

# **The Social Evil.**

---

---

**Toleration Condemned.**

## **REPORT**

(SECOND PART.)

OF

**The Honble. Mr. Justice Taschereau**

(Now SIR HENRI TASCHEREAU,  
Chief Justice of Province of Quebec.)

TO THE

**CITY COUNCIL  
OF MONTREAL**

FEB. 18, 1905.

—  
Annotated.  
—

With an Introduction by  
**HIS HONOUR MR. RECORDER WEIR, D.C.L.**

Reprinted for Gratuitous Circulation, with permission

1909

## PREFATORY NOTE BY MR. RECORDER WEIR.

IN the year 1904, the Hon. Mr. Justice Taschereau, of the Superior Court (now Sir Henri Taschereau, Chief Justice of the Province of Quebec) was appointed to enquire into the truth of certain specific charges preferred against certain members of the police force of Montreal.

The charges were, in a word, that the then Chief of Police (Legault) and others did, in the year 1902, receive gifts of wine and money from women then keeping brothels in this city.

Although the charges were not sustained, Sir Henri Taschereau deemed it his duty to prepare as part of his report to the City Council certain general considerations on the subject of prostitution. This whole report was printed in the Municipal Gazette in the supplement to issue of April 10.

A few weeks ago when asked what could be done to enlighten the average man as to the utter futility of the segregation and regulation of "disorderly houses," I answered "Print and circulate the Chief Justice's report on the subject." Through the generosity of a public spirited citizen ways and means have been found to carry out this suggestion and for so doing the community is greatly his debtor.

It will be generally admitted, I think, that this reprint is most timely. Although the suggestion was made in the midst of the active and successful campaign against vice begun in November last (1908), recent events have given Sir Henri's words increased significance and value. Desiring to write and speak with all due respect of my colleague, I yet must take this opportunity, which I think more fitting than the bench, to say that I entirely dissent from his recently expressed opinion, that vice can best be dealt with by regulation and toleration. I strongly repudiate, moreover, the doctrine that the police may rightly be parties to any such policy, or that they may substitute a system of notification for the customary raid; and I would fain hope that further reflection enlightened by the criticism which that policy and system have evoked, has ere this convinced all that the law which prohibits disorderly houses so unreservedly, ought to be enforced, not only because it is law, but

Repudiation of  
regulation

also because it has its sanction in the long and bitterly won experience and wisdom of the human race.

I am more glad than I can express, that this report is now to be circulated because the great respect in which the Chief Justice is deservedly held, and the high authority which is rightly attached to his opinions, should go far to counteract the evil influence of an extraordinarily large number, who, whenever the subject is broached, instantly become apologists and advocates for segregation and license.

I am surprised and appalled at the number and standing in the community of some of these apologists—men, who hold representative positions in common council, the legislature and parliament, who are even allied with our churches and works of beneficence, and yet make common cause by their favour of toleration with those who are directly concerned in the unspeakable filth of prostitution.

Need of  
Enlightenment

Such persons, I do not hesitate to say, are sadly in need of enlightenment, and for them, as well as for others, this pamphlet is printed.

I am also personally grateful that this report is reprinted because (I say it frankly), it justifies both the ethical and legal opinions I have held and tried to enforce, almost single handed, as a magistrate in this city during the past ten years. The more widely a law has the approval of the community, the more effective it will be; and the reverse of this proposition is also true.

As the City of New York probably offers more points of resemblance to Montreal than do the cities of Europe, I venture to refer to one chapter in her annals.

Social Evil in  
New York and  
the Committee  
of Fifteen

In the fall of 1900, New York was startled by revelations in regard to the social evil and most flagrant offences against public morality and common decency. A meeting of citizens was held with the result that a Committee of Fifteen, also referred to by Judge Taschereau, was called into existence to study and report upon the matter. The Committee was selected from among New York's most capable citizens with William H. Baldwin, Jr., as Chairman, and Edwin R. A. Seligman as Secretary. Felix Adler, George Foster Peabody, George Haven Putnam, may be named as illustrating the calibre of the Committee. Mr. Alvin S. Johnson,<sup>(1)</sup> the distinguished economist, lent his invaluable services. A thorough investigation of the methods of Paris, London, Berlin, Vienna and other cities was made. Regulation, Segregation, License were calmly and dispassionately

(1) Of Columbia University; Byrn-Mawr College, etc.

sionately studied. The whole question was fairly faced. With what result? The Committee of Fifteen unanimously and emphatically condemned all the methods of Toleration or Palliation.

