

this state of intellectual liberty which calls for penal censure. The law visits not the honest errors but the malice of mankind. A wilful intention to pervert, insult, and mislead others, by means of licentious and contumelious abuse applied to sacred subjects, or by wilful misrepresentations, or wilful sophistry, calculated to mislead the ignorant or unwary, is the criterion and test of guilt. A wilful and mischievous intention, or what is equivalent to such an intention, in law and in morals—a state of apathy and indifference to the interests of society, is the broad boundary between right and wrong." In the same strain the Chief Justice told the jury that: "If the decencies of controversy are observed, even the fundamentals of religion may be attacked without a person being guilty of a blasphemous libel." In another place he said: "It is no longer true in the sense in which it was true when these *dicta* were uttered that christianity is part of the law of the land. In the time when these *dicta* were uttered Jews, Roman Catholics, Non-conformists of all kinds, were under heavy disabilities for religion, were regarded as hardly having civil rights. Everything almost, short of the punishment of death was enacted against them." Now these disabilities are removed. The late Master of the Rolls might have had to go circuit to try for a blasphemous libel a Jew who denied that Christ was the Messiah, "a thing which he himself did deny, which parliament had allowed him to deny, and which it is just as much part of the law that any one may deny, as it is your right and mine if we believe it to assert." Apart from this the Chief Justice argues that if it is illegal to attack christianity because it is part of the law of the land, that implied that to attack any part of the law would be, if not blasphemous, yet seditious; and this, he says, is an absurdity. For these reasons "to base the prosecution of a bare denial of the truth of christianity *simpliciter* and *per se* on the ground that christianity is part of the law of the land, in the sense in which it was said to be by Lord Hale, and Lord Raymond, and Lord Tenterden is, in my judgment, a mistake. It is to forget that the law grows, and that though the prin-