

3—Legal Aspect of the Situation

The offences with which this report has to do are criminal offences. The enactment of criminal law rests wholly with the Dominion Parliament. It is the duty of the respective Provincial governments to administer and enforce the laws so enacted by the federal authority. No Provincial authority may alter or suspend the criminal law of Canada.

Accordingly the Provincial legislature in granting the charter to the City of Vancouver does not and could not delegate to the city greater authority in the matter of suppressing disorderly houses and houses of ill-fame than to allow the city to pass by-laws not inconsistent with existing Dominion Statutes in this regard.

The powers vested in the Board of Police Commissioners of the city of Vancouver come in the first instance from the Provincial government. Needless to say the Board of Police Commissioners does not and could not possess wider powers in dealing with this question than the Provincial legislature which made possible the existence of this Board.

In consideration, therefore, of the above facts, the following extracts from the Report of His Lordship Mr. Justice H. A. Robson appointed in November, 1910, to investigate conditions as to social vice in Winnipeg are quite as applicable to the city of Vancouver as they are to the city of Winnipeg.

"Nowhere," says His Lordship, can there be found any suggestion of authority in the Police Commissioners or any member of the force for withholding the enforcement of any law in any area of the city as against any class of offenders.

"I can approach the matter and deal with the facts solely in the light of the law applicable to the matter as declared by the powers in whom that jurisdiction is by law vested.

"That law does not authorize anything but entire suppression of the offence; no policy by whatsoever name it may be known, which involves any conditional or unconditional toleration of this crime or immunity from punishment therefor has any recognition by the law of Canada. The Provincial and Municipal legislation on the subject in the present case both emphasize this."

Elsewhere in his report, Mr. Justice Robson points out that where any Board of Police Commissioners, in dealing with this evil, introduce such a policy as segregation, they thereby bring about a condition of affairs entirely at variance with the principles of Common Law, contrary to the Statutes of Canada, as found in the criminal code, and contrary moreover to the spirit of the Provincial legislation as found in the city charter.

The following statement of the Common Law of England on the subject is accepted as authority:

"It is clearly agreed that keeping a bawdy house is a common nuisance and it endangers the public peace by drawing together dissolute and debauched persons, and also has an apparent tendency to corrupt the manners of both sexes, by such an open profession of lewdness."

This principle is embodied in the Statute law of Canada, Sections 225,