"We recommend," say they, "to those persons who are wont to extol this system (Regulation) as a kind of panacea, and to deplore with something of impatience and contempt the puritanical sentiment which prevails in this country and which makes any attempt to introduce such a system impracticable, an attentive study of the passages in this report relating to Regulation and its results. They will find, on a closer study of the results, that their vaunted panacea is no panacea at all, and that their confidence in its merits is far from being supported by the facts."

I may perhaps be permitted to present here in brief fashion some of the important conclusions which a study of this whole question has disclosed.

1. The law, if courageously enforced, is a sufficiently powerful instrument to cause *public* prostitution to disappear in Montreal. Let the reader distinguish this, as Sir Henri Taschereau so clearly does, from *private* prostitution, which, though a great evil, is not a legal crime and can only be combated by moral influences and its own bitter fruit.

Nine  
conclusions  
1. Sufficiency  
of Law.

2. Regulation is a failure because it does not regulate. Sanitary supervision is unscientific and practically useless because it is directed against women and not against men; and, moreover, has never included minors, officialism never having stooped so low as to sanction or license such; minors, however, constitute a large proportion of the total number of prostitutes in every city.

2. Regulation a  
failure; it does  
not regulate

3. Regulation, moreover, is never the carefully ordered system that its apologists desire or imagine it to be. Keepers of brothels never hesitate to lie or conceal when it suits their purpose. The practices of licentiousness are orgies of passion inflamed by strong drink, under the influence of which prudential or hygienic precautions are completely ignored.

3. Regulations  
set at naught  
by drink and  
unscrupulous  
keepers

4. As to segregation in a red light district: experience shows that the existence of licensed houses side by side inevitably leads to odious competition for customers. Nor can it be denied that the assembling under one roof or in one district of groups of depraved women means a still further increase in their depravity, and also in the number of houses in such district.

4. Segregation  
increases the  
evil

5. Respectable surroundings have far more power than

5. Scattering helps to kill the evil.

regulations to keep the wanton from displaying the actual degradation of their character. After all, the majority of citizens prefer purity and will resent the insult of contiguous disorder. This is one answer to the objections urged against breaking up disorderly houses.

But (how often have I heard it said): if you break up disorderly houses and scatter their inmates you will spread contamination into private families. I am glad to believe, however, that private families are not so easily contaminated. They are affronted by any contact with it. To scatter prostitution is speedily to stifle it, for it thus becomes private and secret and precarious to a degree. It cannot possibly flourish. The moment it is detected it is denounced and expelled. Let it be remembered that to scatter prostitution is simply to scatter individual prostitutes who, thus isolated, in constant terror of discovery, the old life broken up, are compelled to change their habits or starve. The common talk about the supposed evils of "scattering" is essentially weak and unreflective.

6. Complete segregation impossible

6. Complete segregation in one district of all houses of prostitution is impossible. Houses that cater to certain frequenters will exist elsewhere. Certain persons will not risk their social, official or financial standing by being seen at all in a recognized district. Houses outside any district will increase in number in proportion as officials tolerate and regulate others within it.

7. Raids a great deterrent

7. The possible raiding of a house is the greatest deterrent to its being visited. The probability that it will not be raided removes the greatest hindrance to it being entered.

Regulation implies permission; permission implies encouragement; if the risk of detection is removed a strong deterrent influence also disappears. By rendering vice innocuous the youth of both sexes are incited to debauchery.

8. Officialism and vice

8. The association of officialism with vice is degrading and soon corrupts the police. By legitimizing vice the state would identify itself with immorality and thus outrage the deepest sentiments of humanity.

9 Risk of disease God's deterrent

9. The laws of nature, which the pious rightly call the laws of God, have laid the curse of loathsome and contagious disease upon promiscuous sexual intercourse from time whereof the memory of man runneth not to the contrary. What does this teach humanity, but that what is essentially wrong can never be made right?

Finally, while the social evil should be sternly discouraged and repressed, there are other social conditions that demand attention. Some of these may be here indicated: better housing for the poor; wise instruction to young people at the critical age as to the dangers of contagion and impurity; the raising of the condition of labour, especially of female labour; purer and freer forms of public amusement; prevention of the spread of contagion by more ample hospital accommodation and by clear public warning and instruction; parochial oversight by priests and ministers of religion of low saloons and doubtful places in their several districts; constant efforts to keep up the general moral tone of the community, with special emphasis on the importance of the family as an institution and the wise and liberal upbringing of children; a strict enforcement of the license laws relating to the retail sale of intoxicating liquors.

Social evil not  
the only evil

The body politic is like the human body in that the infection of any one part causes the whole to suffer. No grade of society can safely remain indifferent to other grades. Human society is one and indivisible. Moreover history seems to show that the progress of mankind is not inevitably progress upward and onward. The possibility of retrogression is never absent. Whether this new era of civilization in which we dwell, remarkable as it is for so much splendid achievement shall advance to those social perfections of which the poet, the prophet and the lover of mankind have dreamed, depends to no small degree upon how war is waged against those nefarious and destructive forces that are sapping the goodly structure of human institutions at their very foundations.

