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MR. GLADSTONE

AND

THE CONTAGIOUS DISEASES ACTS.

BY

JOSEPH EDMONDSON.

F. C. BANKS, 27, GREAT GEORGE STREET, LONDON, S.W.

ONE PENNY—POST FREE.

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NOTE.

The following pages are intended to shew that the Government Bill of 1872 cannot be acceptable (when it is really understood) to any one who is prepared to apply to it the test by which, in February, 1871, Mr. Gladstone declared the existing laws must be judged.

MR. GLADSTONE

AND

THE CONTAGIOUS DISEASES ACTS.

GENERAL ELECTION, 1874.

PREVIOUSLY to Mr. Gladstone's re-election for Greenwich, the Secretary of the Woolwich Committee of the National Association for the Repeal of the Contagious Diseases Acts wrote to Mr. Gladstone, asking him to receive a deputation of electors upon the subject. The following is Mr. Gladstone's reply:—

“ 10, Downing Street,
“ Whitehall,
“ January 29, 1874.

“ Sir,—In reply to your letter of the 28th inst., written on behalf of the Woolwich Committee for the repeal of the Contagious Diseases Acts, I am directed by Mr. Gladstone to inform you that he has nothing to add to the very clear declaration of views implied in the Bill of 1872, introduced by her Majesty's Government, but unhappily not found acceptable.

“ I am, Sir,
“ Your obedient Servant,
“ J. A. GODLEY.”

“ J. Wates, Esq.”

Mr. Wates having forwarded a copy of the above to the General Committee, the Committee instructed their Secretary to reply as follows:—

“ The National Association for the Repeal of the Contagious Diseases Acts.

“ Central Committee Rooms,
“ 27, Great George Street,
“ Westminster, London, S.W.
“ Jan. 31, 1874.

“ Dear Sir,—I have received yours of the 29th inst., enclosing copy of Mr. Gladstone's answer to your request that he would receive a deputation from his constituents to urge the total repeal of the Contagious Diseases Acts. I observe, with deep regret, that Mr. Gladstone says that he has ‘ nothing to add to the very clear

declaration of views implied in the Bill of 1872, introduced by her Majesty's Government, but, unhappily, not found acceptable.'

"I beg to declare to you that the country is resolved never to accept that Bill, and for the following reasons:—

"Mr. Bruce's Bill proposed to extend the principles of the Acts, and to perpetuate the most immoral provision contained in the Acts, over the whole country. The Bill stands condemned by the author's own words in introducing the measure to the House of Commons, when, after declaring his approval of the Contagious Diseases Acts, he earnestly assured Sir John Pakington and other supporters of these measures, 'If this Bill passes, I believe we shall have powers, with regard to the whole country, which we never had before.' The powers here alluded to are the powers given to surgeons and police, arbitrarily to imprison, and surgically to outrage women for the physical safety of profligate men. Mr. Bruce added, 'Many more' (women) will be taken (for this shameless purpose) 'than is now the case under the existing law' (the Contagious Diseases Acts); 'the net will have a far larger sweep.' I am directed to request you to inform Mr. Gladstone immediately of our irrevocable determination never to accept any legislation which aims at casting a 'Net' over women for the benefit of unchaste men; ceaselessly to protest against all such measures in the name of religion, morality, and justice, and never to rest from this agitation until we obtain the total and unconditional repeal of the Contagious Diseases Acts.

"I am, dear Sir,

"Yours truly,

"(Signed)

FREDK. C. BANKS,

"Secretary of the National Association, and on behalf of the following Organizations for the repeal of the Contagious Diseases Acts:—The Ladies' National Association, Liverpool; The Northern Counties' League, Sheffield."

The following Associations have since endorsed the above letter:—The North-Eastern Counties' Association, the Midland Counties' Electoral Union, the Scottish National Association.

The above letter, with one from Mr. Wates calling attention to it, was forwarded to Mr. Gladstone, and the following answer was received:—

"10, Downing Street, Whitehall,

"February 1, 1874.

"Sir,—In reply to your letter of this day's date, I am directed by Mr. Gladstone to say that he must, of course, leave you to judge of your own duty, but that Mr. Banks' letter is wholly irrelevant. Mr. Gladstone has never declared his agreement with the language quoted by Mr. Banks from Lord Aberdare's speech nor with the Acts themselves, but with the Bill of 1872; and he considers that the Bill was one which got rid of the great bulk of whatever mischief may attend the Acts.

"He cannot be bound by every declaration of opinion, even of the most trusted colleague, but by the propositions which Her Majesty's Government have made in common.

"I am, Sir,

"Your obedient servant,

"J. A. GODLEY.

