

The influence of legislation on public morals / Friends' Association for Abolishing the State Regulation of Vice.

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The following address to the Society of Friends by six of its Members, is now reprinted by the Scottish National Association for the Repeal of the Contagious Diseases Acts.—(See page 16.)

THE
INFLUENCE OF LEGISLATION
ON
PUBLIC MORALS.

THE last vote of the House of Commons [21st May 1873] on the proposition to repeal *two Acts of Parliament*, has a bearing on the present and future welfare of this kingdom, which the majority of men, owing to causes too little suspected, are still far from being in a position to estimate.

It may be thought, as it is declared by many, that enough has been said, and more than enough, on every aspect of the subject to which those Acts relate. Good and intelligent men think they have nothing of importance to learn. Surely, it is said, there are two sides to the question; and it is not safe to pronounce hastily against a law which has for its object the mitigation of human suffering.

But beyond the two sides which arise out of the provisions and details of the Acts, there is an aspect, of deeper moment and of wider scope, involving an element in the controversy, which has been too much overlooked; but the importance of which, whether it bears on this or any other social question, it is not easy to overstate.

A review of the legislation to which the present agitation is due, reveals the fact that men are self-divided into two well-defined classes, adopting opposite views on the question of a *moral standard*.

At a great public discussion, in reply to the position laid down by one side,—“that whatever is opposed to sound moral principle is indefensible;”—“that,” said a leader on the opposite side, “is just what I cannot admit.”

One of these two classes does not admit an appeal to a fixed moral standard.

Let an outspoken avowal like this be made by every advocate of the Enactments in question, and one of the greatest difficulties that encumber the path and perplex the judgment of many honest inquirers would be removed. It would open the eyes at least of religious professors, who would instinctively say, “what then becomes of Divine Law?”

“My opinion is,” said a truly “honourable” member in the House of Commons, “that if the Acts be wrong, no sanitary result will justify them.”

This, we are told again, “is most dangerous ground.”

To base all our reforms on *moral* principles, and to be satisfied that on the whole the result must be good, is declared to be “not safe.”

Denying any ascertained principle, the path of safety, it is said, is to be found only by *experiment*; notwithstanding the obvious reflection, that side by side with some apparent physical benefit, there may flow a current of moral pollution, only to be discovered when the blunder of the experiment is irretrievable.

Still, “facts and results,” say the philosophers of this school, “are our sole guide; and whether we blunder or not, we must go on experimenting.”

“Here,” reply the advocates of principle, “is precisely where we differ. We believe in certain all-wise rules of moral conduct; and because they are all-wise, they are safe.”

“There are no such rules,” is the answer. “We have no guide but experiment.”

These two ethical systems cannot therefore be confounded.

Their disciples, comprising among them equally well meaning men, may be thus described:—

1. Those who believe in Expediency, or a human estimate of *Right* and *Wrong* founded on *experiment*;—
and
2. Those who acknowledge the supremacy of *Divine Law*.

The former say,—“Shew us results:—if results satisfy us, their verdict is final: we do not admit your ascertained moral laws, human or Divine.” The latter say,—“Just as we believe in God, we believe in His laws: they are our final appeal. Whatever violates these laws, involves physical or moral evil, or both. It is of the very essence of a Divine Law, that it cannot be broken with impunity.”

With opinions so diametrically opposite, there can be no common basis of legislation. If it is held allowable for the sake of a supposed benefit, to legalize and regulate vice, and to provide beforehand for safety in vicious indulgence, then there is nothing binding in what is taught through every Christian land as *Divine Law*; and the law of God may be set aside, whenever human wisdom pronounces it inapplicable or defective.

These considerations indicate the character of the struggle, which from its very nature cannot terminate, till one of the two principles has asserted its supremacy, not only in individual conscience, but in public enactment.

Although the advocates of Expediency have never shrunk, when called upon, to avow their principles, they were early impressed with the importance of concealing the real nature of the law in contemplation.

