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NATIONAL SECULAR SOCIETY

Bradlaugh, Charles

REPEAL OF THE BLASPHEMY  
LAWS.

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I SHALL, at the next meeting of the Norwood Liberal and Radical Association, move:—

“That this meeting is of opinion that all Statutes inflicting penalties for opinion (as the 9th and 10th William III, cap. 35), or placing hindrances in the way of lectures and discussions (as the 21st George III, cap. 49), ought to be forthwith repealed”.

S. HARTMANN.

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The following is a reprint of the speech made by Mr. BRADLAUGH on this subject in the House of Commons, on 12th April, 1889 (“Hansard,” vol. 335, page 450):—

Mr. Speaker, the Bill, the second reading of which I have asked the House to pass, is directed against prosecutions which are partly prosecutions at common law and partly prosecutions by Statute. The Statute is the 9th and 10th, William III, chapter 35, and that Statute enacts that any person convicted of blasphemy, shall, for the first offence, be adjudged incapable and disabled in law, to all intents and purposes whatsoever, to have, to hold, or enjoy any office or offices, employment or employments, and shall, for a second offence, be adjudged disabled from being a

plaintiff or defendant in any suit, or from being the guardian of his own children, or from being capable of receiving any legacy, and shall be liable to imprisonment for the space of three years. The Act has been held to be supplemental to the common law. I may best describe the Statute by using the words of Lord Coleridge uttered in a case which was tried six years ago. In the course of the defence, the Statute had been described as shocking, and Lord Coleridge said—

“Some old things, and amongst them this Statute, are shocking enough, and I do not defend them.”

In a judgment which Lord Justice Lindley delivered in 1885, His Lordship spoke of this Statute as cruel in its operation against the persons against whom it was directed. The Statute of 6th of George, chapter 47, which applies to Scotland, makes the offence punishable by 14 years' transportation. Now, Mr. Justice Stephen in his “History of the Criminal Law”, which was written and passed through the Press in 1882, although it was published in 1883, wrote—

“Offences against religion can hardly be treated as an actually existing head of our criminal law. Prosecutions for such offences are still theoretically possible in a few cases, but they have in practice become entirely obsolete.”

Unfortunately, whilst the History was passing through the Press, several prosecutions were initiated, one of which was tried at Maidstone, two which were tried at the Old Bailey, and two, in one of which I was myself the defendant, which were removed by *certiorari* to the High Court, and were tried before the present Lord Chief Justice of England. Here are two views of the law which it is my duty to submit to the House, one, the view taken by the present Lord Chief Justice of England—namely, that it is only the manner of a blasphemous libel which should be censured and that a calm, and clear, and cool statement of views could not bring a person within the operation of

the laws relating to blasphemy; and the other, the view which, with all submission to the great Judge, who has expressed the contrary opinion, I am afraid is the real view of the law—the other, the view which was formed by Mr. Justice Stephen and Mr. Justice Hawkins sitting in the Queen's Bench Division, which was mentioned in the charge of Mr. Justice North in the trials at the Old Bailey, and which was formed in the case of the Attorney-General *v.* Bradlaugh reported in the *Weekly Reporter*, vol. 433, especially by Lord Justice Lindley. It seems to me that the real state of the law has been very fully explained by Mr. Justice Stephen in an article which appeared in the *Fortnightly Review*, and which was published in examination and criticism of the charge of Lord Coleridge to the jury in the case of the Queen *v.* Foote and others. Mr. Justice Stephen urges that the law as it now stands is a bad law, and recommends the very measure which I am bringing before the House to-night. It is right, however, I should state Lord Coleridge's view—the view that it is the manner and not the matter of the blasphemous libel which should be considered, before I put what I conceive is, unfortunately the real view of the law. Lord Coleridge says—

“It is clear, therefore, to my mind that the mere denial of the truth of the Christian religion is not enough alone to constitute the offence of blasphemy.”

and he goes on to point out that all prosecutions for blasphemy, according to his view, tend to failure. Further on in his judgment Lord Coleridge says—

“Persecution, unless thorough-going, seldom succeeds. Irritation, annoyance, punishment which stops short of extermination, very seldom alter men's religious convictions. Entirely without one fragment of historical exaggeration, I may say that the penal laws which 50 or 60 years ago were enforced in Ireland were unparalleled in the history of the world. They existed 150 years ago; they produced, upon the religious convictions of the Irish people absolutely no effect whatever.”

