

tin" itself as a "revolting report" and as "unprintable." That these facts, *prima facie*, constitute the grave crime of which the man has been convicted is obvious, and, indeed, is also admitted.

But it was urged that the publication was (1) not without lawful justification; and also that it was (2) excused by reason of the publication having served the public good, without being in excess of that which the public good required.

The motive of the man is quite immaterial on the question of guilt or innocence; though, of course, of such moment on the question of the penalty to be paid, if guilty.

Neither a good nor a bad motive can alter the character of the act, in such a case as this. If unlawful, a good motive will not make it lawful, nor, if lawful, will a bad motive make it unlawful; good motive and good character may make some things more, rather than less, harmful—give them when inherently they have less or none.

So, too, the truth or falsity of the publication cannot change the character of the words used; it can neither turn decent words into indecent words, nor foul into fair.

Of lawful justification there is no reasonable pretence. The Criminal Code, which defines the crime of which the defendant is convicted, deals with lawful justification expressly in many instances, such as the lawful justification for the acts of those who carry into execution the judgments of the Courts, or execute lawful warrants, reasonable correction of children by parent, person in *loco parentis*, schoolmaster, or master, and so forth: see the Criminal Code, secs. 16 to 68; so, too, or by analogy, any one whose lawful duty requires him to do that which otherwise would constitute the crime in question, is not guilty, because such duty is such a lawful justification. That the defences lawful justification and public good are two different things is obvious upon the face of the enactment: "lawful justification or excuse:" the Criminal Code, sec. 207; the one justifies, the other excuses, the act.

So that, unless it can be considered that the publication of the grossly obscene words in question served the public good, and were not excessive, the conviction must stand.

That the publication of such disgusting details is an invasion of decency tending to degrade morality seems to me very evident; and the more so because, if the defendant have the right to employ such methods, every one else—including those he attacked—has an equal right to do so; involving a deplorable state of affairs; against which the waste paper basket, or the fire, would not afford complete protection. No one has any