A leader in favour of the *Acts* replies to a question, “I am afraid we must be very careful *how we run counter to the religious feeling of this country*.” [See Ans. 961, *Lords' Committee*, 1868.]

Another [489, 490] thinks it “very important that any-

thing that is done, should be *quite gradual!* and that if the Act were really resisted by any popular force, *it would be quite impossible to enforce it.*"

In question 685, it is suggested to be "very essential not to shock public opinion," &c.

Consistently with this dread of publicity, the *principal Act* [1866] was introduced at the end of a session, under a misleading title, passed as quietly as possible, and with most indecent haste. It was to be worked without exciting public notice, and in fact, by the ingenuity of its provisions, it attracted little attention for a long time. [See Report of Lords' Committee, questions 27, 102, 193.]

Extreme caution was obviously needful; for this Act was something entirely new in British legislation. All previous laws had been based on the principle of repressing or discouraging that which was wrong. Evil had been denounced, and evil doers were to be punished. But now, evil in one of its worst forms was to be secured from inconvenience; sinful indulgence was to be recognised *as a necessity*, and its path made safe. [See official document presented to Lords' Committee, 1868, p. 132.]

This fatal dogma, as truly observed by the Dean of Carlisle, underlies this whole system of legislation.

If the state of the case is really so simple and so little to be disputed as this, how, it may be asked, is the fact to be explained, that so many excellent men have been so slow to perceive it? Nay, further, how is it that so many have rather been lulled into indifference or to an acquiescence in what they have been instructed to regard as a military or a medical requirement?

The answer to this question must be sought in the operations and in the tactics of that class of reformers, whose basis of action is *Expediency*, in opposition to that of *fixed moral principles*.

When the first combined effort was made to bring this religion of *Materialism* to bear on legislation, is not very clear; but in 1868 we find the existence of an "Association

for Promoting the Extension of the Contagious Diseases Act [1866], to the civil population of the United Kingdom."

The Third Report of this Association is a most elaborate and plausible compilation, well calculated to mislead the uninstructed and uninquiring reader. Its compilers start with the following positions: [See their First Report, 1868.]

1. "It holds that sufferers under any kind of contagious disease are dangerous members of society, and should, so long as they are in this state, be prevented from communicating it to others."
2. Regarding venereal disease as a contagious disease of the gravest character, "It proposes to remove those affected with it from opportunity of propagating their disorder."
3. "It aims at the moral and social improvement of a numerous and degraded class."
4. "In carrying out these objects it is opposed to the system of licensing prostitution, which prevails in some parts of the continent."

By the year 1870, the Association numbered nearly 1000 members and supporters,—seven important towns furnishing *one* name each! But with unimpeachable principles, and a most humane and praiseworthy object, why did not this Association, after most persevering labours, number among its well-wishers and supporters, every philanthropist in the Kingdom?

The "Association" appeals to the public in support of an object which is to be prosecuted, as they declare, on the principles embodied in the above *four positions*.

The avowed object is "to extend the principle of the Contagious Diseases Act of 1866 to the civil population." The only discoverable principle in this Act is, *that it is right to prepare beforehand at the public expense, for the protection of soldiers and sailors from a penalty resulting from their own evil practices.*

The incautious reader would fail to detect any fallacy in the *four positions*. For the sake of argument, let us assume that they are all admissible. Even then they cannot justify the law professedly founded upon them; for that law, if it is

not in direct opposition to a plain interpretation of their meaning, violates the spirit of every one of them.

Position 1 must necessarily be held to mean *men* and *women*. But its authors, in defiance both of common sense and of honesty, refer to *women* only. To pretend then that they honestly propose to deal with *diseased persons* is sheer deception. Diseased men are to be free.

In like manner position 2 proposes to remove all *diseased persons*. But the *Association* means nothing of the sort. It leaves diseased *men*, who are quite as dangerous as diseased women, and actually more numerous, at perfect liberty.

"It aims," see its *third* position, "at the moral and social improvement of a numerous and degraded class." Surely every good man, and especially every good woman, should have been ready to support such an undertaking.