I submit to the House that all kinds of enactments which are in the nature of persecution for opinion are enactments which fail in doing anything except driving the expression of opinion into its worst and roughest forms, and, therefore, ought not to be desired by anyone who has in any degree any faith in any kind of liberty. Mr. Justice Stephen, reviewing the charge of Lord Coleridge, a charge which he praises in language not too strong, says —

“My only objection to it is that I fear that its merits may be transferred illogically to the law which it expounds and lays down, and that thus a humane and enlightened judgment may tend to perpetuate a bad law by diverting public attention from its defects. The law I regard as essentially and fundamentally bad.”

Now when a learned judge, who is now engaged in trying cases, can thus describe this portion of the law, I think I can submit there is something like a *prima facie* case for its appeal. Lord Justice Lindley in delivering judgment in the case of the Attorney-General *v.* Bradlaugh says—

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“It is a mistake to suppose, and I think it as well the mistake should be known, that persons who do not believe in a Supreme Being are in the state in which it is now commonly supposed they are. There are old Acts of Parliament still unrepealed by which such people can be cruelly persecuted.”

And it was because Lord Justice Lindley found this law on the Statute Book, that he said he felt constrained to hold as he did in the case then before him. What is the state of the law? I prefer to put it in the words of Mr. Justice Stephen than in my own. He quotes in support of his statement a large number of cases, and he says—

“The result of the examination of the authorities appears to me to be that to this day Blackstone’s definition of blasphemy must be taken to be true; and, if this is the case, it follows that a large part of the most serious and most important literature of the day is illegal—that, for instance, every bookseller who sells, every one who lends to his friend, a copy of Comte’s *Positive Philosophy*, or of Renan’s *Vie de Jesus*, commits a crime punishable with fine and imprisonment. It may be said that so revolting a consequence cannot be true; but, unfortunately,

this is not the case. I suppose no one will, or indeed can deny that if any person educated as a Christian, or having ever made profession of the Christian religion, denied that the Bible was of divine authority, even by word of mouth, he would incur the penalties of the 9 and 10 William III, c. 32. I will take a particular instance by way of illustration of this. The late Mr. Greg was not only a distinguished author, but an eminent and useful member of the Civil Service. I suppose he was educated as a Christian, and no one could have a stronger sympathy with the moral side of Christianity. In every one of his works the historical truth of the Christian history is denied: and so is the divine authority of the Old and New Testament. If he had been convicted of publishing these opinions, or even of expressing them to a friend in private conversation, his appointment would have become void, and he would have been adjudged incapable and disabled in law to hold any office or employment whatever; in a word, he would have lost his income and his profession. Upon a second conviction, he must have been imprisoned for three years, and incapacitated, amongst other things to sue or accept any legacy. About this there neither is, nor can be, any question whatever."

And after a long and careful summary of the law, as laid down in many decisions, Mr. Justice Stephen winds up—

"In my own opinion the practical inference is that blasphemy and blasphemous libel should cease to be offences at common law at all, that the Statute of William III should be repealed, and that it should be enacted that no one except a beneficed clergyman of the Church of England should be liable to ecclesiastical censures for 'atheism, blasphemy, heresy, schism, or any other opinion'. Such an abolition would not only secure complete liberty of opinion on these matters, but it would prevent their recurrence at irregular intervals of scandalous prosecutions which have never in any one instance benefited anyone least of all the cause which they were intended to serve, and which sometimes afford a channel for the gratification of private malice under the cloak of religion."

