

NATIONAL SECULAR SOCIETY

DEFENCE  
OF  
FREE SPEECH

BEING A  
THREE HOURS' ADDRESS TO THE JURY  
IN THE  
*COURT OF QUEEN'S BENCH*

BEFORE  
LORD COLERIDGE

*On APRIL 24, 1883,*

BY

G. W. FOOZE

*(Editor of the "Freethinker.")*

NEW EDITION WITH INTRODUCTION AND FOOTNOTES.

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PRICE FOURPENCE.

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London:  
PROGRESSIVE PUBLISHING COMPANY,  
28 STONECUTTER STREET, E.C.

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## INTRODUCTION.

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MR. BRADLAUGH has introduced a Bill in the House of Commons for the repeal of the Blasphemy Laws. That Bill has been rejected by a majority of 141 to 46 votes. This is sufficiently decisive as to the immediate prospects of such a measure. The speeches of straightforward bigots like Colonel Sandys, and of canting bigots like Mr. Samuel Smith, reveal the sort of opposition Mr. Bradlaugh's bill will have to overcome before it passes into law.

In these circumstances I have thought it advisable to reprint my defence before Lord Coleridge on the occasion of my second trial for blasphemy in the Court of the Queen's Bench. My first trial was at the Old Bailey before Mr. Justice North. This judge played the part of a prosecuting counsel; he treated me with the grossest incivility, and the scandal of his conduct elicited protests from the Liberal section of the public Press. On Thursday, March 1, 1883, the case was first heard. I addressed the jury in a speech of three hours' duration, and the result was a disagreement. On the following Monday, March 5, the case was heard again. This time the jury, which had the appearance of being carefully selected, returned a verdict of Guilty without leaving the box; and I was sentenced to twelve months' imprisonment as an ordinary criminal.

A previous indictment, which also included Mr. Bradlaugh, as well as Mr. Ramsey, had been hanging

### *Introduction.*

over me for several months. It had been removed by a writ of *certiorari* to the Court of Queen's Bench, where it was placed in the Crown List and did not come on for hearing until two months after my sentence on the second indictment.

My defence was therefore prepared in a prison cell. The conditions were in one sense unfavourable, although I was supplied with books and papers for the purpose, and certain relaxations were allowed me in the matter of visits through the kindness of Lord Coleridge, whose generosity will ever live in my memory. But the situation had its compensations. The dreary monotony of prison life was broken, its darkness was relieved by light from the great world outside, my spirits were cheered by intellectual occupation, and I enjoyed the advantage of preparing my defence without the distractions of ordinary daily life.

During the delivery of my speech to the jury Lord Coleridge listened with rapt attention. When it closed he adjourned the court until the next morning, and "that," he said to the jury, "will give you a full opportunity of reflecting calmly on the very striking and able speech you have just heard."

Let me not be suspected of vanity. My object in quoting his lordship's words is not to air my own accomplishments, of whose limitations no one is more sensible than myself. I simply desire to remove an impression which is less injurious to me than to the cause I have the honor to advocate. Lord Coleridge's praise of my speech is an exalted testimony to the truth that "blasphemers" are not necessarily an abject species, and that Christianity may be fiercely and contemptuously assailed by men who are many degrees removed from the condition of vulgar brawlers.

It would have given me pleasure to include his lordship's Judgment in this reprint, but as he has published it himself in the form of a pamphlet, I did not feel at liberty to do so. I have, however, given some extracts in the footnotes, the object of which is to elucidate my speech without the reader's having to peruse other publications. Those who care to pursue the subject will find a full account of my trials and imprisonment in a volume entitled *Prisoner for Blasphemy*.

The leading counsel for the prosecution at my trials was Sir Hardinge Giffard, now Lord Halsbury. This gentleman is a Tory, and a bigot of the first water. He believes, or affects to believe, that there are no honest men in the world but those of his own Church. He conducted the long litigation against Mr. Bradlaugh with signal unsuccess, and he succeeded in sending me to prison. This is the extent of his services to the Tory cause, and it must be admitted that he has reaped a handsome reward. As Lord Chancellor he enjoys a salary of £10,000 a year, with a retiring pension of £5,000 as long as he lingers in this vale of tears.

It only remains to add that the jury, after being locked up for three hours, found it impossible to agree I have since ascertained that three jurymen held out obstinately against a verdict of Guilty. This was more than sufficient. While *one* jurymen holds out, bigotry has fingers to grasp with, but no *thumb*. Sir Hardinge Giffard saw this, and the prosecution was abandoned.

May 25, 1889.

G. W. FOOTE.

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# COURT OF QUEEN'S BENCH.

APRIL 24, 1883.

*Lord Coleridge presiding.*

## MR. FOOTE'S SPEECH IN DEFENCE.

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*My Lord and Gentlemen of the Jury,—*

I am very happy, not to stand in this position, but to learn what I had not learned before—how a criminal trial should be conducted, notwithstanding that two months ago I was tried in another court, and before another judge. Fortunately, the learned counsel who are conducting this prosecution have not now a judge who will allow them to walk out of court while he argues their brief for them in their absence.<sup>1</sup>

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

Mr. Foote: My lord, I thank you for the correction, and I will simply, therefore, confine what observations I might have made on that head to the emphatic statement that I have learnt to-day, for the first time—although this is the second time I have had to answer a criminal charge—how a criminal trial should be conducted.

Notwithstanding the terrible nature of my position, there is some consolation in being able,

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<sup>1</sup> Judge North, who presided at my trial at the Old Bailey, practically held Sir Hardinge Giffard's brief. After his opening speech the counsel walked out of court and never returned, knowing the case was in very good hands.

for the first time in two months, to talk to twelve honest men. Two months ago I fell amongst thieves, and have had to remain in their society ever since, so long as I have been in any society at all. It is not my intention, it is not even my wish, to go over the ground which was traversed by my co-defendant in his pathetic account of the mental difficulties which attended the preparation of his defence; but I will add, that although we have profited—I may say in especial by the facilities which his lordship so kindly ordered for us, and by the kind consideration of the governor of Holloway Gaol—yet it has been altogether impossible, in the midst of such depressing circumstances, for a man to do any justice to such a case as I have to maintain. Prison diet, gentlemen, to begin with—a material item—is not of the most invigorating character. (Laughter.) My blood is to some extent impoverished, my faculties are to a large extent weakened, and it is only with considerable difficulty that I shall be able to make them obey the mandate of my will.<sup>2</sup> The mental circumstances, how depressing have they been! In looking over a law book I saw something about solitary confinement as only being allowable for one month at a time, and for not more than three months in one year. What the nature of the confinement is I am unable to ascertain, but it strikes me that twenty-three hours' confinement out of twenty-four, in a small cell about six feet wide, comes as close as possible to any reasonable definition of solitary confinement.<sup>3</sup> Still it is no

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<sup>2</sup> I had been treated in prison like an ordinary criminal, wearing prison clothes and eating prison food. The sudden and complete change of diet disordered my stomach, and I suffered severely from diarrhoea. Lord Coleridge was shocked on learning of my treatment. "I have," he said in open court, "just been informed, and I hardly knew it before, what such imprisonment as yours means, and what in the form it has been inflicted upon you it must mean; but now that I do know of it, I will take care that the proper authorities know of it also."

<sup>3</sup> I had been locked up in a brick cell twelve feet by six, with no books to read. One hour in every twenty-four was allowed for exercise, which consisted in walking round a ring with other prisoners. After this abortive trial I was allowed two hours, one in the morning and one in the afternoon. It was a most welcome relief.

use wearying you with the difficulties that have attended the preparation of my defence. This much, however, must be said in connection with it; that a change has come over the method of treating those who are found guilty and sentenced to punishment under these laws. Gentlemen, as a matter of fact, an indisputable matter of fact, I and my co-defendants are undergoing essentially the severest punishment that has been inflicted for any blasphemous libel for the last 120 years. Since Peter Annett's confinement in Clerkenwell Gaol with twelve month's hard labor, in the year 1763, there has been no punishment meted out to a Freethought publisher or writer at all approximating to what we have to undergo. The sentence, even before the law practically fell into disuse, from forty to fifty years ago, gradually dwindled to six, four, and three months. My sentence, gentlemen, was twelve months. Again, prisoners were nearly all treated as first-class misdemeanants—as far as I can ascertain, all were—they were not sentenced to twelve months—not merely of intellectual death—but of *conscious* intellectual death. They were not debarred from access to their friends, and most of them even carried on their literary work, and supported those near and dear to them. We have to depend on the charity of those who, notwithstanding the position in which we stood two months ago, and stand now, do not esteem us the less—who understand that there is a great vital principle struck at through us, however unworthy we may be to defend it, and who in lending their aid to see that our interests do not suffer so much as they otherwise would, are actuated by more than friendship for us, by their love of that principle which has been assailed by our conviction, sentence, and committal to gaol, and is again assailed in the prosecution which is being conducted here to-day.

