

BLASPHEMY AND BLASPHEMOUS LIBELS.

Coleridge held that the section applied equally to an indictment for blasphemous libel, the words of the section being, unlike those of the other sections of the Act, not confined to defamatory libels, but perfectly general in its terms. The evidence against Mr. Bradlaugh consisted in his having, under the name of the Freethought Publishing Company, formerly been the publisher of the paper in which the libels appeared, and in the paper being sold in a shop of which he was proprietor. But, according to Mr. Justice Lush, in *Regina v. Holbrook*, "A proprietor whose agent sells over the counter libels without his knowledge would not be criminally liable if able to show that the sale was without his authority." As Lord Coleridge left the question to the jury, it was not "whether Mr. Bradlaugh had anything to do with the paper, but whether he had authorized the sale of the articles complained of; it was not enough that he might have stopped them, the question was whether he had authorized their sale or publication." The ruling adopted by the Lord Chief Justice may now therefore be taken to be settled law, that in an indictment for any kind of libel which appears in a newspaper, the question is not whether the defendant authorized the publication of the paper, but whether he authorized the publication of the libel.

Much as we dislike the licentious Free-thinkers, we say that, to the credit of the law, and to the credit of a Middlesex jury, the mischievous prosecution of Mr. Bradlaugh for blasphemy has failed. Lord Coleridge, who fortunately presided at the trial, declined to express any opinion as to the wisdom of the law or of the prosecution; but what his opinion of both was sufficiently appeared from the tone and manner of his summing-up. The learned judge pointed out that, if attacks upon the Christian religion are to be punished criminally because the Christian religion is part of the law of the country, it would be equally reasonable to punish criminally attacks upon monarchy, primogeniture, or the marriage laws—all equally a part of the fundamental laws of the Constitution.

It may surprise some persons that in Mr. Bradlaugh's case the summing-up of Lord Coleridge did not agree with the recent judgment of Mr. Justice North, or the well-considered opinion of Mr. Justice Stephen. There is a general opinion that law, as far as it depends on the judges, is a fixed science, and that the personal opinions of judges have

no weight whatever. Yet even in that most exact of sciences, astronomy, there is a well-known element in observations called the "personal equation," which differs not only in different individuals, but in the same individual at different times. And to make the record of observations perfectly accurate, this "personal equation" has to be reckoned and allowed for. When, therefore, we assert that a similar "personal equation" exists in the judges, we must not be supposed to detract aught from the science of law or their own ability and integrity. There will be always the schools of Labeo and Capito, there will always be Liberals and Conservatives. And there is no doubt that, in the division of opinion to which we have alluded, some judges have laid down the law as it would have been laid down centuries ago, considering that the court has no power to alter law, and that it must remain unaltered except the Legislature interferes, while an equally eminent judge takes a view of the law more in harmony with general public opinion. It may be remembered that, in *Shaw v. Earl of Jersey* (4 C. P. Div. 120), Lord Coleridge, for the first time, granted an injunction to restrain a landlord from dis-
training.

It is not to be expected, in the present state of parliamentary business, that any amendment of the law of blasphemy will be carried; but, as the summing-up of Lord Coleridge in Mr. Bradlaugh's case has drawn attention to the fact that, in the opinion of certain high authorities, any denial, however respectful and decorous, of the truth of Christianity is indictable, attempts at least to amend the law may be expected before long. The peculiar severity of the Act for the Suppression of Blasphemy and Profaneness (9 & 10 Will. 3, c. 32; 9 Will. 3, s. 35, in the Revised Statutes) may perhaps be expected to form a strong argument for amending it. By this Act, "if any person having been educated in the Christian religion shall, by writing, printing, teaching, or advised speaking, deny any one of the persons of the Holy Trinity to be God, or shall assert that there are more Gods than one [this much of the statute is repealed by 35 Geo. 3, c. 160], or shall deny the Christian religion to be true, or the Holy Scriptures of the Old and New Testament to be of Divine authority, and shall, upon indictment or information, be thereof convicted, such person shall for the first offence be adjudged incapable and disabled in law, to all