and corruptly. It is said it is not done with malice. Is this a document that ought to have been published? Is the document such as I have described to you one that ought to be published or not? If it is not, the mere fact of its being such as I have described is enough to show malice. Maliciousness in point of law is that it is done. Has any legal justification been produced here? Further, it is said it is not done unlawfully. It is said it is not contrary to the peace or likely to lead to a breach of the peace. With respect to that, any libel is likely to lead to a breach of the peace, and that is the reason it is stated. As to the words "wickedly and corruptly," those are words which if you think the libel is such as I have described a blasphemous libel to be, you will have to consider in connexion with the illustrations to which I have drawn your attention. Then again it is said these are published with an object. If it is for an object, is it such fair discussion as may peaceably be allowed? If it is not, then the reason for which they are put forward cannot matter. Supposing a person publishes an obscene libel in the street he would be tried for the crime. I just remind you of this, that in the indictment it is not an obscene libel. The fact that you may think some of them are obscene is not any ground for thinking persons guilty unless they are blasphemous. With these remarks I shall leave this part of the case. If you say these are not blasphemous libels you will acquit the prisoners. If you think they are blasphemous libels, then the question is whether each of the prisoners respectively is responsible for

them. With respect to that I take first of all the simplest case, that of Kemp. He is defended by counsel. His counsel will say that the proof of sale was too clear to be resisted and that it could not leave any doubt. You have got the fact that there is a publication by reason of the sale of copies. As far therefore as you are concerned, do you think the documents blasphemous libels? The next case is that of Ramsey. Newspapers have now to be registered, and on November 26th, 1881, the "Freethinker" was registered. It was presented for registration by Ramsey. He gave his name as proprietor, and he also describes himself as a publisher, of 28 Stonecutter Street, London. At the bottom of the form is a place for the printer and publisher to sign, and that is signed November, 1881. The next registration is on August 2nd, 1882, when it is registered, not by Ramsey, but by Kemp, and the registration is altered for that reason. Kemp is the person who presents it, and his name appears as printer and publisher, but the name of the proprietor remains the same. Then the next change took place on February 7th, 1883—that is after this Christmas Number is published. Then Ramsey ceases to be proprietor, and the registration is effected by Foote, who describes himself as of Stonecutter Street. Ramsey's name is given in the column of persons who cease to be proprietors and Foote's name is inserted as proprietor. Foote is described as a journalist of Stonecutter Street, London, and his residence as 9 South Crescent, London. That is signed by Foote on February 7th, 1883. Ramsey was proprietor of the paper to February 7th, 1883, during the period that this document was published. There is to be remembered also, if it were necessary to go into it, that it is proved he paid rates with respect to this house in Stonecutter Street. As regards this, under the Act of Parliament I have referred to, I shall tell you that registry is in itself sufficient *prima facie* evidence. Therefore that document itself proves the proprietorship during the period when this was in preparation and execution. Though the contrary was set up, no attempt has been made to show the contrary. I will tell you this, further: the proprietor of a newspaper is liable for what appears in it. It is his business to take care that the contents are such as they ought to be; and if he allows through neglect or insufficient editorial supervision, or from whatever reason, an indecent libel to appear, he is criminally responsible for it. In one or two cases that has undoubtedly produced hardship. A man was held criminally liable although he was not in the country at the time the libel was published. Therefore, to obviate that hardship, the law was altered thirty years ago. It is proved that Ramsey was the proprietor of the paper at the