A change, gentlemen, has come over the public mind with respect to heresy and blasphemy, which every reader of history finds intelligible. Religious bigotry is never more vicious than when it has a large infusion of hypocrisy. While people feel that their cause can be defended by argument they are ready to

defend it by those means. While they feel that supernatural power is maintaining their creed they are to a large extent content in trusting their cause to the deity in whom they believe. But when they feel that the ground, intellectually and morally, is slipping away under their feet ; when they feel that the major portion of the intellectual power of their day and generation is arrayed against their creed, when it is not scornful or indifferent to it ; when, in short, the creed is not only losing its members' brains, but its own wits ; then it turns in wrath, not upon the high-class heretics who are striking week after week the most deadly blows at the creed in which these prosecutors profess to believe, but at those who happen to be poor and comparatively obscure. These poorer and more pronounced Free-thinkers are made the scapegoats for the more respectable Agnosticism of the day, which is more cultured, but infinitely more hypocritical. The martyrdom of olden times had something of the heroic in it. A man was led out to death. He could summon courage for the minutes or hours during which he still had to face his enemies. They placed faggots round his funeral pyre. In a few minutes, at the outside, life ended ; and a man might nerve himself to meet the worst under such circumstances. Then also the persecutors had the courage of the principles on which they proceeded, and said, "We do this to the heretic in the name of God ; we do it because he has outraged the dignity of God, and because he has preached ideas that are leading others to eternal destruction with him." But now orthodoxy has a large infusion of hypocrisy ; like Pilate, it washes its hands. But, gentlemen, all its pretences will be discounted, I believe, by you. When it is said, "We don't do this in the interests of outraged Omnipotence, and we, the finite, are not arrogantly championing the power, or even the dignity of omnipotence ;" when they say "We are only carrying out a measure of social sanitation, and preventing men from making indecent attacks on the feelings of others ;" you will agree with me in believing that this is hypocrisy and cowardice too. Looked at clearly, it is utterly impossible that you can draw any line of

demarcation between the manner of controversy in religion and that in politics, or any other department of intellectual activity, unless you make a difference as to the matter, unless you go the full length of the principle which is implied, and logically say: "We do so because religion is not as these. There is matter as well as manner, and we protect the feelings of men with respect to these subjects, because there is invulnerable truth somewhere imbedded in their belief, and we will not allow it to be assailed."

I will now dismiss that, and will ask your attention, before I proceed to deal with matters of more importance, and certainly more dignity, to some remarks that fell from the lips of the junior counsel for the prosecution in what he called the temporary absence of his leader—a temporary absence which has turned out to be considerably protracted. One remark he made use of was that we had attempted to make a wicked and nefarious profit out of the trade in these blasphemous libels. That seemed to me to be very superfluous, because if, as he held, the libels were wicked and nefarious, there was no need to say anything about the nature of the profit. But he himself ought to know—at any rate his leader would have known—that a passage was read at our previous trial, and used as evidence against me in particular—a passage which distinctly stated that notwithstanding the large sale—and a large sale is always a comparative term, for what may be a large sale for the *Freethinker* would not be large for the *Times*—the proprietor was many pounds out of pocket. The learned counsel for the prosecution, I daresay, knew that, but then it suited his denunciatory style to talk about wicked and nefarious profit. (Laughter.) I have no doubt he makes profit out of the prosecution—it is his business. You can get any quantity of that sort of thing by ordering it, provided you at the same time give some guarantee that, after ordering, it will be paid for. He spoke of a blustering challenge which was thrown out in one of the alleged libels, and he gave you a quotation from it in which the word "blasphemy" was used. The report said that a man at Tunbridge Wells was being prosecuted

for blasphemy.<sup>4</sup> The learned counsel omitted to tell you what you will find by referring to the indictment, that the word "blasphemy" is between inverted commas, which shows it was employed there, not in the sense of the writer, but as a vague word, to which he might not attach the same meaning as those using it. So much for that.

And now one word more as to his introduction before I proceed. The word "licentiousness" was introduced. The word "decency" was introduced. I have to complain of all this. I propose to follow the method which was followed in Mr. Bradlaugh's trial some days ago in this court, and had the full approval of his lordship. I don't propose to do what the junior counsel for the prosecution did, notwithstanding he said he would not, and read to you any passages from those alleged libels. Although I do that, I feel what an immense disadvantage results to me because the words "indecent," "licentiousness," are bandied about outside before the great jury of public opinion, and we may in this way be pronounced guilty and sentenced for offences which people outside have never had properly explained to them. Thus we are brought in guilty of blasphemy, and people say we should have been so sentenced and and punished because our attack was indecent. Now, the word "indecent," as you know, has a twofold meaning. It may mean unbecoming or obscene.<sup>5</sup> People will take which meaning best suits their purpose, and so we are at this great disadvantage when none of these libels are read out,

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<sup>4</sup> Mr. Seymour had been prosecuted for Blasphemy at Tunbridge Wells, found guilty, and bound over to come up for judgment. I had denounced the cowardice of attacking obscure Freethinkers and leaving their leaders unmolested.

<sup>5</sup> Lord Coleridge very handsomely assisted me on this point. In his summing-up he said to the jury:—"Mr. Foote is anxious to have it impressed on you that he is not a licentious writer, and that this word does not fairly apply to his publications. You will have the documents before you, and you must judge for yourselves. I should say that he is right. He may be blasphemous, but he certainly is not licentious, in the ordinary sense of the word, and you do not find him pandering to the bad passions of mankind."

that we may be brought in guilty of one charge and sent to prison on it, and people outside may think that we are really guilty of another offence and actually punished for that, the other being a cloak and pretence. I leave the junior counsel for the prosecution.

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

secution of which was denounced by the then Lord Chief Justice from the Bench. By that prosecution, a work that had been circulated at the rate of one hundred per year for forty years, was run up to a sale of one hundred and seventy-five thousand. It is perfectly clear, therefore, that in that case the prosecutors had defeated their own object.

When a question as to the *Freethinker* was asked in the House of Commons, so far back as February in last year, Sir William Harcourt replied that it was the opinion of all persons who had to do with these matters, that it was not politic to proceed legally against such a publication. That answer was made to Mr. Freshfield. A few days afterwards he made a similar answer to Mr. Redmond. But there is a class of people who rush in "where angels fear to tread," and the prosecution has unfortunately done that. It is a curious thing, gentlemen, that all those who have been moving against the persons who are alleged to be responsible for the *Freethinker*, belong to one political party. The junior counsel for the prosecution told you that no doubt one of the two defendants would ask you to believe this was a political move. Every person connected with it has been a Tory. Mr. Freshfield represents the immaculate borough of Dover, and Mr. Redmond is the representative of a small Irish constituency, the whole of whose voters could be conveyed to Westminster in a very few omnibuses. (Laughter.) Next, gentlemen, comes the Corporation of the City of London that secured a verdict against myself and my co-defendant two months ago. I need not tell you what the politics of the Corporation of the City of London are, nor will I undertake to prophesy what they will be when brought into something like accord with the spirit of the age by the new Bill which is to be introduced. The prosecuting counsel, Sir Hardinge Giffard, is also a Tory. I don't mean to say that he is the worse for that. Every man has a right to belong to which political party he pleases. Tory, Whig, Conservative and Liberal, are great historic names, and men of genius and high character may be found on both sides. But it is a curious thing that this prosecu-

tion should be conducted so entirely by men of one political persuasion, while those struck at belong to the extreme opposite political persuasion. These two things should operate in your minds, and influence your views as to the motives which animate those who conceived this persecution, and find the funds to carry it out. And last, though not least, we have sir Henry Tyler, also a Tory of the deepest dye, who has been the pronounced and bitter public enemy of Mr. Bradlaugh, one of my co-defendants who is released from his position of danger by a verdict of acquittal. At my previous trial the jury were told that the real prosecutor was not the City Corporation but our lady the Queen. I am very glad indeed to be able to rely on the authority of his lordship in saying that the nominal prosecutor in this case is the Queen, and the actual prosecutor who sets the Crown in motion is Sir Henry Tyler. Now, gentlemen, what was the real reason for Sir Henry Tyler's moving in this case at all? Sir Henry Tyler was known to be engaged in the City in financial pursuits. He was known to be a dexterous financier and an experienced director of public companies. He was known to be not so much loved by shareholders as by political friends, and you would think if outraged deity wanted a champion, Sir Henry Tyler would be one of the last persons who would receive an application. (Laughter.) Sir Henry Tyler had an enemy in Mr. Bradlaugh. Sir Henry Tyler had been rebuked in the House of Commons by a minister of the Crown for his mad antagonism to Mr. Bradlaugh. It is he who has found all the funds for this prosecution, and I ask you to believe that this prosecution was initiated and carried on by Sir Henry Tyler and his political friends for a purely political purpose; to cripple, if possible, Mr. Bradlaugh, and so to win through religious prejudice what could not be won by open political warfare. As I said before, men of genius and high character are to be found in the two great political camps, but this is a miserable descent for a great historic party, which once had its Peels and its Pitts, and now has its Churchills, its Newdegates, its Tylers and its Giffards. (Laughter.)