The *class* referred to is that of *Prostitutes*.

Would it ever have entered the mind of the most sceptical or the most suspicious, to conceive that the real object was not to reclaim these unhappy women from a life of sin, but to make them less dangerous to society *in* it? To make provision for their physical welfare, and more especially their health *as Prostitutes*? But so it really was. *As a class*, they were to be recognised and supervised,—and as individuals of the class, *registered*. The class, *as a confessedly disreputable class*, was to be raised in respectability, and in the public estimation, as well as its own.

In position 4 the *Association* objects to the undisguised foreign system of "licensing." Who could have suspected that behind this plain disavowal, there lurked a purpose to attain the same end under a disguise? A system which has all the effect of a "licence" while professing to avoid it, is more objectionable just as it is more insidious and less likely to arouse suspicion. (See 762, 763, 764, Lords' Committee.)

There is some evidence" (see Report of Royal Commission, p. 14) "that the women themselves consider that they are a privileged class; some of them are called *Queen's Women*,"

&c. And being recognised by the State as a class worthy of its support, some of its members have petitioned Parliament *for the continuance of its protection*; declaring that a repeal of the Acts would be "a calamity to themselves, and a terrible misfortune to the country at large!"

So much for the *four* positions. If it were possible to conceive that they were originally laid down *with a view* to found upon them the provision of the Act 1866, a grosser attempt to impose upon the ignorance or credulity of good men was never made.

It is to be hoped, for the credit of human nature, that these *four positions* were originally drawn up by good men, in perfect good faith. But, then, what shall we say when we find an Association, with its eyes open, adopting them as its own, and using them for the purpose of establishing a system, as opposed to their meaning and spirit, as light to darkness? Hundreds of excellent men were found willing to give their names for the promotion of an object apparently so good and unimpeachable; but it is to be hoped that not one in a hundred had the least conception of the use that was to be made of the signatures.

The late Holmes Coote, the eminent surgeon of St Bartholomew's Hospital, and a member of the late Royal Commission, declares that "the earnest men who met some years ago to originate the movement which terminated in the passing of the C. D. Acts, had little idea of the use that would be made of their labours and advice." He alluded no doubt to a meeting in London of eminent men like-minded with himself, in 1859, whose discussions were followed by the Act of 1864. He goes on to say, "As one of those who took an active part in all that then transpired, I loudly maintain, that the idea of the compulsory examination of women, their enforced subjection to the police, their exposure to the penalties of registration and imprisonment, were views which would have been scouted by the gentlemen who met to devise means of giving shelter and protection to unfortunate females."

The Association and its supporters have been indefatigable in supplying influential classes in the kingdom with reports, testimonials, and statistics. Many of these documents are distinguished by an air of candour which disarms all suspicion, and an earnestness which is most impressive. Then, with a plausibility which is overpowering, and statistics apparently overwhelming, it is no wonder that the majority of the classes whose hostility was to be guarded against, have become blinded or quieted; reminded as they have been all through, that the subject is not attractive, and not suitable for discussion.

The value and truthfulness of this advocacy will be noticed further on; for although comparatively few joined the "Association," its influence on the public mind has been great.

This, then, is the danger with which this kingdom is threatened, the debauching of the public conscience by the legalizing of vice; and a poisoning of the mental and moral atmosphere with specious but polluting theories, from the effects of which it may take whole generations to recover.

There is no moral or social question whatever, which at the present time compares in importance with this. Other evils, great and multiform, exist; but he is a bold man who undertakes to justify or defend any one of them. Much is said, and justly, about the evils of Intemperance; but there is no legal enactment the object of which is to prepare beforehand for making Intemperance harmless. The evils of Slavery are enormous; but we have no laws to legalize and protect them. On these questions, the tendency both of public opinion and legislation is healthy,—is towards that which is better, purer, and holier. The national feeling is on the whole on the right side. Intemperance may continue to prevail, may even increase; but its continuance will not persuade men of its *necessity*,—will not teach a rising generation that it is a pardonable indulgence,—will not lead ministers of religion to find excuses for it, and defend it. But laws like those we are discussing, made for the protection of vice, by shielding wrong doers from its penalties,—laws teaching that Expediency

stands before Principle,—that because we cannot eradicate an evil, we may strive to make the commission of it safe,—such laws go to sap the very foundation of virtue, and, by cheating the consciences of men into a charitable allowance for youthful “irregularities,” leave room for the ready inference, that too strict a regard to religious requirements, must be looked upon in the present age of *Science*, as an antiquated superstition.