time these passages were published, and if they were put in without his exercising due care or caution he is criminally responsible. The next case is that of Foote, because you understand one might be guilty and the other not. First of all it was contended that there was nothing to show he was the editor of this particular number; and you may recollect he asked a question, of one of those persons who left letters, for the purpose of eliciting whether he had delivered any letter addressed to Mr. Foote as editor of the Christmas Number of the paper. You will recollect this paper is the Christmas Number of the "Freethinker" for 1882. It is not an isolated publication; it is a number published in connexion with something published in a series, as the Christmas Number of the "Graphic," "Illustrated London News," or the Christmas number of "Belgravia." Here you have got the Christmas Number for 1882. You have got proof that it is a weekly publication a little before Christmas. In one of the numbers it states the Christmas Number of the "Freethinker" will be ready next week. It states what the articles are and the illustrations. Is not that a subject of the libel? I will now call your attention to the contents. The advertisement is connecting it with the regular publication. You may have noticed it states at the top of the "Freethinker"—"edited by G. W. Foote;" and on the outside, though that is perhaps of minor importance, there appears an advertisement showing Foote's publications. The statement at the top of it is not of itself conclusive evidence about it, because it is possible the name of one of you might have been put there. For instance, it might be that Foote could show he had nothing to do with it. The question is whether you find anything to show he was editor of it. With respect to that there are several matters. First, you recollect that it is proved that he and Ramsey, and two other persons, were prosecuted the July previous. Copies of the "Freethinker" published incidentally at the time were part of the charge, and proved in evidence. The fact that these were edited by Foote was drawn to his attention, and the notice at the foot as to printing and publishing. In each of those notices to correspondents what appears is, that all business communications are to be addressed to Ramsey, and literary communications to Foote. At the end it appears, "Printed and published by W. J. Ramsey, at 28 Stonecutter Street." It is the same in the whole of those papers. Therefore you have this fact—that at this time, at the top of the first page, were the words, "edited by G. W. Foote;" that this is brought to his attention and put in evidence against him in July, and therefore he knows all about it. No alteration takes place, because that continues the

same down to February. One change ultimately took place. "Notices to correspondents" was changed to "literary communications to the editor, G. W. Foote;" and at the end there is an alteration made in the printing. That is now by Kemp and not by Ramsey. After Foote's attention had been called to it, the notices to correspondents remained the same. Then you have this also: letters are received by the servant delivered by the postmen at the address, and naturally enough their recollection is hazy; but one of them, when pressed by the prisoner Foote, spoke about a parcel being too large to go into the letter-box, and that while waiting there for the servant to open the door he looked carefully at the address. You have the fact that during the few months preceding the issue of this number Foote is receiving letters addressed to him as editor. That is a matter for your consideration. There is a circumstance which is rather material, and that is the paper proved to have been seen in his room. That would not go far by itself, but the possession of a paper in his room in which he is described as editor is another matter, and it is hardly likely he would not know of it. On February 7th he became proprietor and publisher, and the paper is proved dated February 18th, purchased on the 16th, which states, "edited and printed by G. W. Foote," and the notice to correspondents is the same as it is when the paper contains this passage at the time Foote is proprietor and editor; and what he says is this: that "the Christmas Number of the 'Freethinker' had an incredible sale, and yet, notwithstanding the enormous sale, they were actually several pounds out of pocket. I ask you whether you believe it to be proved that Foote was editor or not. If he is editor, the charge against him is of printing and publishing, and causing—and you must be satisfied that he did print, or cause to be printed, and published, and composed—this paper before you can convict. In his address he justifies the publication. That is a matter you are entitled to take into consideration, whether he is not one of the persons who composed this. With these remarks I leave the case in your hands to say whether in your opinion these are blasphemous libels, and to say, if they are, whether these prisoners are liable for the publication. I ought to say, gentlemen, this paper of February 18th does not affect Ramsey in any way—it was published by Kemp. Objection was taken as to its being evidence against Ramsey.

The jury then considered their verdict, and after a consultation of about two minutes returned a verdict of "Guilty" against all three prisoners. This announcement was received with a murmur of surprise from the gallery, which was filled with sympathisers of the defendants. The murmurs quickly

turned to loud groans and hisses, in the mist of which a young woman, from whom a loud cry had broken, was carried out in a hysterical fit. Order having been with some difficulty restored; after his lordship had threatened to have the court cleared,

Mr. Avory said: With regard to Kemp, my lord, I hope I have not been understood as admitting anything more with regard to him.

The learned Judge: You admitted the publication was so clear you could not contest it.