Relation of a  
part to the  
whole

R. STANLEY WEIR,

Senior Recorder of Montreal.

THE RECORDER'S CHAMBERS,

March 4th, 1909.

---

As to the legal liability of those who knowingly permit their property to be used for purposes of prostitution, I may remark that, on a special reserved case transmitted by myself to the Court of Queen's Bench for decision (*The Queen vs. Blanche Roy*, June 23, 1900, 3 Criminal Cases, p. 472), it was held that the owner of a house who leases it to another knowing when the lease is made that the latter proposed to

Legal liability  
of owners

maintain it for purposes of prostitution, thereby renders himself under the provisions of Section 61 of the Criminal Code, a party to, and guilty of the offence of keeping a disorderly house and can be prosecuted, tried and convicted and punished in the same manner, as the actual keeper.

It has also been held that the lessor cannot even collect the stipulated rent under a lease of this kind. (*Lecker vs. Balthasar and Leroux*. XV Rev. de Jurisprudence, p. 1) on the ground that such contracts are contrary to public order and the courts will decline to hear the parties who ask for the enforcement of such contracts. This principle is formally sanctioned in the Civil Code, Arts 13, 989, 990.

R. S. W.

**REPORT OF THE HON. MR. JUSTICE TASCHEREAU**

ON THE

**Police Investigation and Its Results.**

---

SUPERIOR COURT, MONTREAL.

---

**THE CITY OF MONTREAL,**

*Petitioner.*

vs.

**D. LEGAULT et al.,**

*Respondent.*

---

SECOND PART.—I. General considerations.—II. Our laws against prostitution and prostitutes.—III. Abuses to be suppressed.—Reforms suggested.

Montreal, February 18th, 1905.

*To His Worship the Mayor, and Aldermen of the City of Montreal, in Council Assembled.*

Gentlemen,

On the 28th December ult., I transmitted to you a preliminary report giving the result of the investigation held by me, at your request, on certain charges laid against ex-Chief of Police David Legault, police captain Trefflé O. Bellefleur and ex-constables Michel Guyon, Léonidas Sanguinet, Olivier Deschamps and Joseph Vézina.

My conclusions, at the end of the investigation, being favorable to these accused parties, I deemed it my duty to



make them known to you without delay, by means of this preliminary report, in order to rehabilitate them as soon as possible in public opinion and to enable you to do them justice.

But you are entitled, in this my final report, which I am transmitting to you to-day, to have a complete statement of the case and to know the reasons which have led me to adopt the course I have taken.

## FIRST PART.

### I.—ORIGIN AND NATURE OF THE CHARGES.

(Omitted being only evidence connected with specific case.)

## SECOND PART.

### I.—GENERAL CONSIDERATIONS.

Sanctity of the human body.

The human body is a sacred trust committed to the soul by the Creator; gifted with an admirable mechanism it has the most astonishing physical powers as well as a delicate construction, such as can hardly be conceived; and its functions, which after all, are those of the soul that gives it life and movement, should be nothing but the result of the will and aspirations of that soul, made in the image of the Almighty. But the soul, given its freedom, comes under different influences; evil suggestions due to heredity or temperament or to the vices of corrupt environment or bad education, and the body obeying, and being polluted in its turn, loses the beauty, purity and vigor given it by its divine Maker.

Drunkennes and prostitution plagues of humanity.

Among the plagues of humanity that have polluted the body after soiling the soul, there are two most terrible, whose unceasing assaults commenced at the very beginning of the world, and whose ravages have dishonored and decimated the nations. These two are drunkenness and prostitution; almost inseparable companions; a hideous pair, challenging divinity, defying civilization, rebelling against all law and often times controlling the destiny of nations.

Entire nations of Asia, monarchs and governments of the Orient, the cradle of the world, have bent under their yoke, have recognized their domination and have even paid them

an infamous worship, the disgusting rules and details of which are recorded in History.

Christianity was well calculated to crush these monsters, but the purity of its doctrine, while attracting and winning the masses and the higher classes, and the beauty of its teachings, while inspiring governments with the wisest and most vigorous measures, could never in the middle ages nor yet in modern times, prevent intemperance, and especially prostitution, from invading the large centres, spreading and expanding therein, too often under the eyes of powerless authorities.

The power of  
Christianity.

