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# THE CRIME OF PROSTITUTION

The Late Chief Justice  
SIR HENRI TASCHEREAU

Part of a Report to the City Council of Montreal on  
an Investigation into the attitude of the Police toward  
the enforcement of the Criminal Law in regard to Pro-  
stitution ; reprinted from " The Municipal Gazette."

THE PRESBYTERIAN CHURCH IN CANADA  
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THE CHINESE

THE CHINESE  
OF  
PROSTITUTION

BY

THE CHINESE

THE CHINESE

A TIMELY MESSAGE  
ON  
THE CRIME OF PROSTITUTION  
AND  
The Duty of the Police to suppress it

The human body is a sacred trust committed to the soul by the Creator ; gifted with an admirable organism, 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.

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 oftentimes controlling the destiny of nations.

Entire nations of Asia, monarchs and governments of the Orient, 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.

Prostitution is but a form, more disgusting than another, of the evil inherent in 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 attributions.

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 to the doctrine that public prostitution is a *necessary* evil, which must be tolerated, while subjecting it 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 for almost a century, especially in Paris, 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.

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 heart 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 decupling 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 Napoléon, Art. 1133)? A necessary expedient which is therefore both immoral and illegal!

And as to public health, does it actually benefit by inscription, regulation and medical visits? There are in Paris from three to four 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!

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.

The Brussels Conference (1899), 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 :

"It is simply because the number of men who desire to practise these customs themselves, is much larger than that of gamblers and drinkers. All other reasons are worthless. Particularly false appears to be the argument from venereal diseases. I am satisfied that a thorough enquiry would prove that it is the houses of prostitution which have introduced into the world this hideous disease and that it is they also which maintain it."

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 this evil, moral and social, takes, so to speak, a concrete form, a public aspect, a scandalous appearance, it becomes accessible 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 daylight, they have not the right to allow the existence of a public nuisance, exhibiting itself unveiled and shamelessly, and prohibited by the laws. This utopy of official tolerance rests on the alleged fear that clandestine prostitution, in case the public houses should be closed, might further develop.

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 entrenchment, are those where morals have become the purest. Take, for instance, 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.

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 :

" 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, the eminent statesman, said :

" I consider that the system of legalized prostitution such as we have in France is the source of the most frightful evils and the most absolute impediment to the improvement or reform of our morals."

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

" When a nation reaches this point it deserves that prostitution should devour it entirely, and that is just about where we have now come."

I could multiply the 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 could but indicate the salient features of the discussion, and I had 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 the 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 manifestation, " 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 Committee of Fifteen was submitted and published, a mercifless 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 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.

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

“ 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 both. It is the condemnation of the trade itself. The *flagrante delicto* is not required. The qualificative 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, 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 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 equivocal, 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 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.

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 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.

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.

The city of Montreal is not exempt from that obligation. The Quebec Legislature is 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 would 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 houses 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 fact of the duty of total suppression in the apprehension of clandestine prostitution. Such secret prostitution we shall never be able 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 ?

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

The doctrinal falsity of the 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.

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 ; oftentimes they derive pecuniary profit therefrom.

Again, must 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 ?

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 rendezvous, existing in Montreal. As soon as such knowledge is acquired 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.*

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.

But, is not the house of prostitution, or rendezvous, 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.

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.

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 infamous traffic.

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.

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. 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 fire-water 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 reasons 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.

I have the honor to be, Mr. Mayor and Aldermen, your obedient servant,

(Signed)

HENRI T. TASCHEREAU,  
J. S. C.

(True Copy).

B. TURENNE,  
Clerk of Commissioner of Enquiry

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