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

Morally, blasphemy can only be committed by a person who believes in the existence of the Deity whom he blasphemeth. Lord Brougham has left that

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

Our indictment is at common law. The great danger of this is, there is no statute to be appealed to accurately defining the crime. Blasphemy is not like theft or

murder—it is more a matter of opinion and taste. And it really comes to this—that no man can know thoroughly what a blasphemous libel is ; and no man can be sure whether he is penning a blasphemous libel or not ; and the only way to find out what the offence is, is to go to Holloway Gaol for twelve months, which is a very unpleasant way of deciding a matter of this kind. It means that a jury is summoned, and the matter is put into their hands ; and if they don't like it, that is sufficient for a verdict of Guilty. It is a very unfortunate thing that any man should be tried for such an offence at common law. Recently, when I was tried at the Old Bailey, Mr. Justice North, in his summing-up, told the jury that any denial of the existence of deity was blasphemy. On the first occasion the jury would not bring in a verdict of Guilty, and had to be discharged ; and I was kept in prison until the next trial took place. Mr. Justice North told the jury on the second trial nothing of the sort. He left out altogether the words as to denying the existence of deity. What made the change in three days ? It is impossible for me to say. It may be he thought a conviction easier with such an interpretation of the law ; or it may be that he had read the comments in the daily press, and that some alteration had been made, perhaps for the better. The view which was entertained by Mr. Justice North does not seem to be the view entertained by the Lord Chief Justice, in whose presence, fortunately, I now stand, if I may judge by his summing-up on the trial of one of my co-defendants in this action last week. Then, again, we have Mr. Justice Stephen, who is practically at variance, not only with Mr. Justice North, but with the still higher authority of his lordship ; so that it would largely depend, in being tried at common law, whether one happened to have one's trial presided over by this judge or the other. In the particular case I cited, one jury brought in a verdict of guilty ; but another jury four days before—although the evidence was exactly the same—declined to. So that you have a double uncertainty—your fate depends upon the view of the law entertained by the judge who presides at

the trial, and on the tastes and the convictions of the jury. I submit, gentlemen, that is a very grave defect, and puts at great disadvantage men who stand in my position. If a man is to be sent to gaol for twelve months, blasphemous libel should be defined by statute.

The 9th and 10th William III. is the only statute dealing with blasphemy. It was held in the Court of Queen's Bench when Mr. Bradlaugh moved to quash the indictment, on which I am now being tried, that this statute was aimed at specific offenders, and only laid down so much law as referred to them. No doubt that is true enough ; but still, if the statute does not fully define blasphemy, yet everything included within the statute is clearly blasphemy. There is not a word about ridicule, abuse or contumely. The statute says anybody who has professed the Christian religion within these realms, shall, for denying the existence of God, or saying there are more gods than one, or denying the truth of Christianity, be subject to certain penalties. The law was called "ferocious" by Mr. Justice Stephen himself, and it admirably enlightens us as to the nature of the age in which those Blasphemy Laws originated. So that even the statute appears to contain a view of the law, which the Lord Chief Justice so considerately said he should not feel justified in being a party to, unless it were clearer than it seemed to him.

Having said we were tried at common law, and dwelt on its disadvantages, I ask what is common law ? Common law is judge-made law and jury-made law. Mr. Justice Stephen on this point has some very notable remarks in the introduction to his *Digest of the Criminal Law* :

"It is not until a very late stage in its history that law is regarded as a series of commands issued by the sovereign power of the state. Indeed, even in our own time and country that conception of it is gaining ground very slowly. An earlier and, to some extent, a still prevailing view of it is, that it is more like an art or science, the principles of which are first enunciated vaguely, and are gradually reduced to a precision by their application to particular circumstances. Somehow, no one can say precisely how, though more or less plausible and instructive conjectures upon the subject may

be made, certain principles came to be accepted as the law of the land. The judges held themselves bound to decide the cases which came before them according to those principles, and as new combinations of circumstances threw light on the way in which they operated, the principles were, in some cases, more fully developed and qualified, and in others evaded or practically set at nought and repealed."

That is precisely what I ask you to do in this case. I ask you to consider that this common law is merely old common usage, altogether alien to the spirit of our age; and that it cannot be enforced without making invidious, unfair, and infamous distinctions between one form of heresy and another; and I ask you to say that it shall not be enforced at all if you have any power to prevent it.

Why should you, as a special jury in this High Court of Justice, not set a new precedent? I propose briefly to give a few reasons why you should. Blasphemy, my co-defendant told you, was a manufactured crime. I urge that it is altogether alien to the spirit of our age. The junior counsel for the prosecution said blasphemy was prosecuted very seldom; it had not been prosecuted in the City for fifty years; and he urged as a reason that blasphemy was not often committed. "For fifty years!" That is not true. From my slight knowledge of literature, which is not, as one of the journals said, entirely confined to Tom Paine and the writings of Mr. Bradlaugh, I could undertake to furnish the junior counsel for the prosecution with some tons of blasphemy published during that fifty years; although I probably could not find the prosecution such a powerful motive as they have recently had for proceeding against these blasphemous libels. The law against blasphemy is practically obsolete—the fact that there have been no such prosecutions for fifty years ought to settle that point. Mr. Justice Stephen himself, as to chapter 17 of his "Digest," which includes the whole of the offences against religion, says: "The whole of this law is practically obsolete, and might be repealed with advantage." And he further says it would be sufficient as to blasphemy if the power of prosecution were confined to the Attorney-General. In this case the Attorney-General has had nothing to

do with the prosecution. The jury were told in another court that the Public Prosecutor had instituted it. As a matter of fact, he simply allowed it. The Public Prosecutor has undergone himself a good deal of ridicule, and I submit that his allowance or disallowance is scarcely equivalent to the allowance or disallowance of the Attorney-General, and certainly not equivalent to the institution of proceedings by the Attorney-General. Mr. Justice Stephen says: "My own opinion is that blasphemy, except cursing and swearing, ought not to be made the subject of temporal punishment at all, though, if it tended to produce a breach of the peace, it might be dealt with on those grounds." I shall have a few words to say about breach of the peace shortly. Thus Mr. Justice Stephen says: "This law is practically obsolete," and further that no temporal punishment should be inflicted for it.

You are made the entire judges of this question, under the very clear language of the celebrated Libel Act, called "Fox's Act," passed in 1792, to regulate libel trials. When issue was joined between the Crown and one or more defendants, it was there laid down that the jury were not bound to bring in a verdict of guilty merely on the proof of the publication by such defendants of a paper, and of the sense ascribed to the same in the indictment. So that I hold you are the complete judges; there is no power on earth that can go behind your judgment. You are not bound to give a reason for your verdict; you are simply called upon to say guilty or not guilty; and I submit you have a perfect right to say guilty or not—especially not guilty—on the broad issue of the question; and thus to declare that this blasphemy law is utterly alien to the spirit of our age.

It would be impossible for the old common law to be enforced now. The old common law was never put in force against persons who only ridiculed the Christian religion. Our indictment charges us with bringing the Christian religion into disbelief; so that bringing it into disbelief is blasphemy. That is logical—bringing it into disbelief is bringing it into gross contempt. All the cases, from *Nayler* down to the latest cases of

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

I may refer you to a case which occurred in the year 1867, which will show you that the common law has always held that it is a crime to call in question the truth of the Christian religion. In the year 1867 the case of *Cowan v. Milbourn* was decided in the Court of Exchequer ; it originally arose in Liverpool. The secretary of the Liverpool Secular Society had engaged the assembly room for the purpose of two lectures. The lectures were entitled, "The character and teaching of Christ ; the former defective, the latter misleading ;" and the second, "The Bible shown to be no more inspired than any other book." There is not a word of ridicule, sarcasm or contumely in this language ; yet when the owner of the rooms, after the expense of advertising had been incurred, refused the use of them for the lectures, and declined to compensate the persons who had rented for those two nights, it was held

by the Court of Exchequer that it was an illegal act to deliver such lectures with such titles, and that no damages could be recovered, because the rooms had been declined for the perpetration of an illegal act.