Prostitution is but a form, more distinguishing than any other, of the evil inherent to human nature. The complete suppression of evil is a humanitarian dream. Combating it is a duty, restricting it is a possibility, preventing the scandalous display and public exhibition thereof is both a duty and a possibility, admitted by all.

This duty is incumbent in the first place upon the legislative power, which owes to society the enactment of repressive laws, and then upon the civic and municipal authorities, entrusted with the enforcement of these laws within the limits of their jurisdiction.

The duty of  
the legislature.

But two currents of opinion have been for a long time face to face, in the civilized world, in connection with the hideous sore of prostitution, which is constantly preying on the vitals of society.

On the one hand are the *regulationists*, adherents of the doctrine that public prostitution is a *necessary* evil which must be tolerated, while subject to severe rules and to measures of prophylaxis, lest debauchery should invade the whole social body and disturb it by disorders of all kinds. Such is the doctrine which has prevailed in France, especially in Paris, for almost a century; which has triumphed in Germany and particularly in Berlin, where, by a strange anomaly, prostitution is prohibited by the law and tolerated by the police; and which has been adopted in many other continental countries of Europe.

Regulationists  
and the  
"Necessary  
evil."

On the other hand, their opponents claim that the authorization given by the administration to disorderly houses and to prostitutes, by inscription or regulation, is but a pact made with vice, but an official recognition of a shameful crime, and to use the very terms of a recent author, "is, in fact, the permission given to certain women to do all possible evil without being disturbed, to corrupt the body, to deprave the mind, to over-excite all bad inclinations, to sow and propagate in the world many crimes and infamies, to

be vile, cynical and filthy, and to cause all mothers to shed bitter tears by poisoning the hearts of their children."

The *regulationists* have no reply to make to this terrible arraignment, and content themselves with invoking the necessity of protecting public health against the dangers of syphilis, and with affirming that, without the inscription of prostitutes and their submission to medical visits, called for by regulation, it would be impossible to prevent the terrible disease from spreading and increasing tenfold its ravages. To this the abolitionists reply: the regulation of prostitution, which, it is admitted, is contrary to morals and to the dignity of the State, would therefore only be a necessary expedient. This expedient should not, at least, be contrary to the laws. But is this alleged contract, which the inscribed girl, in Paris, for instance, passes with the Prefecture of Police and whereby she imposes upon herself certain obligations, really in accordance with the law, which does not recognize a contract the object of which is illicit? (Code Napoleon, Art. 1133). A necessary expedient which is therefore both immoral and illegal!

Immoral and  
illegal.

And as to the public health, is it actually benefited by inscription, regulation and medical visits? There are in Paris from 3 to 4 thousand inscribed prostitutes (also called *submissive* prostitutes), while the number of uninscribed or unsubmitive women exceeds 30,000 (and even reaches 100,000 according to some pornographers). The Prefecture cannot hunt out all the unsubmitive prostitutes and cannot force them to submit to inspection. It can only have the submissive prostitutes visited regularly. See the proportion of visits compared with the entire population of loose women!

Ineffective in  
Paris.

After a temporary and unsuccessful test of the system of inscription and regulation, England definitely abandoned it in 1886; the United States have always refused to adopt it, Germany is now dissatisfied with its results and is endeavoring to do away with it; while in France the abolitionist campaign is upon the point of triumphing.

Abandoned by  
England,  
repudiated by  
United States,  
and a failure  
in Germany.

The Brussels Conference (1800), the London Conference (same year) and the Congress of Lyons (1902) have recently put face to face the adherents of these two doctrines, and it is interesting and quite curious to read the reports of the discussions which took place at these meetings of physicians, political men and philanthropists. The impression left in my mind, after perusal of these reports, is that the regulationists are on the point of surrendering, that their cause is hopeless, and that their system, false in morals, absurd in law and null in results, will fall into discredit and finally disappear.

And it is high time that this should come about. What will greatly surprise future generations, is that, although public opinion is now unanimously in favor of prohibiting gambling houses and even, in certain countries, places where liquor is sold, such a resistance should be met with, in our time, whenever an attempt is made to abolish houses of prostitution. Professor Gide has perhaps found the real reason of this anomaly when he says:

"C'est tout simplement parce que le nombre des hommes qui tiennent à se réserver ces usages est beaucoup plus grand encore que celui des joueurs et des buveurs. Toutes les autres raisons sont sans valeur. Particulièrement faux nous paraît l'argument des maladies vénériennes. Je suis convaincu qu'une enquête bien faite démontrerait que ce sont les maisons de prostitution qui ont introduit dans le monde cette maladie hideuse et que ce sont elles qui l'entretiennent."

Professor  
Gide's con-  
clusions.

