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IS THE BIBLE
INDICTABLE?

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Is the Bible Indictable? Being an Enquiry whether the Bible Comes within the Ruling of the Lord Chief Justice as to Obscene Literature:

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The ruling of Sir Alexander Cockburn in the late trial, the Queen *against* Bradlaugh and Besant, seems to involve wider issues than the Lord Chief Justice intended, or than the legal ally of Nature and Providence can desire. The question of motive is entirely set on one side; the purest motives are valueless if the information conveyed is such as is capable of being turned to bad purposes by the evil-minded and the corrupt. This view of the law would not be enforced against expensive medical works; provided that the price set on a book be such as shall keep it out of reach of the "common people," its teaching may be thoroughly immoral but it is not obscene. Dr. Fleetwood Churchill, for instance, is not committing an indictable offence by giving directions as to the simplest and easiest way of procuring abortion; he is not committing a misdemeanour, although he points out means which any woman could obtain and use for

herself; he does not place himself within reach of the law, although he recommends the practice of abortion in all cases where previous experience proves that the birth of a living child is impossible. A check to population which destroys life is thus passed over as legal, perhaps because the destruction of life is the check so largely employed by Nature and Providence, and would thus ensure the approval of the Solicitor-General. But the real reason why Dr. Churchill is left unmolested and Dr. Knowlton is assailed, lies in the difference of the price at which the two are severally published. If Dr. Knowlton was sold at 10s. 6d. and Dr. Churchill at 6d., then the vials of legal wrath would have descended on the advocate of abortion and not on the teacher of prevention. The obscenity lies, to a great extent, in the price of the book sold. A vulgar little sixpence is obscene, a dainty half-sovereign is respectable. Poor people must be content to remain ignorant, or to buy the injurious quack treatises circulated in secret; wealthier people, who want knowledge less, are to be protected by the law in their purchases of medical works, but if poor people, in sore need, finding "an undoubted physician" ready to aid them, venture to ask for his work, written especially for them, the law strikes down those who sell them health and happiness. They must not complain; Nature and Providence have placed them in a state of poverty, and have mercifully provided for them effectual, if painful, checks to population. The same element of price rules the decency or the indecency of pictures. A picture painted in oils, life size, of the naked human figure,

such as Venus disrobed for the bath, or Phryne before her judges, or Perseus and Andromeda, exhibited to the upper classes, in a gallery, with a shilling admission charge, is a perfectly decent and respectable work of art. Photographs of those pictures, uncoloured, and reduced in size, are obscene publications, and are seized as such by the police. Cheapness is, therefore, an essential part of obscenity.

If a book be cheap, what constitutes it an obscene book? Lord Campbell, advocating in Parliament the Act against obscene literature which bears his name, laid down very clearly his view of what should, legally, be an obscene work. It must be a work “written for the single purpose of corrupting the morals of youth, and of a nature calculated to shock the feelings of decency in any well-regulated mind” (Hansard, vol. 146, No. 2, p. 329). The law, according to him, was never to be levelled even against works which might be considered immoral and indecent, such as some of those of Dryden, Congreve, or Rochester. “The keeping, or the reading, or the delighting in such things must be left to taste, and was not a subject for legal interference;” the law was only to interpose where the motive of the seller was bad; “when there were people who designedly and industriously manufactured books and prints with the intention of corrupting the public morals, and when they succeeded in their infamous purpose, he thought it was necessary for the legislature to interpose” (Hansard, vol. 146, No. 4, p. 865).

The ruling of the present Lord Chief Justice in the late trial

is in direct opposition to the view taken by Lord Campbell. The chief says: "Knowlton goes into physiological details connected with the functions of the generation and procreation of children. The principles of this pamphlet, with its details, are to be found in greater abundance and distinctness in numerous works to which your attention has been directed, and, having these details before you, you must judge for yourselves whether there is anything in them which is calculated to excite the passions of man and debase the public morals. If so, every medical work is open to the same imputation" (Trial, p. 261). The Lord Chief Justice then refers to the very species of book against which Lord Campbell said that he directed his Act. "There are books," the chief says, "which have for their purpose the exciting of libidinous thoughts, and are intended to give to persons who take pleasure in that sort of thing the impure gratification which the contemplation of such thoughts is calculated to give." If the book were of that character it "would be condemnable," and so far all are agreed as to the law. But Sir Alexander Cockburn goes further, and here is the danger of his interpretation of the law: "Though the intention is not unduly to convey this knowledge, and gratify prurient and libidinous thoughts, still, if its effect is to excite and create thoughts of so demoralising a character to the mind of the reader, the work is open to the condemnation asked for at your hands" (Trial, p. 261). Its effect on what reader? Suppose a person of prurient mind buys Dr. Carpenter's "Human Physiology," and reads the long chapter, containing over 100

pages, wholly devoted to a minute description of generation; the effect of the reading will be “to excite and create thoughts of” the “demoralising character” spoken of. According to the Lord Chief Justice's ruling, Dr. Carpenter's would then become an obscene book. The evil motive is transferred from the buyer to the seller, and then the seller is punished for the buyer's bad intent; vicarious punishment seems to have passed from the church into the law court. There can be no doubt that every medical book now comes under the head of “obscene literature,” for they may all be read by impure people, and will infallibly have the effect of arousing prurient thoughts; that they are written for a good purpose, that they are written to cure disease, is no excuse; the motive of the writer must not be considered; the law has decided that books whose intention is to convey physiological knowledge, and that not unduly, are obscene, if the reader's passions chance to be aroused by them; “we must not listen to arguments upon moral obligations arising out of any motive, or out of any desire to benefit humanity, or to do good to your species” (Trial, p. 237). The only protection of these, otherwise obscene, books lies in their price; they are generally highly-priced, and they do thus lack one essential element of obscenity. For the useful book that bad people make harmful must be cheap in order to be practically obscene; it must be within reach of the poor, and be “capable of being sold at the corners of the streets, and at bookstalls, to every one who has sixpence to spare” (Trial, p. 261).

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