Acting on this case, some solicitors at Southampton last summer, after the expenses of advertising had been incurred, refused the use of the Victoria Assembly Room for a lecture by myself, on the ground that the lecture would be an illegal act. The lady who owned the room was pious, although she had not the honesty to recompense my friends for damages they had incurred on the strength of her own agent's written contract. As far back then as 1867, it was held that any impugning of the truth of Christianity was an illegal act, and my contention therefore holds good, that bringing Christianity into disbelief is as much a part of blasphemy as bringing it into contempt.

It is said that Christianity is part and parcel of the law of England, and, as such, it must not be attacked. We have had, fortunately, a trenchant criticism of this by his lordship. It was pointed out by his lordship, in language so precise that I am sorry I cannot quote it, that if Christianity were part and parcel of the law of the land, in the sense in which the words are generally used, then it would be impossible to bring about any reform of law, because no law could be criticised, much less ridiculed, on the same ground that Christianity, which is part of the law, cannot be ridiculed or criticised. Something occurred to me which seems to go even further than that; and that is, that if Christianity were part and parcel of the law of the land, then the prosecution for blasphemy would be an absurdity. There is no crime in criticising any law, or ridiculing any law, in the pages of *Punch*. If Christianity were part and parcel of the law of the land, there could be no crime in criticising it. That view was taken by the Royal Commissioners in 1841. In their report they went into it at great length. The Royal Commission endorsed that view, and pointed out fully that if Christianity were part of the law of the land, still the law could be criticised and ridiculed, and, therefore, no

blasphemy indictment could lie on any such grounds. Sir Matthew Hale, a judge of the 17th century, first said that Christianity was part and parcel of the law of the country. He was a man of great intellectual ability, and a most upright judge; but if he lived in our age, would he endorse such ridiculous language now? He was infected by the superstition of his age. This same judge sentenced two women to be hung for witchcraft, an offence which we now know never could exist, notwithstanding the verse in Exodus, "Thou shalt not suffer a witch to live." The time will come when it will be thought quite as absurd to prosecute people for the crime of blasphemy as we think it now to hang people for witchcraft. If blasphemy be a crime at all, it is only a crime against God, who, if he be omniscient, knows it all, and who, if omnipotent, is quite capable of punishing it all.

Since Sir Matthew Hale's time there have been great alterations in the State and in Society, alterations which will justify you in setting this old barbarous law aside. To begin with, compulsory oaths have been abolished in our courts of justice. Evidence can now be given by Freethinkers on affirmation. Mr. Bradlaugh last week was acquitted on the evidence of people, every one of whom affirmed, and not one of whom took the oath. Next, Jews are admitted to Parliament. I don't wish to enter into a religious discussion, or to provoke a dying bigotry, but I do say, that if with the views the Jews are known to entertain of the founder of Christianity, and if with the acts of their high priests and scribes, as recorded in the New Testament, still unrepudiated by the Jewish people, they can be admitted in our national legislature, and help to make laws which are stupidly said to be protective of Christianity, then it is absurd for Christians to prosecute Freethinkers for carrying on honest criticism of doctrines and tenets they don't believe, and which they think they are bound to oppose and attack. Then again, the Christian oath of allegiance that used to be taken in Parliament, has been abolished. Now the House of Commons simply cling to a narrow theistic ledge. I have heard not only counsel but a judge

speaking to a jury about Jesus Christ as our Lord and savior, when they ought to have known—perhaps did know, but didn't remember in the heat of enthusiasm—that the jury were not bound to be Christians; that there might be some among them who knew Christianity and rejected it. That shows you, still further, that the principles and opinions which lie at the base of these proceedings are not universal as they once were; and that it is time all invidious distinctions were abolished, and all forms of opinion made to stand on their own bottom; and if they cannot stand on their own bottom, then in the name of goodness let them fall.

Now these alterations in the state of society are more particularly shown in the writings of our principal men. Mr. Leslie Stephen, for instance, in answering the question, "Are we Christians?" says:

"No. I should reply we are not Christians; a few try to pass themselves off as Christians, because, whilst substantially men of this age, they can cheat themselves into using the old charms in the desperate attempt to conjure down alarming social symptoms; a great number call themselves Christians, because, in one way or another, the use of the old phrases and the old forms is still enforced by the great sanction of respectability; and some for the higher reason, that they fear to part with the grain along with the chaff; but such men have ceased substantially, though only a few have ceased avowedly, to be Christian in any intelligible sense of the name."

No one who has any knowledge of the kind of language held by intelligent men will doubt that such sentiments are exceedingly common. You all know the great and honored name of Darwin, who spent his whole life in undermining the very foundations of Christianity and all supernatural belief. I know when the bigotry which opposed him, and under the prostituted name of religion said, "Thus far shalt thou go, and no further," saw it was evident he was victor, it professed to honor him, and had him buried in Westminster Abbey; but the world is beginning to know if the Church has Darwin's corpse, it is all of Darwin that the Church has had or ever will have.

A great scientist who does not confine himself to mere science, as for the most part Darwin did, says :

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

Professor Huxley writes that, but he doesn't stand here on the charge I have to answer. And why? One is the language of a ten-and-sixpenny book, and the other the language of a penny paper.

Now, gentlemen, take another case. Dr. Maudsley says in his work on “Responsibility in Mental Disease,” that Isaiah, Jeremiah and Hosea, the prophets, were all three mad. (Laughter.) He doesn't stand here. Why? Because it would not be safe to attack a man like that.

He is part of a powerful corporation that would rally round any of its members attacked, and therefore he is left unmolested.

Mr. Herbert Spencer, in his *Study of Sociology*, speaks thus of the Christian Trinity :

“Here we have theologians who believe that our national welfare will be endangered, if there is not in all churches an enforced repetition of the dogmas that Father, Son, and Holy Ghost, are each of them almighty; and yet there are not three almighties but one almighty; that one of the almighties suffered on the cross and descended into hell to pacify another of them; and that whosoever does not believe this ‘without doubt shall perish everlastingly.’”

That is language which is, perhaps, as scornful as any a man like Mr. Herbert Spencer could use. There is no essential difference between that and language of the most militant Freethought.<sup>6</sup>

Mr. John Stuart Mill, who was a writer with a world-wide reputation, and occupied a seat in the House of Commons, said that his father looked upon religion as the greatest enemy of morality; first by setting up

“fictitious excellencies, belief in creeds, devotional feelings and ceremonies not connected with the good of human kind—and causing these to be accepted as substitutes for genuine virtues; but, above all, by radically vitiating the standard of morals, making it consist in doing the will of a being, on whom it lavishes indeed all the phrases of adulation, but whom in sober truth it depicts as eminently hateful. I have a hundred times heard him say, that all ages and nations have represented their gods as wicked, in a constantly increasing progression, that mankind have gone on adding trait after trait till they reached the most perfect conception of wickedness which the human mind can devise, and have called this god, and prostrated themselves before it. This *ne plus ultra* of wicked-

\* Lord Coleridge honestly confessed, with regard to many of the heretical passages I read from leading writers, that he had “a difficulty in distinguishing them from the incriminated publication.” “They do appear to me,” he added “to be open to exactly the same charge and the same grounds of observation that Mr. Foote’s publications are.” Later on he said, “I admit as far as I can judge some of them, that they are strong, shall I say coarse, expressions of contempt and hatred for the recognised truths of Christianity.”

ness he considered to be embodied in what is commonly presented to mankind as the creed of Christianity."

In one of those alleged libels, the only passage I shall refer to, there is a statement to the effect—a statement not in my handwriting—(unfortunately I am in the position of having not only to defend my own right but the right of others to be heard) in one of those libels, not written by me, it is said that the deity of the Old Testament is as ferocious as a tiger. What is the difference between a phrase like that and the extract I have read from the writings of John Stuart Mill? It is even worse to say "that the God of Christianity is the perfection of conceivable wickedness." The difference is that one is the language of a nine-shilling book, and the other the language of a penny paper. Writers and publishers of nine-shilling books should not be allowed to go scot free and the writers of penny papers be made the scape-goat of the cultured agnostics of the day.

John Stuart Mill's great friend George Grote, the author of the *History of Greece* is commonly admitted to be the author of a little book, *An Analysis of the Influence of Natural Religion*, which he put together from the notes of that great jurisprudent, Jeremy Bentham, in which natural religion is described as one historic craze, the foe of the human race, and its doctrines and priesthood are denounced in the most extreme language. I will ask your attention to another writer. Lord Derby—who has given his support to a movement for the abolition of the blasphemy laws—some months ago, presiding at a meeting at Liverpool, said Mr. Matthew Arnold was one of the few men who had a rightful claim to be considered a thinker. He is a writer of culture so fine that some people say he is a writer of haughty-culture. (Laughter.) In his fine and delicate way he ridicules the Christian Trinity. He says :

"In imagining a sort of infinitely magnified and improved Lord Shaftesbury, with a race of vile offenders to deal with whom his natural goodness would incline him to let off, only his sense of justice will not allow it; then a younger Lord Shaftesbury, on the scale of his father and very dear to him,

who might live in grandeur and splendor if he liked, but who prefers to leave his home, to go and live among the race of offenders, and to be put to an ignominious death, on condition that his merits shall be counted against their demerits, and that his father's goodness shall be restrained no longer from taking effect, but any offender shall be admitted to the benefit of it on simply pleading the satisfaction made by the son; and then, finally, a third Lord Shaftesbury, still on the same high scale, who keeps very much in the background, and works in a very occult manner, but very efficaciously nevertheless, and who is busy in applying everywhere the benefits of the son's satisfaction and the father's goodness."