All agree that prostitution, in itself, is immoral. The law, no doubt, cannot always reach it, because there is the private domicile, the inviolability of which must be respected. But as soon as the evil, moral and social, takes so to speak, a concrete form, a public aspect, a scandalous appearance, it becomes amenable to the law, which must repress it without weakness and without compromise, prevent it from exhibiting itself, arrest the guilty parties and close the houses where this evil is indulged in openly and cynically.

As to simple tolerance, without regulation, it is pure nonsense. The authorities cannot tolerate a vice which displays itself in broad day-light, they have not the right to allow the existence of a public nuisance, exhibiting itself unveiled and shamelessly, and prohibited by the laws. This Utopia of official tolerance rests on the alleged fear that clandestine prostitution, in case the public houses should be closed, might further develop.

Tolerance.

Experience is contrary to this view. The countries where the most repressive measures have been adopted, where prostitution has been fought to the utmost and pursued to its last intrenchment, are those where morals have become the purest. Take, for instance, Sweden and Norway.

Does not  
lessen private  
prostitution.  
Sweden and  
Norway.

Experience also shows that public prostitutes do not long resist a merciless crusade. These creatures are not adapted to carry on their trade clandestinely and do not practice vice in its more hidden form. They leave a city where life is made impossible for them, and they go in search of a modern Babylon, where legislation is more indulgent and the police more compliant and more accommodating.

Eventually increases clandestine prostitution by corrupting the moral sense.

You fear clandestine prostitution, you say, and for this reason, you open the door wide to the worst of prostitutions, to that which keeps open house, tempts and solicits youth and all passers by and carries on the infamous industry under official authorization. Secret prostitution! But you can never prevent it! Will you diminish its ravages by legalizing vice in your tolerated houses? But vice is the oil stain which threatens to soil the whole social body. It is not by pouring still more oil that you will prevent the stain from spreading out. It is not by further corrupting the moral sense of the people, by the administrative sanction which you give to vice, that you will succeed in extirpating this vice from the secret vitals of your constituents.

Crime always tries, no doubt, to conceal itself. Do you generally allow the commission of a crime in public for fear of its being secretly perpetrated? Prostitution is a social crime. The woman who indulges in it is a prostitute; the man who makes himself the accomplice of that woman is also a *prostitute*; let us not forget that. Do not allow either of them to commit this social crime. If they commit it clandestinely, you are powerless. But let them not commit it *publicly*, with your permission, for you will thereby dishonor society, which you are supposed to represent, and corrupt it to the core.

I have referred to the congresses or conferences of Brussels, London and Lyons. At the previous Geneva Congress, held in 1877, the Right Honorable Sir James Stansfeld, an ex-minister of Great Britain, spoke in the following energetic terms:

Sir James Stansfeld.

"You invent a project by which you—the State—propose to set aside a certain number of women destined to be the slaves and the instruments of men's lust; you propose, by your system of examination, to keep them in good condition; you find that you cannot, with all your care, keep them in good condition. Why? Because your whole conception is profoundly immoral, and against nature; you have no respect for the human body; you forget the soul within it; you think only of making these women serve men; you acknowledge not the humanity, the life, the individuality of these poor instruments, and you fail because physical human nature refuses to lend itself to your plans."

Jules Favre.

Jules Favre, the eminent statesman, said:

"Je considère que le système de la législation de la prostitution, tel que nous l'avons en France, est la source des maux les plus effroyables, et l'obstacle le plus absolu à l'amélioration ou réforme des moeurs."

Alexandre Dumas, fils, concluded by these words a scathing allocation aimed at the framers of the system and at France, who had adopted it: Dumas, fils.

"Quand une nation en est rendue là, elle mérite que la prostitution le dévore entièrement, et c'est ce qui va nous arriver."

I could multiply quotations, but I must stop here. The limits of this report do not allow me to go any further. Volumes have been written on this question. I can but indicate the salient features of the discussion, and I have to confine myself to the enunciation of principles which appear to me to be unimpeachable, whether the question be considered from a moral or religious standpoint or in the light of social and political economy, and which, I believe, have come out more triumphant than ever from the ardent struggles of the past few years.

I will, however, add a few remarks, concerning the action taken recently, in this connection, by the authorities of New York, the great metropolis of the New World. A special committee composed of 15 distinguished citizens, was appointed in 1900, with instructions to inquire into the causes and ravages of the great social evil in that vast city and to suggest the means of remedying the same. This committee (called *The Committee of Fifteen*) held a long and elaborate investigation and submitted a voluminous report, which was published in 1902. I have this report before me. The doctrine of tolerance and that of official regulation are both condemned therein. The Commissioners recommend, not the repression of clandestine prostitution, which, they admit, is surrounded with almost insuperable difficulties, but the *vigorous suppression* of public prostitution, in all its open and cynical manifestations; "all such manifestations of it as belong under the head of public nuisance." This is precisely the policy which has prevailed in England since the repeal of the laws of inscription, in 1886, and which has also inspired our own legislators, in Canada, as will be seen further on.