Nothing can be more simple than the real object of the *Contagious Diseases Acts*; and, as may be learned at once from the Acts themselves, nothing less disguised. In the words of the *Royal Commissioners*, the majority of whom were in favour of the Acts, it was proposed by the Government “to render the practice of prostitution, if not absolutely innocuous, at least much less dangerous.”

The *means* proposed were equally simple,—to capture every woman described in the Act, in and around certain naval and military stations; and to subject all, without exception, to a scandalous surgical examination.

The number at present registered is about 2400, all examined every two weeks, some to be detained for surgical treatment, and the majority returned without rebuke to the streets, *certified* by a Government surgeon as *not dangerous*.

This revolting examination, as the means of carrying out the purpose of the Act, is the one essential feature, the keystone of the system. Every provision in the Act from beginning to end, clusters round this, to aid and sustain it; and but for this would have no meaning. Disease in women, in defiance of common sense and of fact, is declared to be a cause, and not an effect, and the real cause, the actual root of the evil, is left untouched. There is not in the Act the remotest allusion to any moral impropriety. The intercourse between the men and these women is assumed all through to be legitimate, and therefore only to require supervision. Even the keepers of *bad houses* are unmolested, so long as the inmates are free from disease. *By the Acts*, on this condition, their infamous traffic is permitted. That the word “licensed”

is carefully excluded from the Acts, is by them probably unnoticed, and is to them certainly of no consequence.

That a direct encouragement is thus given to freer sinful indulgence both to men and women, is admitted on all hands. But on one side it is said, "If there is more vice, there is less disease;"—and on the other, "The entire scheme is opposed to Divine law, and radically bad, whether there is less disease or not." To this it is of course added by the latter, that in the long run, not even physical good can result from the violation of a sound moral principle.

Not so much as a matter of detail, as to illustrate our leading idea, let it be noted that all the provisions of these Acts—and they are cruelly oppressive—have reference to *women only*, and not to *men*.

But of all the modes that have been employed to satisfy or mislead the popular mind, the very masterstroke has been to make this a *medical* question, and so to declare that it must be decided mainly by medical men. To explain how it is that so very large a number of respectable and well informed men, especially in the profession, have lent themselves to so transparent a fallacy, would be an invidious task. If there were any doubt about the nature of a disease, and the mode of treating it, few men would hesitate to consult a doctor. But how stands the case? A man of his own free will, and to gratify his vile desires, incurs a serious danger. The Government virtually says to him, "If you must and will sin, we will pass an Act to enable you, at the public expense, to sin in safety."

It is no part of the object of the Act to relieve a man *after* he receives an injury, but to provide beforehand that he may do wrong *without* injury. And what is yet more notable, *medically*, it leaves one sex, though equally endangered, without any protection at all. See also the *first* and *second* of the "four positions." The medical views embodied in these, are in the Act so disregarded, as to make it incredible that any medical man could have been a party to its provisions.

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A leader among the pro-Act advocates thinks, that if some half a million of profligate young men in the metropolis could be enabled to violate the law of purity without risk, £50,000 or £60,000 a-year could not be considered an excessive expenditure for the benefit thus conferred on them! *This* points to the real question; and yet with the greatest complacency and assurance we are persistently told that it is a medical one. And further, as a most notable illustration of principles, let it not escape notice, that the expense of this charitable provision for safety in sinning, is to be cheerfully borne by the virtuous and the chaste. This is at least straightforward and candid. (See *Medical Mirror*, Feb 1. 1870.)