Mr. Avory: I hope I have not been understood to say anything more than that he was a shopman and sold the papers in the shop in the ordinary way. He was nothing more nor less than a paid servant. He is a married man with a family; he was paid a weekly salary, and he was simply acting under the influence of the other prisoners. As to his name appearing on the papers, it was put there—Kemp's name was substituted there as the nominee of those paying him, and afterwards, when he is brought into difficulty by his name being there, his name is taken out. He acceded to his name being put there no doubt, without any idea of making himself responsible. Of course, the object of the Newspaper Act is to have some one primarily liable for the publication of this matter, but it is not intended to include such men as Kemp. Norrish, who practically occupied the same position as Kemp, is here as a witness for the prosecution. He has been there only for a few months, and Norrish was there for five years. This man must have lost his place if he had refused to sell anything. There is no suggestion that he derived any profit from the sale; he received nothing beyond his salary. On these grounds I hope your lordship will say this is a case to be dealt with differently from one in which you supposed he was deriving any profit from this matter. I may say, your lordship, any undertaking your lordship would impose upon him not to sell this again would be cheerfully agreed to by him.

Mr. Justice North addressing Foote, said: George William Foote, you have been found guilty by the jury of publishing these blasphemous libels. This trial has been to me a very painful one. I regret extremely to find a person of your undoubted intelligence, a man gifted by god with such great ability, should have chosen to prostitute his talents to the services of the Devil. I consider this paper totally different from any of the works you have brought before me in every way, and the sentence I now pass upon you is one of imprisonment for twelve calendar months.



Immediately upon the passing of this sentence a scene of the greatest excitement and tumult ensued in the gallery before mentioned as being full of the prisoners' friends. Rising, as it seemed with one accord, they burst forth into a storm of hissing, groaning, and derisive cries. The prisoner Foote brought about a momentary lull, as, looking towards the Bench, he cried, "My Lord, I thank you; it is worthy of your creed!" But immediately afterwards the uproar became worse than ever, several persons calling out "Christians, indeed!" "Scroggs" and "Judge Jeffries." It being found impossible for the officers of the court to obtain anything like decent order from the defiant audience in the gallery, the judge ordered that portion of the court to be summarily cleared, which was done after some little trouble by the police, and even then the roar of the crowd in the street could be plainly heard inside.

Addressing Ramsey, the learned Judge said:—William James Ramsey, you have been found guilty of publishing these same libels, but I don't look upon you as deserving so severe a punishment as Foote, because I look upon you as more an agent to other persons. I don't think the documents we have seen have emanated from you, for they show marks of intelligence and ability, however perverted. But you are the person who has been the proprietor of the paper, and it is necessary that it should be known that a proprietor is responsible if he publishes libels in his paper. I sentence you to nine months' imprisonment. (Slight hissing at the back of the court, which was promptly suppressed.)

The learned Judge, addressing Kemp, said:—Henry Arthur Kemp, you are the seller of this paper. You for some time were the printer and publisher, and you are the person who had the conduct of the sale of it. I think you less responsible for it than either of the other two, and I shall pass upon you a lighter sentence. At the same time, it is to be known that persons in your position are liable to punishment, and I hope that this will be a lesson to you and others. The sentence I pass upon you is imprisonment for three calendar months.

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#### THE CASE OF MR. CATTELL.

Cattell, the Fleet Street newspaper agent, who had been convicted on Thursday last of selling the Christmas Number of the "Freethinker," was then put into the dock to receive sentence. Mr. Keith Frith addressed the court in mitigation of punishment, and the prisoner was ordered to enter into his

own recognisances in £200, and to find one surety in £100, to come up for judgment when called upon.

For a considerable time after the court rose crowds remained in the streets discussing the sentences passed, and much indignation was expressed at what were regarded as harsh and unmerited treatment.

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## M E M O R I A L.

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“ To the Right Hon. the Secretary of State for the Home Department.

“ The Humble Memorial of the undersigned.

Sheweth

“ That George William Foote, William James Ramsey, and Henry Kemp were on Monday, March 5th, found guilty of blasphemy at common law and sentenced to imprisonment, respectively, G. W. Foote, 12 months; W. J. Ramsey, 9 months; and H. Kemp, 3 months.

“ Your memorialists respectfully submit that such an enforcement of laws against Blasphemy is out of accord with the spirit of the age, and humbly pray the mercy of the Crown in remission of the sentences imposed.”

Friends will do good work by copying this out and obtaining as many signatures as possible to each copy. The Memorial and the signatures should be sent to the Home Secretary as speedily as possible. It is particularly requested that no other form may be used than the one given above.

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## PRISON NOTES.