The same writer actually introduces, by way of showing the absurdities into which Christians themselves have run, a long and learned discussion which took place at the University of Paris nearly three centuries ago, as to whether Jesus at his ascension had his clothes on, or appeared naked before his disciples; and if he did, what became of his clothes? (Laughter.) If such a thing had appeared in the *Freethinker*, the junior counsel for the prosecution would have said "they are bringing our Savior's name into contempt, they are reproaching the Christian religion, and we bring them before you that they may be handed over to the tender mercies of the law." Mr. Matthew Arnold is in no fear of prosecution; it is only the poorer and humbler Freethinkers who are to be attacked.<sup>7</sup>

Mr. John Morley—who has thrown his great influence in the scale against me—in his book on "Voltaire," says, "That a religion which has shed more blood than any other religion has no right to quarrel over a few epigrams." There are writings of Voltaire's which, if published in England now, would be made the subject of a prosecution, if there was any honesty in conducting these prosecutions. Mr. Morley now joins the chorus of those who howl the false word "indecent" at me; but no living person, no sentence under this old law,

<sup>7</sup> Mr. Matthew Arnold subsequently issued a new edition of *Literature and Dogma* in which this passage was omitted. Curiously, at about the same time, he became the recipient of a Government pension of £250 a year. His blasphemy and mine met with very different rewards.

can rob me of the esteem of my friends or the approval of my conscience; and I say deliberately, I would rather be sitting down in my cell, or meditatively walking up and down with racking anxiety at my breast, than walk into the House of Commons throw my past behind me, and treating those whose views are essentially identical with mine with all the rancor of a renegade.<sup>8</sup>

Lord Amberley, who is not even a plebeian, writes as follows of the Old Testament:

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

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<sup>8</sup> Mr. John Morley was then editing the *Pall Mall Gazette*, in which I was furiously denounced and my sentence justified. After my trial before Lord Coleridge, Mr. Morley found my sentence “monstrous.” Subsequently, when a memorial for my release had been signed by such men as Herbert Spencer, Professor Tyndall, Professor Huxley, Frederic Harrison, and a large number of eminent writers, scholars, scientists and artists, Mr. Morley declared I was “suffering from a scandalously excessive punishment.” But he did not put his own signature to the memorial. He was approached early, and his first question was, “Who’s signed?” Mr. Morley, says one of his constituents, has “the theory of courage.”

If that had appeared in the *Freethinker* it would have formed one of the counts of my indictment. But no one has interfered with Lord Amberley.<sup>9</sup> A question was asked by the junior counsel for the prosecution of one witness, whether a certain illustration in one of the numbers was meant to caricature Almighty God. The question was stopped by his lordship. With Lord Amberley's words before us, it is easy to understand that could not be meant to represent Almighty God. A man who after careful reflection, after weighing evidence, after exercising his full intellectual and moral faculties upon the question, has arrived at the conclusion that there is an infinite spirit of the universe akin to ours, though greater—such a man would never hear any ridicule or sarcasm from my lips, or from the pen or lips of any Freethinker in the country, because his belief is not amenable to such criticism or attack. It is not Almighty God who could be ridiculed in a picture like that. It is the Hebrew deity—the deity of semi-barbarous people who lived 3,000 years ago; a deity reflecting their own barbarity, who told them to go to lands they never tilled, and cities they had never built, to take possession of them in his name, and brutally murder every man, woman, and child found in them. Can it be a crime to ridicule or even to caricature a my hological personage like this? It is not Almighty God who is ridiculed, it is simply the deity of those barbarous Hebrews who have become decent and civilised now. The influences of culture and humanity are at work, and although we utter the same old shibboleths, we have different ideas, different tastes, and I hope different aspirations.

The Duke of Somerset has openly impugned the Christian religion. He gives up the deity of Jesus, and criticises in a hostile manner the Holy Scripture. If the law were put in force fairly, it would be put in force there. Shelley has been referred to. Shelley

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<sup>9</sup> Lord Amberley's will was set aside. He left his little son to be educated by a Freethinker named Spalding; but, as a Freethinker has no rights but those which he enjoys on sufferance, Lord Amberley's father, Earl Russell, had the child taken away and brought up as a Christian.

wrote, among other poems, one called "Queen Mab." He speaks of the deity of the Christians as a vengeful, pitiless, and almighty fiend, whose mercy is a nickname for the rage of tameless tigers, hungering for blood. As the rest of this extract is couched in similar language, I forbear, out of consideration for the feelings of those who may differ from me, from reading further. But what I have read is sufficient to show that Shelley's writing is as blasphemous is anything that is to be found in any of these alleged libels. And in one of his maturer poems, that magnificent "Ode to Liberty," he speaks of Christ as the "Galilean serpent"—

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

Nobody thinks of prosecuting those who sell Shelley's works now,<sup>1</sup> and even the leading counsel for the prosecution could actually accept office under a Ministry, of which the First Lord of the Admiralty, on whose book-stalls Shelley's works are exposed for sale, was a member.

Of the poets of our day, it may be said, three-fourths of them write quite as blasphemously, according to the language of the prosecution, as any one in the *Freethinker*. Mr. Swinburne, one of our greatest, if not our greatest poet—some say he is our greatest, I don't think so—uses in a poetical form the same language that was used by Elijah to the priests of Baal. You will remember the priests of Baal and Elijah had a sort of competitive theological examination, and they put the question to a practical test. They built altars and they cried respectively on their gods. The priests of Baal cut and gashed themselves and cried aloud, but the fire would not come. What did Elijah do? Did he call them to a kind of theological discussion, and say: "Now there is a mistake somewhere, and we must thrash this out according to the well-known canons of logic?" No, he turned upon the priests with

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<sup>1</sup> Lord Coleridge pointed out that Shelley's *Queen Mab* had been prosecuted, and his children taken from him by Lord Eldon. I was aware of it, and therefore I said that no one thinks of prosecuting "those who sell Shelley's works now."

what Rabelais would call *sanglante dérision*, and he said, in the language of to-day: "Where is your god, what is he doing, why doesn't he answer you, has he gone on a journey, what is the matter with him?" That is the language of irony, and the deadliest sarcasm, and it is a wonder to me the priests of Baal didn't turn round and kill the prophet on the spot. If they had had one tithe of the religious bigotry of our prosecutors they would have done so.

Mr. Swinburne, in his great "Hymn to Man," turns the same kind of derision on the priests of Christendom. He represents them as calling upon their deity, and says, "Cry aloud, for the people blaspheme." Then he says, by way of finish:—

"Kingdom and will hath he none in him left him, nor warmth  
in his breath;  
Till his corpse be cast out of the sun will ye know not the truth  
of his death?  
Surely, ye say, he is strong, though the times be against him  
and men,  
Yet a little, ye say, and how long, till he comes to show  
judgment again?  
Shall god then die as the beast die? who is it hath broken his  
rod?  
O god, lord god of thy priests, rise up now and show thyself  
god.  
They cry out, thine elect, thine aspirants to heavenward,  
whose faith is as flame;  
O thou the lord god of thy tyrants, they call thee, their god  
by thy name.  
By thy name that in hell-fire was written, and burned at the  
point of thy sword.  
Thou art smitten, thou god, thou art smitten; thy death is  
upon thee, O lord.  
And the love-song of earth as thou diest resounds through  
the wind of her wings—  
Glory to man in the highest! for man is the master of things."

In his lines apostrophising Jesus on the Cross he says:

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

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

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

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

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

Mr. Swinburne here draws a distinction which Free-thinkers would draw. Freethinkers may ridicule a mythological deity; they may ridicule miracles; but they will never ridicule the tragic and pathetic sublimities of human life, which are sacred, whether enacted in a palace or in a cottage. We know how to draw the distinction which Mr. Swinburne draws here. If the quotations I have read you had appeared in the *Freethinker* they would have formed one of the counts of the indictment. The only difference between them is, that one is in a twelve-shilling book, and the other in a penny paper.