Such is, therefore, the system which should necessarily be followed by the authorities here, as in Great Britain and in the United States.

Since this report of the Committee of Fifteen was submitted and published, a merciless crusade has been undertaken, in New York, against vice openly exhibiting itself, as well as against gambling houses and bawdy houses. Dens and dives have been closed and districts formerly infected by low debauched people and even by debauchees of the

The New York  
Committee of  
Fifteen con-  
demns Toler-  
ation and Regu-  
lation 1902.

Success of the  
Crusade against  
vice in New  
York.

higher classes have been cleansed; everybody is satisfied, and the authorities are not reproached with having increased clandestine prostitution by suppressing the other,—that which is the most scandalous since it is public, and which is the most dangerous because it is a constant lure thrown among millions of human beings, and because it is accessible to all.

## II.—OUR LAWS AGAINST PROSTITUTION AND PROSTITUTES.

**Criminal Code.** Our Criminal Code considers as a vagrant, libertine, idler and debauchee, besides a large number of persons which it places in the same category, whatsoever:

“Being a common prostitute or night walker, wanders in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and does not give a satisfactory account of herself;

“Is a keeper or inmate of a disorderly house, bawdy-house or house of ill-fame, or house for the resort of prostitutes;

“Is in the habit of frequenting such houses and does not give a satisfactory account of himself or herself;

“Having no peaceable profession or calling to maintain himself by, for the most part supports himself by gaming or crime or by the avails of prostitution.” (\*Art. 207, par. i, j, k, l.)

This is clear and precise. The prostitute, whether found in the street or arrested in a bawdy-house kept by herself or of which she is an inmate, or which she is in the habit of frequenting, the man or woman who supports himself or herself by the avails of prostitution, for instance, the procurer, the supporter, the pander or whosoever habitually frequents such a house, come under this article of the Code. They are dangerous beings, and a nuisance to society; they are qualified as vagrants, idlers and debauchees, and may be arrested everywhere and apprehended at any place, in a house as well as on a thoroughfare and condemned (art. 208) to a fine or to imprisonment or to both. It is the condemnation of the *trade* itself. The *flagrante delicto* is not required. The qualification if found applicable to them, is sufficient. Prostitution *per se* is therefore a criminal offence and is punishable accordingly, and its adepts, at different degrees, are delinquents.

Art. 2783 of the Revised Statutes of Quebec contains similar provisions, under the heading “Police and Good Order,” so that in the federal as well as in the local laws, the prostitutes and their clients, who have just been enumerated,

\*The references to the Code are to the Criminal Code, 1901.

are put under the ban of society and constantly exposed to be arrested, not by reason of a particular offence, but because they are... what they are.

Art. 195 of the Criminal Code defines the bawdy-house: "it is a house, room, set of rooms or place of any kind kept for purposes of prostitution."

Here, again, there is no possible uncertainty. Any premises whatever, even a single room in a house, must be considered as a disorderly place if kept for prostitution purposes.

By Art. 198, any person keeping a bawdy-house, as defined by Art. 195, is guilty of an indictable offence and liable to one year's imprisonment, and even any one who appears, acts or behaves as master or mistress or as the person having the care, government or management of any such house, shall be deemed to be the keeper thereof, and shall be liable to be prosecuted and punished as such, although in fact he or she is not the real owner or keeper thereof.

These two articles (195 and 198) brand the place where prostitution is carried on with the mark of infamy and the master or mistress keeping the same or deemed to be the keeper thereof, from his or her doings, with the stigma of criminality, which entails the condemnation of the culprit.

Prostitution is therefore in itself a criminal offence. The fact of practising it is criminal *per se*. The man or woman deriving any profit therefrom commits *ipso facto* a criminal offence. The place where prostitution is carried on, is the object of severe provisions. No person can keep, live in or even frequent the same without exposing himself or herself to the condemnations enacted and without running, *ipso facto*, the risk of being classed in the category of dangerous persons, mentioned in Art. 207.

A Criminal offence.

All these provisions of the criminal law are the basis of the suits, arrests and condemnations which the mistresses of bawdy-houses, their girls and their clients have to undergo before the Recorder's Court or the Justices of the Peace. They are so explicit and the facts are generally so clear, that the task of the magistrates is an easy one, and life may be rendered extremely hard to public prostitution when the police are active and vigilant.