Nothing has more tended to fortify the public mind against too nice inquiry, than this plausible substitution of medicine for morality.

Papers industriously circulated up to this present time, profess to show by every variety of illustration, that the Act is "beneficent and reformatory;" and that its "operation is most satisfactory." These papers speak loudly of "reformation among women," of "young girls saved from a career of vice," of "fewer immoral characters in the streets," and generally, as stated in a document signed by 87 *eminent medical men*, of "a more healthy moral atmosphere." [See Memorial to H. A. BRUCE, M.P., Dec. 1871,]

It is impossible to form a just estimate of the character and value of these innumerable documents, without reverting to the fact that the leaders of the "Association" admit no principle which appeals to a higher sanction than that of *Experiment*. The result of experiment alone is decisive. In short, to point out, and to insist upon, this tremendous feature of modern English life, is the leading idea in this address. The essential gravity of the circumstances does not centre in further demoralising a few more thousands of soldiers and sailors, nor in cruelly oppressing and degrading a few thousands of wretched women;—but in the existence and the operation of a poisonous leaven, which threatens to do in the

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British Islands, what has already been done on the European Continent,—to annihilate religious sensibility, and true refinement,—to reduce human life, under fine names, to a religion of sensuousness, and of science ; and above all, to undermine all that is pure and holy, in the relationship between man and woman.

Allusion has been made to the pardonable error into which so many good men have been led by plausible representations. Such men, without suspicion, and without careful examination of the official reports furnished from time to time to the Authorities, would see little ground for any change of opinion respecting these enactments. It does not consist with the object of this Address to pass any definite judgment on the value of these reports. Their unreliable character has been made the subject of very strong language both in and out of Parliament ; and we shall only say further, that with the sources of information accessible to every inquirer, no one desirous to form a correct opinion can experience any difficulty.

Again let us entreat the thoughtful reader to note well the nature of the struggle,—expediency on one side, and religious conviction on the other. Of the latter, however, and this again points to the essential feature of the controversy, some seem to think that little remains among English people ; for in reply to question 858 in the Lords' Committee, whether public opinion would sanction certain requirements of the Act, the witness says, "I think that the opinion of the present day would. I think *that* hypocrisy is all gone !"

The women coming under the operation of the Acts are sometimes reclaimed from a sinful life, may be readily granted ; but every real reformation is the result of agencies to which the spirit and purpose of the Acts *are directly opposed* ; agencies existing independently of, and prior to the Acts ; and which have been effective just in proportion as they have been brought into operation. Now that the moral question is daily becoming more prominent, these results, contrary alike to reason and to facts, are boldly attributed to these *enactments*.

[See Report of *Royal Commission*, p. 16., par. 3. in allusion to *previous Acts*.]

It is said that by the provisions of the Acts, women have been frightened into propriety. But until they are captured, this is the very thing the captors strive to avoid; for the men are dressed in *plain clothes*, like ordinary citizens, so as to conceal their character as *police*. After capture, they are frightened intentionally, not truly towards reformation, but towards the *examination* room, there, after passing its degrading ordeal, to be registered among *the unreformed*.

“I merely want the [captured] woman to know,” said Surgeon Sloggett before the Commons’ Committee, “that she is obliged to submit herself: I fear that without that terror the women would not come.”

Some women, for fear of being captured, are no doubt made more circumspect, not more virtuous; and some flee from one district to another. The Government officials extract virtue from both these facts. In one case *outward decorum* is called *reform*; and in the other, if fewer loose characters are found in *one* district, it is proof of a *general* improvement! But whether many escape to other districts, or whether by greater circumspection, and by more cunning and skill, they baffle the police, it certainly is not evidence of moral reform.

Again, *the Acts* have saved young girls from a career of vice, because a good-natured policeman has kindly warned them of their danger. But the Acts neither authorise nor contemplate any such kindness; and to credit them with that which is not their own, but an incidental excess of duty on the part of a Government officer, borders on the absurd.