"Jos. Wates, Esq."

M R. G L A D S T O N E

AND

THE CONTAGIOUS DISEASES ACTS.

THE advocates of the Repeal of the Contagious Diseases Acts had come to regard the "Contagious Diseases Prevention Bill," introduced by the Administration in 1872, as a thing of the past, which would never again arise to influence their action. But this sense of security was rudely disturbed by the above letters from Mr. Gladstone, in which he pointed to that Bill as embodying his opinion on the question, and as indicating the policy which he was prepared to adopt.

It therefore becomes necessary for repealers again to examine that measure, and clearly to place before the public the reasons why the Government Bill was not acceptable, and the grounds upon which they maintain that those proposals, while professing to remove the objectionable features of the present Acts, really do nothing more than shift the ground and change the method, at the same time that they maintain intact and unchanged the principles and object of the law they were intended to replace.

At the outset of this enquiry it is perhaps necessary to state briefly the grounds of objection to the present law, which have been persistently and unchangeably urged from the beginning by all the Associations formed for the purpose of securing Repeal. The demand for "total, immediate, and unconditional Repeal," indicates that however objectionable the details of the law may be, it is not primarily nor principally against any of those details, but against the whole spirit and object of the Acts that the opposition to their continuance is aimed. In the words of Mr. Gladstone, expressed through Mr. Stansfeld on the 2nd of February, 1871—"If the Acts can be shewn to be immoral in their principles and tendency, no supposed physical advantages consequent on their operation can justify their continuance, and they must be repealed." The demand for Repeal has always been based on the inherent immorality of the self-evident purpose of the law, and the debasing influence of that purpose on the nation among whom it is

carried out. That self-evident purpose is, to provide protection beforehand for evil doers from the apprehended consequences of their intended evil deeds. Such a purpose embodied in law is radically inconsistent with the maintenance of national virtue, which it inevitably tends to discredit and destroy. Its destructive and debasing influence is not dependent upon the form which the law takes, nor upon the method of its operation, save in so far as that method appears more or less likely to secure the protection at which it aims.

Keeping this in mind we are prepared to make a comparison of the Acts of 1866 to 1869 and the Bill of 1872.

The purpose of the two measures is absolutely identical—both aim directly at securing protection for profligate men. The following quotations from the Report of the Royal Commission would apply equally to either of them:—

“The Act of 1866 sought so far to control their (the prostitutes) conduct as to render the practice of prostitution, “if not absolutely innocuous, at least much less dangerous.” “Every man in the protected districts who has commerce with the prostitutes, participates in the benefit of the Acts.” “The protected districts are resorted to by strangers for the purpose of safe indulgence.” There can be no doubt as to the “immoral principles and tendency” of any law capable of being thus characterised, and the Government proposal therefore was to replace one measure, the “continuance” of which cannot be “justified,” by another which, on the same principle, is equally condemned.

The Acts of 1866 to 1869 (in common with every previous system for regulating prostitution) have their three stages of procedure—

- 1st. The selection of prostitutes from among the general public.
- 2nd. The selection of the diseased from among the healthy prostitutes.
- 3rd. The detention of the diseased.

The Bill of 1872 has also these three stages.

- 1st. As to the selection of prostitutes.

The arrangements of the Acts of 1866 to 1869 aim at bringing *every* prostitute, within certain specified districts, under their operation by means of special police, appointed to watch the conduct of women, and through a so-called “voluntary submission” or a magistrate’s order, to secure those whom they suspect of prostitution.

The Bill of 1872 aimed at bringing *as many* prostitutes *as possible*, all over the country, under its operation by means of ordinary police, instructed to watch the conduct of women, and through a conviction for “any offence as a common prostitute” or of any offence at all, “at the trial for which offence it is proved that she is a common prostitute,” to secure those whom they suspected of prostitution. We use the same formula in describing the two measures, in order the more clearly to shew their precise parallelism. Their difference in effect, and at the same time their striking similarity, was exactly described by Mr. Bruce when he introduced the Bill, and compared them under the simile of two nets—the “mesh” of the Bill being, as he stated, “somewhat larger,” through which “many who are now taken will

escape." This, however, would, in his opinion, be more than compensated for by the fact that "this law will operate in places where the Acts of 1866 and 1869 can never apply," and therefore "many more will be taken than is now the case under the existing law."

We must here also institute a comparison between the judicial features of the Acts and the Bill. The former, introduced into English law the startling novelty of convicting on evidence, which, instead of proving the guilt of the accused, proves only that her accuser had "good cause to believe" in her guilt. So that while the question to be decided in Court is the prostitution of the accused, the question tried is the belief of the accuser, and as the existence of "good cause" for that "belief" is quite compatible with the innocence of the accused, the occasional conviction of innocent persons is an inevitable result.