In France, in Germany, and generally in the countries where regulation exists, although it is admitted that prostitution, in natural law as well as in common law, is an evil, there is no qualified offence in the mere fact of prostitution, and this has enabled those who are in favor of governmental inscription and tolerance, to found and maintain their system.

British Law more stringent than Continental Law



England and the United States, after repudiating this system, have enacted laws which contain about the same provisions as those of our Code. Prostitution is considered a criminal offence and is punished.

It is, then, quite certain that in Canada, as in the other countries above referred to, the theories of official regulation and administrative tolerance which may be discussed, and even admitted in other countries, are positively discountenanced by our legislation; are, so to speak, placed under the ban by our law and can be advocated only by the enemies of the law itself in their efforts to have it amended. So long as that law remains what it is, the provincial, civic and municipal authorities have only to submit to it and apply it in all respects.

City of  
Montreal has  
special powers  
by Charter.

The city of Montreal is not exempt from that obligation. The Quebec Legislature in the last charter given this great city (62 Vict., chap. 58), after giving to its Council the authority and jurisdiction required on all matters concerning the peace, order, good government and general welfare of the city, among others, "public peace and safety, health and sanitation, decency and good morals" (Art. 299)—confers upon said Council the power, and, so to speak, imposes upon it the obligation to "suppress bawdy and disorderly houses and houses of ill-fame and assignation within the limits of the city (Art. 300, par. 36)—yes, to *suppress*, and nothing less! The fact is, the Quebec Legislature could not entrust the corporation of Montreal with any other mission than that of doing towards those houses the only thing possible under the laws of this country, that is, to suppress them.

Does that mean that if the City Council has not thought proper to pass a special by-law, providing a specific method of securing their suppression, it will thereby be justified in ignoring the law and tolerating what is intolerable under the Criminal Code?

Who should dare hold such a view?

Such a by-law could have been passed. It would, no doubt, have settled, to advantage, certain details of procedure. It has not been passed, but the city remains none the less obliged to suppress the evil, for suppression is ordained in the general law, and tolerance is there forbidden.

Yet, if such a by-law could have been passed, it was not necessary, for the city already had, and still has, all possible power, and is provided with all the machinery required to suppress such houses. It does suppress them when it wishes. It chooses its time; it indicates to its officials the special house to be raided; arrests follow, and the Recorder condemns.

What is possible, even easy, in special cases would not be more difficult to accomplish in the case of a general raid and a complete cleansing. All the constables admitted this in the course of the recent investigation. Only, there is some hesitation in the face of the duty of total suppression in the apprehension of clandestine prostitution. Such secret prostitution we shall never be able to cause to cease. But you will increase it by allowing the scandal of public prostitution which perverts youth, leads to all kinds of excesses, defiles the soul and corrupts the body, when it does not destroy it prematurely. Secret prostitution will do its work anyhow, but the evil will always be in exact proportion to the immorality of the people. Now, if you pervert the people more by the ignoble and constant spectacle of public prostitution, how can you hope to diminish the secret ravages of hidden vice, which, it may be, completely escapes your jurisdiction, and for which you are not responsible?

Suppression of public prostitution acknowledged to be easy. Reasons for toleration by officials not well founded.

Evil of toleration

### III.—ABUSES TO BE CORRECTED—REFORMS SUGGESTED.

The doctrinal falacy of systems of inscription and official tolerance having been shown in my humble opinion our laws being so clear and precise that the same cannot even be discussed in Canada, except from a merely theoretical standpoint, it now remains for me to point out to the Council several abuses which the investigation has disclosed and to suggest certain reforms which should be effected.

Policy and plan of campaign of Police in Montreal condemned

The system followed, so far, in Montreal, in the proceedings taken against the keepers of houses of ill-repute, the girls living in their dens and the unfortunate clients found therein, strikes me as deplorable. In the first place the police officers prepare their cases only on the complaint of neighbors, or when there arises such flagrant scandal that the action of the authorities becomes unavoidable. This is an entirely too limited circle of operations. There are neighbors in certain streets who will never complain. They are accustomed to the proximity of vice, perhaps relish it; often times they derive pecuniary profit therefrom. Again, should the authorities wait for the appearance of a more than ordinary scandal, the occurrence of a shocking disturbance or an unusual accident to adopt repressive measures?

Police do not take the initiative.

I do not think so.

It was shown, during the recent investigation, that the police are well aware of a hundred and eighty or two hundred houses of disorder, or prostitution, or of rendez-vous, existing in Montreal. As soon as such knowledge is acquir-

Police know and do not act

ed and the necessary proof is within the reach of the city the obligation to act is created, and *they fail to do their duty if action is not taken.*

Toleration in  
Montreal.