One short extract from another poet, who is recognised as possessing the highest excellence by the greatest critics, whose writings have been praised in the *Athenæum* and the *Fortnightly Review*. I am referring to Mr. James Thomson. He says:

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

If that language had appeared in the *Freethinker*, it would have formed one of the counts of the indictment. What is the difference? Again, I say, the difference is between a five-shilling book and a penny paper. When those books were reviewed, did men point out those passages and condemn them? Not at all. They simply praised the poet’s genius; blasphemy is not taken into consideration by men who write for papers of such standing.

George Eliot has written many a biting sarcasm, aimed at the popular idols of the day. She translated Feuerbach’s *Essence of Christianity* and Strauss’ *Life of Jesus*, both of which are indictable at common law, though they have never been attacked. Rénan, in his *Life of Jesus*, supposes that the raising of Lazarus took place at a time, when under the messianic delusion the mind of Jesus had become perverted, and that he had arranged the thing with Lazarus.

Anonymous books are pouring from the press. Here is one published by Williams and Norgate. It is called the *Evolution of Christianity*. Speaking of the Hebrew scriptures, it says :

“Truly, if the author of Exodus had been possessed of the genius of Swift, and designed a malignant satire on the god of the Hebrews, he could have produced nothing more terribly true to his malicious purpose than the grotesque parody of divine intervention in human affairs, depicted in the revolting details of the Ten Plagues ruthlessly inflicted on the Egyptian nation.”

Only one other instance of ridicule. The same writer, referring to the sudden and mysterious death of Ananias and Sapphira, as narrated in the Acts of the Apostles, says :

"Ananias and Sapphira his wife sold some property, and kept back a portion of the price. Perhaps Ananias was a shrewd practical man, distrustful of socialism and desirous of holding something in reserve for possible contingencies. Or Sapphira may have hinted that, if anything should happen to her husband before the advent of Jesus in the clouds, she would not like the position of a pauper scrambling among the other widows for her daily rations. Whatever may have been the motives of the doomed couple, if they had been arraigned before Jesus, he would have assuredly condoned so trivial an offence; but under the new régime of the Holy Ghost, this unhappy husband and wife were condemned to instant execution."<sup>2</sup>

That is the language of satire, and if it had appeared in the *Freethinker*, it might have formed one of the counts of our present indictment.

I have referred you to great living writers, to foreign works pouring into the country; I have referred you to anonymous writings, and now I hold one in my hand which is circulated over the country and bears the imprint of popular publishers like Messrs. John and Abel Heywood. It speaks in this way of Christianity:

"Buddhism is the only religion which has made its way by sheer moral strength; it has become the vast religion that it is, without the shedding of one drop of blood to propagate its tenets. The edifice of Christianity is polluted with blood from keystone to battlements; its tenets and dogmas are redolent of the savage reek of gore, from the death of its lamb to that fountain of blood that its poets are never tired of hymning. Misery and tears still attend its idiotic dogma of original sin, and its horrible threatenings of eternal fire. Buddhism is to Christianity as is a palace of light to a foetid dungeon."

That is being circulated wholesale by respectable publishers, and it again, I say, might have formed one of the counts of our indictment if it had appeared in the *Freethinker*. Yet we know these publishers will never be molested, because they are not poor, and especially because they don't happen to be friendly with a poli-

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<sup>2</sup> Mr. A. Gill was the author of this work. A new edition, since published, bears his name on the title-page. Mr. Gill has also written a pamphlet on the Blasphemy Laws with reference to my prosecution.

tician, whose enemies want to strike him with a religious dagger when they fail to kill him with the political sword.

I leave that and take the objection that will be raised, that we have dealt too freely in ridicule. What is it? You will remember the ending of some of the problems of Euclid, which is what is called a *reductio ad absurdum*, that is reducing a thing to an absurdity. That is ridicule. Ridicule is a method of argument. The comic papers, in politics, are constantly using it. Why may it not be used in religious matters also? Reference was made to a caricature, in one of our political journals, which shall be nameless here. Mr. Gladstone is represented as "No. 1;" and morally the conclusion is that he was the murderer of one of his dearest friends. Nobody thinks of prosecuting that paper—the idea would be laughed at. We may caricature living statesmen, but not dead dogmas! Surely you will not give your warrant to such an absurdity as that. Mr. Buckle says that every man should have a right to treat opinion as he thinks proper, to argue against it or to ridicule it, however "sacred" it may be. A greater writer than Buckle, John Stuart Mill, wrote an article in the *Westminster Review*, on the Richard Carlile prosecutions, in the year 1824; and speaking of ridicule in that article, he says: "If the proposition that Christianity is untrue can legally be conveyed to the mind, what can be more absurd than to condemn it, when conveyed in certain terms?" I say that this weapon of ridicule has been used by a very large proportion of the great intellectual emancipators of mankind. Socrates used it; at the risk of offending some, I may say that Jesus used it; Lucian used it; the early Christian Fathers used it unsparingly against their Pagan contemporaries; and I might cull from their works such a collection of vituperative phrases as would throw into the shade anything that ever appeared in the *Freethinker*. Luther used it, and used it well; Erasmus used it; the Lollards use it; and it was freely used in the Catholic and Protestant controversy that raged through and after the reign of Henry VIII. It has been used ever since. Voltaire used it in France.

I know some may think that it is impolitic to introduce the name of Voltaire here ; but Lord Brougham says that Voltaire was the greatest spiritual emancipator since the days of Luther. The only difference between such men as Voltaire, D'Alembert, and Diderot, was his illimitable wit. He had wit and his enemies hated him for it. Ridicule has been used in all times. To take ridicule from our literature you would have to go through such a winnowing and pruning process that you would destroy it. Eliminate from Byron his ridicule, eliminate from other great masters their ridicule, and what a loss there would be ! Ridicule is a weapon which has been used by so many great emancipators of mankind ; if we have used it, even in a coarser manner than they, it is the same weapon ; and if the weapon is a legal one there can be no illegality in the mere method of using it, and there has been no such illegality shown. If ridicule is a legal weapon, the mere style or manner cannot render it illegal. I say that it is a dangerous thing to make men amenable to criminal prosecution simply on a question of opinion and taste. Really if you are to eliminate ridicule from religious controversy, you hand it over entirely to the dunces. The two gravest things living are the owl and the ass. But we don't want to become asinine or owl-like. (Laughter.) It seems to me, if I may make a pun, that the gravest thing in the world is the grave ; and if gentlemen want the world to be utterly grave they will turn it into a graveyard, and that is precisely what the bigots have been trying to do for many thousands of years. I ask you not to abet them by subjecting us to a daily unseen torture—which means slow murder ; which cannot kill a strong man in two or three months, but which may, in twelve months, convert him into a physical and mental wreck, a byword and a scorn ; another evidence forsooth of the truth and mercy of their creed !

And now, gentlemen, I will ask your attention for a minute or two to the argument about outraging people's feelings. You never hear it proposed that this should be mutual ; it is always a one-sided thing. As Mill says in his great essay on "Liberty :"

“With regard to what is commonly meant by intemperate discussion, namely invective, sarcasm, personality, and the like, the denunciation of those weapons would deserve more sympathy if it were ever proposed to interdict them equally to both sides; but it is only desired to restrain the employment of them against the prevailing opinion; against the unprevailing they may not only be used without general disapproval, but will be likely to obtain for him who uses them the praise of honest zeal and righteous indignation.”

I should regard this argument with more favor if it were attempted to be made mutual. Suppose I were to put into your hands a book like that of Father Pinamonti's *Hell Open to Christians*, which is circulated by the authority of the Roman Catholic Church. It contains a picture of the torments of hell for every day in the week. That is repulsive to my mind. In my opinion it would debauch the minds of children into whose hands it fell, but I should not think of calling in the law to stop it. Opinion and taste must correct opinion and taste, and the proper jury to sit upon such a question is the great outside jury of public opinion. Indecent attacks on religion, it is said, must be put down. I want you to cast out of your minds altogether the absurd talk of indecency or licentiousness. If we are to be brought in guilty, let it be of clean blasphemy if you will; and don't by confusing the real nature of our alleged offence, say that if we ought not to be punished for blasphemy, we ought to be punished for indecency, of which I say we are not guilty.

It is said we must not make ourselves a nuisance. I have looked through the law of nuisance, and I don't think there is anything in it to which this libel can approximate. If a man starts chemical works close to you, and poisons the atmosphere you breathe, you have no remedy but to go to law and stop it, or else remove your business and residence. That is trenching on your rights. But in a case of this sort every man has his remedy. There is no act of Parliament to compel any person to purchase a copy of the *Freethinker*. The copies that will be placed in your hands were purchased, not to be read, but for the purposes of prosecution. It was not a surreptitious thing; it was not a publication entitled the “Christian Investigator,” with

freethought of the most insidious kind in every line. It is called the *Freethinker*; the man who purchased it must have done so deliberately, and gone into the shop to do it. As it was not a paper freely exposed in the shop windows in London, a man must have meant, before he went into the shop, to purchase that very thing, and must have known the character of the contents before he purchased it. I submit that as a man is not forced to purchase or read the paper, the least he can do is to allow other people to exercise their rights. It appears now that liberty is to be taken in the sense of the rough Yankee, who defined it as the right to do as he pleased and to make everybody else do so too. Bigotry puts forward a claim, not only to be protected from having unwelcome things forced on its attention, but to prevent all men from seeing what it happens to dislike.