“Compulsory examination,” said a speaker in the House of Commons, “degrades women into brute beasts.” What then is the position of the Government Surgeons? In voluntary contact with such pollution, if educated men do not suffer either in self-respect or public esteem, what can more clearly point to that slough of corruption to which society is hastening?

The steady progress of the *materialistic* leaven may be

detected in the ready answers returned by large numbers of good men, who, led away so far from the primary question as to have lost sight of its primary importance, only dwell upon the prevalence of disease, the superior knowledge of medical men, and the sufferings of innocent victims. Moral and religious principle, they have come to think, is all very well in its place; but what better can be done than first "to stamp out" a great physical evil?

"It may seem," says a Fellow of the Senate of London University, "an offence against morality to speak of such things, but we must deal with things as they are, and our object now is not to enforce morality, but to prevent disease." (Dr Edmund Parkes, on *Practical Hygiene*: Member of the General Council of Medical Education, &c., &c.)

And Dr Parkes, sad to say, is only one among many good men who have come to believe that to *prevent disease* stands *first*; and to enforce morality, to say the least, is a secondary question.

The last, if not the weakest plea for the maintenance of the Acts, is the following: "Admitting the present Acts to be not free from objection, what is proposed in the place of them?" The question assumes that they are *good*, but that possibly *better* might be substituted. And herein is the fallacy. If we are right in condemning the Acts as *bad*, their *simple repeal* would be a clear gain. To retain a positive evil because we cannot readily discover a positive benefit, is at variance with common sense. But as some advocates of the Acts do cling to them, as they say, for want of something better, it may be well to inquire what the Acts are *said to accomplish* to which previous Acts and other existing agencies are not equal. The answer is, "Demonstrably one thing only, the diminution of disease." But even this is not attained; for notwithstanding the highly-coloured statements which have been so extensively circulated, the Royal Commission, after sitting fifty-four days, examining eighty-five witnesses, and asking more than 20,000 questions, make the following naked statement in their report:

“There is no distinct evidence that any diminution of disease among the men of the army and navy, which may have taken place, is attributable to a diminution of disease contingent upon the system of periodical examination among the women with whom they have consorted.”

These Acts are left then without one redeeming feature; and if their opponents are desired to propose some other Act for the diminution of disease, they may reply that the real cause, the root of the evil, is beyond the reach of legislation; and that the only preventive is that already recommended by every chaste man, “cease to do evil.”

It does not however follow that no legislative reform can take place by which the weak may be further protected, and wrong doers more effectually dealt with. There is no lack of valuable suggestions in this direction. They are within the reach of every inquirer. [See Report of Royal Commission, question and answer 12,878, also 7116.]

We have pointed out the nature of the fearful evil that has gained a footing in the British Islands. We have shewn that two principles are striving for the mastery. *Science* is said to be steadily progressing. *Religious conviction* is declared to be dying out. If it is indeed so, our case is hopeless. But we appeal, and not hopelessly, but more and more confidently, to the national conscience, vindicated as it is by thousands of the ministers of Religion, both in and out of the Establishment, who, as with one voice, have openly denounced, and continue to denounce, this Law, as iniquitous in its nature, scandalous in its object, and disgraceful alike to a nation and to its Government.

EDWARD BACKHOUSE, *Sunderland.*

BARTON DELL, *Bristol.*

GEORGE TATHAM, *Leeds.*

JOSEPH EDMONDSON, *Halifax.*

THOMAS PEASE, *Bristol.*

ARTHUR ALBRIGHT, *Birmingham.*

FRIENDS' ASSOCIATION

FOR ABOLISHING THE

STATE REGULATION OF VICE.

ITS OBJECT : The Total, Immediate, and Unconditional Repeal of the “**CONTAGIOUS DISEASES ACTS**” of 1866 and 1869.

Issued for Distribution by the **SCOTTISH NATIONAL ASSOCIATION**,—OFFICE, 5 St Andrew Square, Edinburgh,—where Copies can be had on application.

STEPHEN WELLSTOOD, Hon. Sec.