Certain well-known houses have never been troubled. A list shown to me during the investigation is proof of this. Why have these houses not been raided? Since it is admitted that they are well known; since they were placed on a list that was shown to the court, it was the city's duty to bring them before the Recorder.

Why has this not been done?

It will be stated, perhaps, that those houses have been *better kept* than others against which proceedings have been taken—that there were no complaints and no scandal; that is to say, no noise.

Evil in itself  
and dangerous  
to the police.

But, is not the house of prostitution, or rendez-vous, well-known as such, a scandal in itself? Is it less dangerous because obliging neighbors consent to tolerate it, or because the keeper is smart enough or prudent enough to prevent noise or boisterous scandal? Prostitution takes place there openly.

Is that not enough?

Besides, by the tolerance given to such a house you expose the police to be suspected and charged with partiality and corruption. Recent experience must have convinced you of this.

There is, then, no such distinction to be made. Suppression in order to be efficient must be general and without exceptions, in every case where this can be carried out. Naturally, in cases of doubt, and in the absence of positive proof proceedings must be avoided.

Fining system  
as a rule bad  
and ineffective.

Another abuse is the too frequent condemnation of the keepers of such houses, for the most part habitual offenders, to a fine instead of imprisonment. Those women come periodically, two or three times a year, before the Recorder. With the exception of very few cases they are, each time, sentenced to pay a fine, which they do easily from the proceeds of their vile trade. They expect it, anyhow, and have a reserve fund for that object. The fine is paid, and, after paying also the fines of the girls arrested with them, they return triumphantly to their dens, the doors of which are re-opened the same afternoon. The trick is played and the same woman is sure of impunity for three, four or six months, if she is *very good*; that is to say, does not too often attract the attention of the police during that period. After a certain number of months she will again come to their mind (she expects it), she will be arrested anew; she will pay once more and return to the old life again.

An ex-chief of police candidly admitted that such a system had the advantage of supplying the city with sure, periodical revenue. Remember, I speak of what I know; and I relate facts proven and admitted in open court.

It strikes me that such a state of things needs no comment.

Fining as a Source of Revenue denounced.

Did the authorities ever consider the infamy of such a system?

Can the city of Montreal lend itself to such a calculation and rely on such a source of revenue?

Can this city authorize toleration, for a money consideration, payable periodically, after regular arrests for public prostitution?

Can Montreal thus license vice and infamy (for that is what it does) upon the payment of a fee?

I denounce that abuse with all my power. The keepers of houses who are *habitual offenders* should *all* be sentenced to imprisonment without the option of a fine. I would be less severe for the girls and I would make a distinction between incorrigible habitués and those who are only on the threshold of shame and may be redeemed. On that point the discretion of our magistrates could be relied upon. The remedy of imprisonment for habitual keepers, if applied vigorously, would deal a death blow to the monster of public prostitution by cutting off the profits from the infamous traffic.

Only prison for keepers and habitual offenders.

Discretionary punishment for the ordinary prostitute and the efficient closing of the houses in which they lived would complete the work of cleaning them out.

Our religious institutions and our asylums for penitent women, whose good work is so great, would also help us, and the great voice of heaven would be heard over the ruins of the dens of infamy."

Houses of Mercy.

This policy of war without mercy, of energetic repression and complete suppression, once adopted, it would become the duty of the police and special agents, under the leadership of the chief of police, to keep a constant watch over the street walkers; to prevent or punish, without mercy, any indecent or suspected solicitation; to closely watch the old quarters of prostitution and the new places or houses where they might have reason to believe it could have taken refuge, and not to hesitate in lodging complaints upon information or discovery of a positive character.

For that purpose, let the number of special agents having charge of the city's morality be increased, if necessary; let such service be organized as a special department and let men of experience, reliability and capacity be placed therein.

Recommendations.

I recommend that, so long as he enjoys the confidence of the city, the chief of police be given all the power he needs for the wise, and at the same time energetic discharge of his duty, and that neither the Police Committee nor any of the aldermen should unduly interfere with, or in any way disturb him in the performance of his duties.

I strongly suggest that the number of licensed liquor selling places be reduced in this city. Certain sections of the city are literally infested with *restaurants* and *bars*. Let us not forget that, for young men especially, the saloon, where firewater is imbibed, not to say the worst of poisons, is truly the ante-room of the accursed house; that is to say, that people go out of the one and hurry to the other, with passions inflamed and their reason distracted. Since, it seems, liquor shops must be put up with, let them be reduced by at least one-half and let the license fee be proportionately increased. You will even then, have a sufficient number of applicants to take all the licenses, and the city will lose none of its revenue.

(Signed) HENRI T. TASCHEREAU,  
J. S. C.