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I HAVE been addressing the jury for half-an-hour when the judge adjourns for lunch. A friend runs across the way to order in a plateful of something for me and my co-defendants. While he is gone, we—Mr. Ramsey, Mr. Kemp, and I—are invited to retire down the dock stairs to a subterranean refectory. We enter a gaslit passage with a dark cell on either side. Into one of these miserable holes we go. The aged janitor, who holds the keys and looks very much like St. Peter, gazes reproachfully as though our descent into his Inferno were full proofs of our criminality. As we cross the threshold something stirs in the darkness. Is it a dog or a rat? No, it is Mr. Cattell. He has been shivering there ever since ten o'clock, and it is now half-past one. He is very glad to see us, and almost as glad to get a sup from our bottle of claret. Our platefuls of meat and vegetables look nice and smell nice; our appetites are keen, and our stomachs empty, but there are no knives and forks. Stay, there are forks, but no knives. These lethal instruments are forbidden lest prisoners should cut their throats. Throughout the gaol similar precautions are taken. I am even writing with a quill (fortunately my preference) instead of a steel pen, because the latter is dangerous. A prisoner here once stabbed away at his windpipe with one, and they had much trouble in saving his life. These elaborate precautions and my own experience, although so brief, convince me that even in a House of Detention more than half the prisoners would commit suicide if they could. But *revenons à nos moutons*, or rather to our forks. We split the meat and gnaw it after the fashion of our primitive ancestors. The vegetables disappear somehow, and somehow we all denounce the miserably small capacity of the claret bottle. Then we feel cold in our subterranean dungeon, which never will be warm until the Day of Judgment. We walk up and down (it's about three steps each way) like the panthers in the Zoo, or rush round in Indian file like braves on the war-trail. We speculate how many laps to the mile. By way of stimulating my imagination. I suggest a million. The other beasts in the opposite den, whose mostly stupid faces we catch a glimpse of through the bars, evi-

dently regard us as imbeciles by the way they grin. St. Peter suddenly appears at the gate. We are summoned to the dock, and I must resume my address to the jury. It is two o'clock.

It is four o'clock, I have concluded my address, and sit down a bit tired. Mr. Ramsey has a short innings of about twenty minutes, reading from manuscript, every word to the point. Then the judge sums up in his peculiar prosecuting style. The jury retire; and we pop half way down the dock stairs to make room for Mr. Cattell, who now takes the trial he has waited for all day. When his jury have delivered their verdict, the judge defers sentence until our jury return. We again descend to the Inferno. Minute after minute goes by, and we are half-distracted with expectation. It is a mild agony of suspense. Our janitor gives us water to drink; we taste it, and find a little goes a long way. The summons comes at last, after two hours and ten minutes waiting. There is profound silence in court. The judge tells the jury he has sent for them to know if he can assist them. I see what he means, and fear that the foreman may commit himself. But in quiet, firm tones he replies that the judge cannot help them; that they all know the law as well as the fact, and that there is no hope of their agreeing. Reluctantly, very reluctantly, the judge discharges them. Then I ask him for bail. In bitter, vindictive tones he refuses, and we are marched off by an underground passage to Newgate Gaol.

NEWGATE appears to be a large rambling structure. There are courtyards and offices in profusion, but the cells seem to be all together. Tier above tier of them, with galleries and staircases, look down the great hall, which commands a view of every door. We inscribe our names in a big book, and a dapper little officer, with a queer mixture of authority and respectfulness, writes out a description as though he were filling up a passport. All money, keys, pencils, etc., we are requested to give up, but I am allowed to retain my eyeglass. I am taken to cell Number One, which they tell me is about the best they have. It is asphalted on the floor and white-washed everywhere else; height about nine feet, length ten, and breadth six. I am a little taken aback. Of course I knew that a cell was small, but the realisation was a bit rough. Here, thought I is a den for a blasphemer! Hell is hotter, but more commodious. Why don't they send me there at once? The head-warder comes to tell me that my friend with the big head has just called to do what he can for us. This is his facetious way of describing the junior member for Northampton. The honorable gentleman has ordered our meals to be sent in from across the way. After consuming a little coffee and

toast I retire to—anything but sleep. My bed is a rough hammock strapped from side to side of the cell. It is very narrow, so that my shoulders abut on either side. The clothes keep slipping off, and I keep imitating them. At last I find a good firm position, and lie still, clutching the refractory sheets and blankets. For a while my brain is busy. The thought of one or two I love most makes me womanish. But soon a recollection of the malignant judge makes me clench my teeth, and with a phantasmagoria of the trial before my eyes I gradually sink into a restless sleep.