Now, I will just draw your attention to what we have been told is the proper view of this question. Starkie on *Libel* has been quoted. I have not got Starkie's work, but I have got Folkard's edition of the *Law of Libel* and I must quote from that. The fact that I have not been able to get a copy of Starkie shows in itself the ridiculous nature of this prosecution. That a man should be in peril of losing his liberty on the dictum of "the late Mr. Starkie" is a most dreadful thing. I hope that won't continue. He says :

"A malicious and mischievous intention, or what is equivalent to such an intention in law, as well as in morals—a state of apathy and indifference to the interests of society—is the broad boundary between right and wrong."

I say it is not so, and that an overt act of crime is the broad boundary between right and wrong. If it be alleged that I am apathetic to the interests of society, I give it the most emphatic denial. When "nefarious profit" is talked about, I tell the learned gentlemen for the prosecution that they get far more out of their advocacy than I do out of mine. I tell them that a man who throws in his lot with an unpopular cause must not count on profit; he can only count on the satisfaction of what to him is duty only. There is no such thing as apathy here to the interests of society.

I have given of my time and means, for great political and social causes, as much as these men. I am no more apathetic to the interests of society than they are. All these words mean very little. The contention that has been raised is unsubstantial, and rests merely upon the use of a ljectives. These are not questions of fact, and when the prosecution talk about "maliciously insulting," "wickedly doing so and so," they simply use a string of adjectives which every man may interpret differently from every other man, a string of adjectives which I am quite sure would not allow any jury of Freethinkers to bring in a verdict of Guilty against me and my co-defendant. I am sorry if that is the kind of law by which a man is to be tried. It seems to me that Starkie's law of blasphemous libel is simply a noose put round the neck of every man who writes or speaks on the subject of religion; and if he happens to be on the unpopular side somebody will pull the string, and without being worse than those in the race before him, he is tripped up, and it may be strangled. I hope I am not to be tried under that law—if it must be so I can only deplore it.

I am now, gentlemen, drawing nearly to a close. I want to say that blasphemy is simply a relic of ecclesiasticism. Rénan says he has seached the whole Roman law before the time of Constantine, without finding a single edict against any opinions. Professor Hunter says practically the same thing. Blasphemy and heresy were originally not tried by secular courts like these at all—they were tried by ecclesiastical courts. Lord Coke, of ancient but of great authority on the subject of law, said blasphemy belonged to the king's ecclesiastical law; and when the writ *de heretico comburendo*<sup>3</sup> was abolished in the reign of Charles II., there was still special reservation made for ecclesiastical courts to

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<sup>3</sup> This was the writ for burning heretics alive. It was only abolished after the Restoration, although it had fallen into disuse for half a century. During the Protectorate, however, the Parliament gravely discussed whether poor Nayler—a much maligned eccentric—should be burnt or not: and the Lord only knows how far they would have carried out the "reign of the saints if Cromwell had not sent them packing."

try offences. But when the clergy began to lose their power over the people, the judges brought in the very heresy law that had been abolished; the same heresy with another name and a cleaner face. Without the slightest disrespect to the judges of to-day, one can maintain that in bad old times, when judges depended so much upon the favor of the Crown and the privileged classes, and when the Church of England was held necessary to the maintainance of the constitution, it was not wonderful that they should deliver judgments on the question of blasphemy, which really made it heresy as against the State Church. I say that blasphemy meant then, and always has meant, heresy against the State Church. I am told we might have discussion on controverted points of religion if decently conducted. That was not the language of those great judges of the past. They said we might discuss controverted points of the *Christian* religion—those that were controverted amongst learned Christians; but that the great dogmas that lay at the base of the articles of the Established Church could not be called in question; and I could give judgment after judgment. But I will give you one case that happened in this century. In the case of the Queen against Gathercole, in which the defendant libelled the Scorton Nunnery, Baron Alderson laid it down: "That a person may, without being liable to prosecution for it, attack *Judaism* or any religious sect (save the established religion of the country), and the only reason why the latter is in a different situation from the other is, because it is *the form established by law*, and it is therefore a part of the constitution of the country." Russell on *Crimes*, volume 3, page 196, gives the case a little more fully. He says:

"When a defendant was charged with publishing a libel upon a religious order, consisting of females, professing the Roman Catholic faith called the Scorton Nunnery, Alderson, B., observed a person may, without being liable to prosecution for it, attack *Judaism* or *Mahomedanism*, or even any sect of the *Christian* religion save the established religion of the country; and the only reason why the latter is in a different situation from the other is, because it is the form established by law, and is therefore part of the constitution of the country."

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

Every man has a right to three things—protection for person, property, and character, and all that can be legitimately derived from these. The ordinary law of libel gives a man protection for his character, but it is surely monstrous that he should claim protection for his opinions and tastes. All that he can claim is that his tastes shall not be violently outraged against his

will. I hope, gentlemen, you will take that rational view of the question. We have libelled no man's character, we have invaded no man's person or property. This crime is a constructed crime, originally manufactured by priests in the interests of their own order to put down dissent and heresy. It now lingers amongst us as a legacy utterly alien to the spirit of our age, which unfortunately we have not had resolution enough to cast among those absurdities which time holds in his wallet of oblivion.

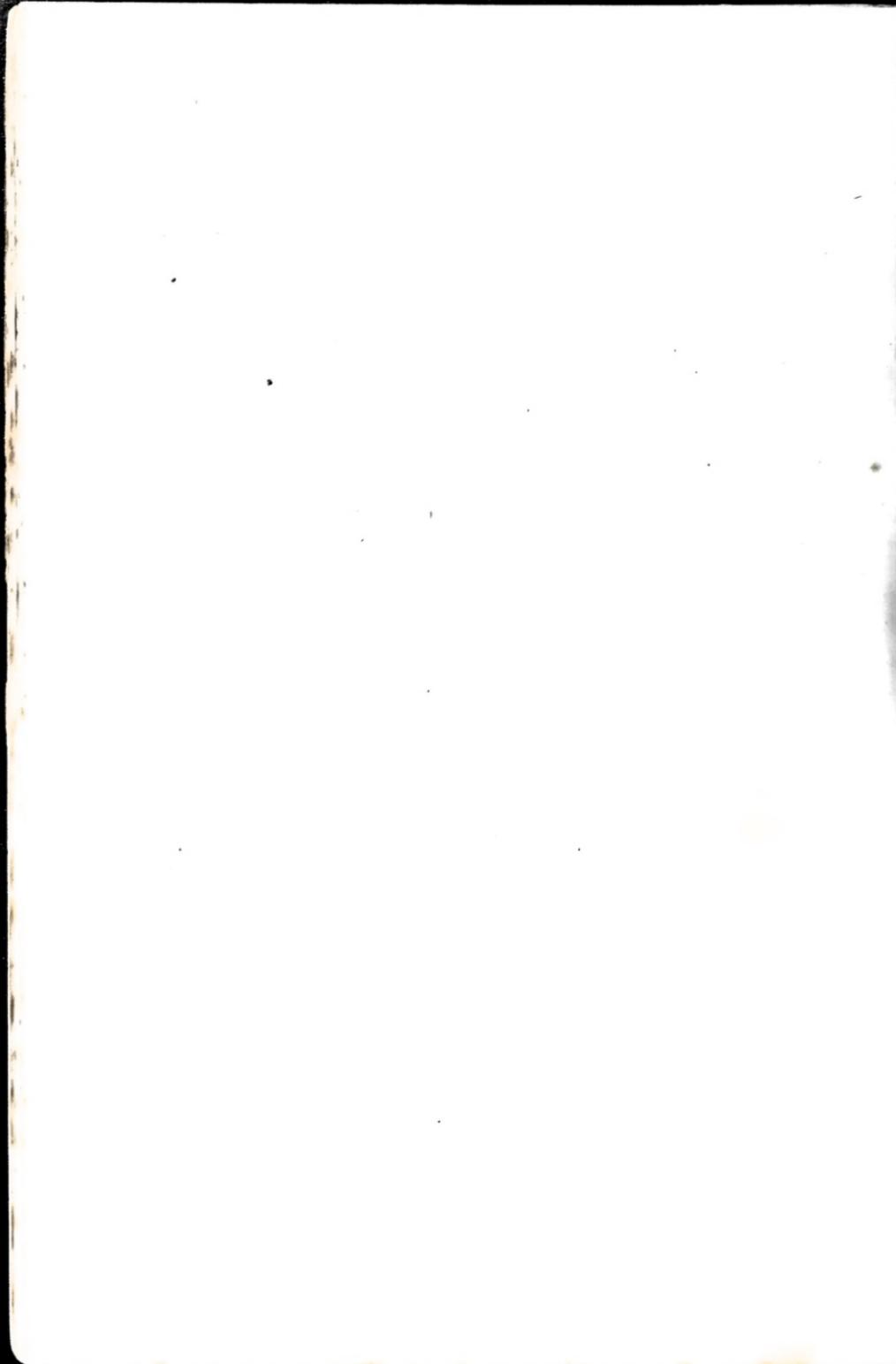
One word gentlemen, about breach of the peace. Mr. Justice Stephen said well, that no temporal punishment should be inflicted for blasphemy unless it led to a breach of the peace. I have no objection to that, provided we are indicted for a breach of the peace. Very little breach of the peace might make a good case of blasphemy. A breach of the peace in a case like this shall not be constructive ; it shall be actual. They might have put somebody in the witness-box who could have said that reading the *Freethinker* had impaired his digestion and disturbed his sleep. (Laughter.) They might have even found somebody who said it was thrust upon him, and that he was induced to read it, not knowing its character. Gentlemen, they have not attempted to prove that any special publicity was given to it outside the circle of the people who approved it. They have not even been shown there was an advertisement of it in any Christian or religious paper. They have not even told you that any extravagant display was made of it ; and I undertake to say that you might never have known of it if the prosecution had not advertised it. How can all this be construed as a breach of the peace ? Our indictment says we have done all this, to the great displeasure of almighty god, and to the danger of our Lady the Queen her crown and dignity. You must bear that in mind. The law books say again and again that a blasphemous libel is punished, not because it throws obloquy on the Deity—the protection of whom would be absurd—but because it tends to a breach of the peace. It is preposterous to say such a thing tends to a breach of the peace. If you want that you must go to the Salvation Army.