I ask this House to give effect to what the learned Judge has said. I know there are one or two arguments which may be used to weigh heavily against me. One is, that the class for whom I speak is a comparatively small class. (Mr. DELISLE: "Hear, hear.") There would be no reason in denying liberty to one man, even if he stood alone. Every opinion, in every age, has been at some time small,

and those who hold opinions which, within 100 years have been the subject of cruel persecutions within this realm, should be the last to endorse the doctrine of persecution against those weaker than themselves. It may be urged that the severe penalties of the law are seldom enforced. It is only about 50 years ago that under this Act one man suffered nine years and eight months' imprisonment in this country, and was also condemned to pay an enormous fine. It did not check the issue of the literature by him against which the prosecution was directed. It only had the effect of endearing him to a large number of people, and of making many purchase the writings he issued who might otherwise not have done so. I hardly like to seem to be thrusting my personal case upon the House, but I may be permitted to remind the House that the declaration has been made very formally in print that the prosecution which was directed against me, was initiated for the direct purpose of disqualifying me, under this Statute, for the term of my natural life, from taking part in the political work of the country. I submit to the House that, ruling as it does over 330,000,000 of human beings, of every kind of faith or lack of faith, it is our duty to treat all alike. What is the effect of the law as it stands? Two years ago a legacy was left to myself and a gentleman in Manchester for the purpose of endowing an institution. We were all persons who might have been indicated as blasphemers under the law. The legacy was left for purely educational purposes, but the legacy was set aside, first of all in the Court of the Palatine of Lancaster, and next on appeal, on the ground that a bequest for such a purpose was an illegal bequest and voidable. It may be said "we would not object to you being allowed to utter your views, but we object to you uttering your views in an offensive language". But if persons utter their views in an offensive manner, and so as to provoke a breach of the peace, they are punishable under the law as it now stands. The fact that the law is not always enforced, the fact that

it is seldom enforced, the fact that Mr. Justice Stephen in his "History of the Criminal Law", describes the law as obsolete, the fact that Lord Justice Lindley has referred to the law as cruel in its operation, should tend, I submit, to induce the House to grant the Second Reading of this Bill. I can quite understand it is possible that people will say that views which are different from their own should not be offensively urged, but that brings in the question of the manner of the advocate rather than that of the matter, and I put it to persons who hold this view, whether the keeping on the Statute Book of this harsh and cruel law, does not deprive any of us, who may wish to tone and temper argument, of any fair reason for checking harsh or hasty speech or utterance. Again, let me point out that the word blasphemy for which you punish to-day, has been an ever-changing word. It is only 240 years ago that a man, Naylor, the Quaker, of the same faith as the man (Mr. Bright) all of us in this House honored, was tried for blasphemy. George Fox, William Penn, and scores of their co-workers were sent to gaol, or whipped at the cart tail as blasphemers. The Unitarians, had they lived even later than the times of which I have just spoken, would have come within the penalties of this Statute which Lord Coleridge says gives a ferocious power against people, and which Lord Justice Lindley condemns as an essentially bad law. I feel that this is not a time of night to trespass unduly on the attention of the House. I can only appeal to the generosity of the majority, but I would point out to them the position in which they put those who differ from them when they lack generosity themselves. I have sometimes tried to argue with my friends in France against the strict enforcement some of them have put on the Anti-Clerical laws; they have answered me "the Church shows us no mercy". It is that kind of unfortunate spirit which treats opinion as if it were a crime and thought as if it were a crime, when the very honesty of the utterance of that

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thought, that expression of opinion, shows you that the persons against whom you direct your Statute, have, at least, the virtue of honesty to redeem their action from being classed as that of the ordinary criminal. It is against this unfortunate spirit I am arguing; it is for these people I am pleading to-night. I am pleading for many who have found trusts for their children cancelled, as was the case with a member of this House, honored while sitting in it because of the family to which he belonged, and for the great name and greater traditions associated with it—I mean Lord Amberley. He found his trust for his children cancelled, because the man whom he honored enough to give the trust, might have been brought within the scope of this statute. It is too late to-day to keep these penalties on the Statute Book. The Bill may not receive sanction for its second reading to-night, but it is something—and I thank the House for it—that the House has listened patiently and generously to an appeal made on behalf of an unpopular minority; and one day or other justice will have to be done, and I ask the House to do it whilst those for whom they are asked to do it are few and weak, rather than leave us to win, as win we will, that outside public opinion by the ballot which determines what the law shall be.