DING, ding—ding, ding—ding, ding! I open my eyes half-startled. It is pitch dark save the faint glimmer of a distant lamp through the thick window. Suddenly the square flap in the centre of my door is let down with a bang; a little hand-lamp is thrust through, and a gruff voice cries, "Now then, get up and light your gas; look sharp." I make no indecent haste in response to his shouting, but leisurely light my gas. As soon as I am dressed the head warden summons me down stairs, where he weighs and measures me. Height, five feet ten, in my shoes; weight, twelve stone nine and a half, in my clothes. I see the prosecution, with all its worry and anxiety, has not pulled me down in flesh any more than it has in spirit. Breakfast comes in at eight, consisting of coffee, eggs and toast. At half-past we are taken out to exercise. We are all glad to see each other's faces again. They take us to a middle court by ourselves, where we walk round and round and round, like pedestrains in a match. I hear my name called, and, on rushing down to the spot whence the voice issued, I see Mr. Bradlaugh's face through iron rails on my side, then three feet of air and again iron rails on his side. This is how you see your friends. After Mr. Bradlaugh comes Mrs. Besant, who thought she would have been able to shake one by the hand. "We are all very proud," she says, "of the brave fight you made yesterday." I promised to scarily the judge on Monday; and after a few more words we say good-bye. Mr. Wheeler comes next on business, as well as friendship. After the hour's exercise is over, we are marched back to our cells, where we are doomed to remain until the next morning. We prisoners are suddenly summoned into court; the officer thinks they are going to grant us bail after all. We reach the dock stairs (out of sight of the court) just in time to hear Mr. Avory asking for bail for Mr. Kemp. Justice North refuses in his vindictive style. He has very evidently let the sun go down on his wrath. Mr. Avory asks him whether he makes no distinction between convicted and unconvicted prisoners. We hear his brutal reply, and then hurry back to our cells. Fortunately I have plenty of writing to do; several letters arrive for me, and



such an unusual prisoner.

SATURDAY passes very much like Friday; indeed the greatest curse of prison life is its awful monotony. We meet at half-past eight for one hour's trot round the yard, where we see two friends each for fifteen minutes. The rest of the day I spend in reading and writing. Dr. Aveling sends in his card with a cheery word scrawled on the back, and soon after I received a welcome parcel of clean linen, etc.

SUNDAY morning is a little less varied in one way, and a little more varied in another. In order to keep the blessed Sabbath holy (and miserable), we are not allowed to see any friends, and I observe that the regulation dinner for the day is the poorest in the week. We take our constitutional, however; and as the confinement is beginning to tell on me, I enjoy the exercise more than ever. After the stagnant air in my cell, even the air of this yard, enclosed on every side by high walls, seems a breath of Paradise. I throw back my shoulders, and expand my chest through mouth and nostrils. I lift my face towards the sky. Ah, blessed vision! It is only a pale gleam of sunshine through the canopy of London smoke, but it is light and heat and life to the prisoner, and beyond it is infinitude into which his thoughts may soar. At eleven o'clock I go to chapel. Any change is a relief, and I am anxious to know what the Rev. Mr. Duffeld will say. He is chaplain of Newgate, but I have not seen him yet. Perhaps he is ashamed to meet me. There is no organ in the chapel and no choir, and if it were not for the cook the singing would break down. Mr. Duffeld's voice is not melodious, and although he starts the hymn he does not appear to possess much sense of tune; but the Francatelli of this establishment makes up for the parson's deficiencies. The prayers are rushed through at sixty miles an hour, so are the responses and everything else. Mr. Duffeld reads a short sermon, not bad in its way, but quite inappropriate. Then he marches out, the tall Governor follows with long strides, and then the prisoners file in silence through the door. It is a ghastly mockery, a blasphemous farce. What a commentary on the words "Our Father"! Now to work again. I feel fresh strength to fight the bigots with. If the worst happens I must bear it.

G. W. FOOTE.

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