They have a perfect right to their ideas—I have nothing to say about them ; but their policy has led to actual breaches of the peace ; and even in India, where, according to the law, no prosecution could be started against a paper like the *Freethinker*, many are sent to gaol because they will insist upon processions in the street. We have not caused tumult in the streets. We have not sent out men with banners and bands in which each musician plays more or less his own tune. (Laughter) We have not sent out men who make hideous discord and commit a common nuisance. Nothing of the sort is alleged. A paper like this had to be bought and our utterances had to be sought. We have not done anything against the peace. I give the indictment an absolute denial. To talk of danger to the peace is only a mask to hide the hideous and repulsive features of intolerance and persecution. They don't want to punish us because we have assailed religion, but because we have endangered the peace. Take them at their word, gentlemen. Punish us if we have endangered the peace, and not if we have assailed religion ; and as you know we have not endangered the peace, you will of course bring in a verdict of Not Guilty. Gentlemen, I hope you will by your verdict to-day champion that great law of liberty which is challenged—the law of liberty which implies the equal right of every man, so long as he does not trench upon the equal right of every other man, to print what he pleases for people who choose to buy and read it, so long as he does not libel men's characters or incite people to the commission of crime.

Gentlemen, I have more than a personal interest in the result of this trial. I am anxious for the rights and liberties of thousands of my countrymen. Young as I am, I have for many years fought for my principles, taken soldier's wages when there were any, and gone cheerfully without when there were none, and fought on all the same, as I mean to do to the end ; and I am doomed to the torture of twelve months' imprisonment by the verdict and judgment of thirteen men, whose sacrifices for conviction may not equal mine. The bitterness of my fate can scarcely be enhanced by your verdict. Yet this does not diminish my solicitude as to

its character. If, after the recent scandalous proceedings in another court, you, as a special jury in this High Court of Justice, bring in a verdict of *Guilty* against me and my co-defendant, you will decisively inaugurate a new era of persecution, in which no advantage can accrue to truth or morality, but in which fierce passions will be kindled, oppression and resistance matched against each other, and the land perhaps disgraced with violence and stained with blood. But if, as I hope, you return a verdict of *Not Guilty*, you will check that spirit of bigotry and fanaticism which is fully aroused and eagerly awaiting the signal to begin its evil work ; you will close a melancholy and discreditable chapter of history ; you will proclaim that henceforth the press shall be absolutely free, unless it libel men's characters or contain incitements to crime, and that all offences against belief and taste shall be left to the great jury of public opinion ; you will earn the gratitude of all who value liberty as the jewel of their souls, and independence as the crown of their manhood ; you will save your country from becoming ridiculous in the eyes of nations that we are accustomed to consider as less enlightened and free ; and you will earn for yourselves a proud place in the annals of its freedom, its progress, and its glory.

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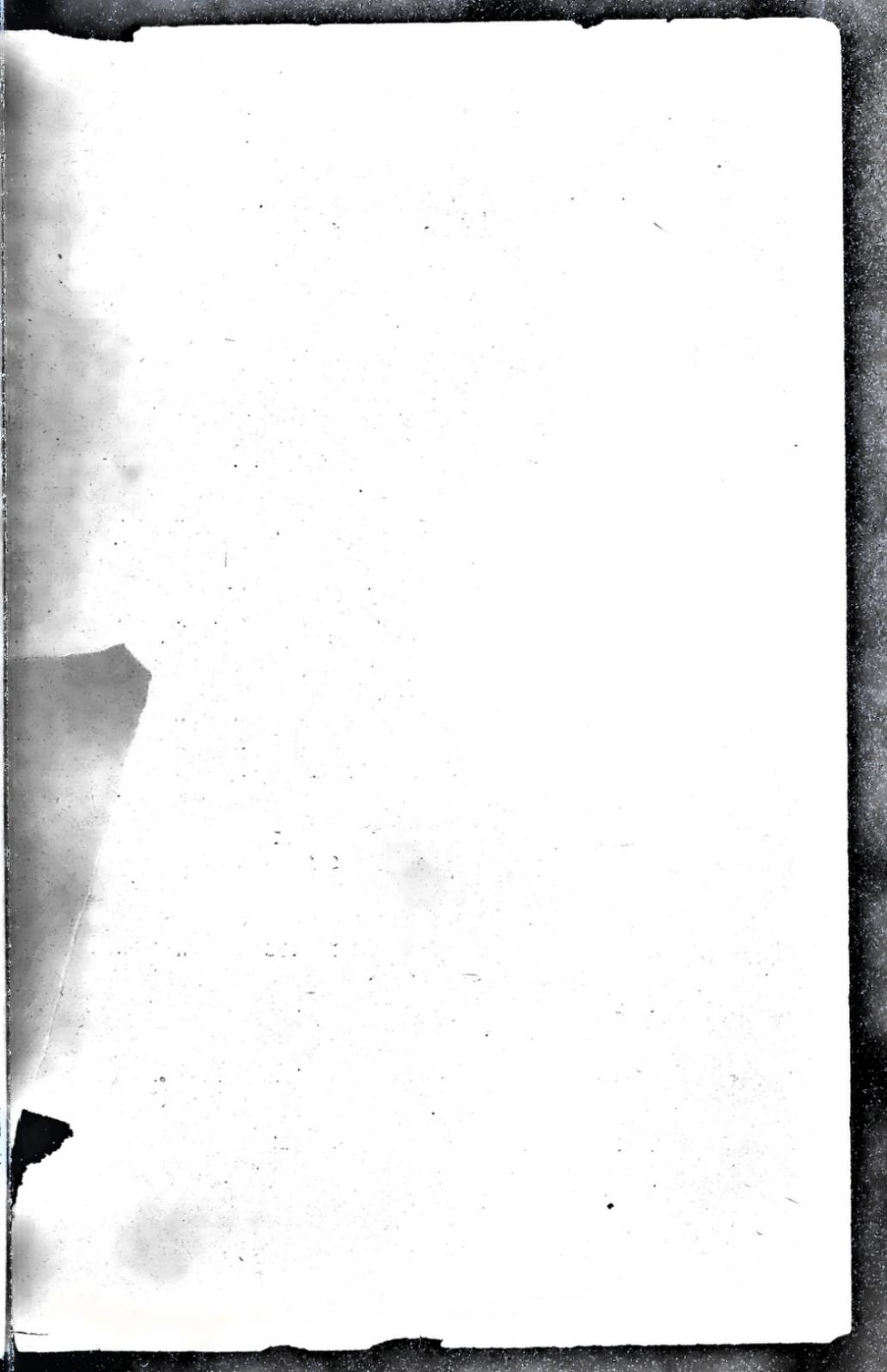
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