The Bill of 1872 proposed to introduce into English law the equally startling novelty of contingent and informal accusations. By contingent accusations we mean, that in the event of persons being accused of one offence, then they may be also accused of another which need have no relation to the first, and of which they would not be accused in the absence of the first. The Bill provided that lengthened detention (or lengthened imprisonment, as it should be called) might be inflicted where a woman was imprisoned in pursuance—

(1) "Of a conviction for any offence as a common prostitute ; or,"

(2) "Of a conviction for any offence by a court of summary jurisdiction, at the trial for which offence it is proved that she is a common prostitute."

For the present we pass over the first clause, the objections to it lying in the immoral influence of the after-treatment of the women rather than in its judicial features, and we pass on to the second. Here, in the case of any woman apprehended for any offence, the Bill would give to the policeman power to add to the indictment the contingent and informal charge of being a common prostitute, a charge which, if she had not committed the primary offence, he would have no power to bring at all; the case of those committing "any offence as common prostitutes" being dealt with under the preceding clause. Thus, one of two things would happen in the administration of this second clause—either there would be an enquiry into the woman's character while the trial for the primary offence was going on; which enquiry would tend to bias the justices against her, and would, in spite of themselves, influence their judgment on the primary charge; or on her conviction of the primary charge, the police would be asked what they knew of her character, and she would be convicted of prostitution on their simple assertion to that effect. We believe no one with the slightest sense of justice will attempt to uphold the latter. The first method, however, has a certain outward similarity to the form of a fair trial. But this is only so in appearance. For, in the first place, as the charge of prostitution would be informal, the trial must of necessity be informal also. In the second place, the informal charge would preclude a formal acquittal in the event of its not being proved, and would not admit of an appeal in the

event of a wrong conviction. In the third place, there is no definition of prostitution in this Bill or any existing Act, and this would result in the judgment being given (as it is under the Acts of 1866 to 1869) on evidence which might justify a policeman's suspicion, but which would be wholly insufficient as a proof of actual guilt. In the fourth place, this charge is only contingent on the primary charge, and should the latter result in the acquittal, the former would drop; but the acquittal on the primary charge could not carry acquittal on that which is contingent, and the woman would leave the court with a reputation blasted by the informal enquiry into the charge of prostitution, on the result of which enquiry no judgment would be given. All this, too, might be done before a single magistrate, on the unsupported evidence of a single policeman.

We leave our readers to form their own opinions on this system of procedure. For ourselves we can only see in it a new method of securing what the fully initiated advocates of the State regulation of vice uniformly claim as an essential part of their system,—“a practically irresponsible power,” or (what comes to the same thing), a power to convict of prostitution, without such proof as is held to be absolutely necessary to the “doing of justice” under every other indictment. Such a mode of procedure could not fail to result in the conviction of innocent persons, at the same time that it would lower the tone of the whole of our administration of justice.

If prostitution *is* to be regulated, in the name of common honesty let there be a straightforward trial before a woman is branded as a harlot; but let Englishmen never, even for the sake of something better than the interests of “chartered libertines,” suffer the sacred forms of a just trial thus to be reduced to a “mockery, a delusion, and a snare.”

2nd. As to the selection of the diseased from among the healthy. The Acts of 1866 to 1869 provided that every woman selected as aforesaid “be subject to a periodical examination for the purpose of ascertaining whether she is affected with a Contagious Disease,” and the justice’s “order shall be a sufficient warrant for the surgeon to conduct such examination accordingly.” The Bill of 1872 provides that when “such a woman is found at the expiration of the term of her imprisonment to be affected by Contagious Disease;” or “where a woman so liable, is found within seven days before the expiration of the term of her imprisonment to be affected with Contagious Disease,” she is to be further detained. Here we have to do with the term, “is found.” The Bill does not state by whom, but it must be the surgeon of course. Under the Acts the surgeon is to “ascertain,” under the Bill he is to “find” what is the sanitary condition of the woman. By what means? The Bill states that “nothing in this section shall authorise an examination of a common prostitute in any prison further or other than may be made in the case of any other prisoner.” The authority of the prison surgeon “in the case of any other prisoner” is however practically unlimited. It rests on the Prisons’ Act, 28 & 29 Victoria, c. 126. Regulation 9. “Every criminal prisoner shall also as soon as possible be examined by the

surgeon, who shall enter in a book to be kept by the gaoler, a record of the state of health of the prisoner." It must not be forgotten that under the present Acts the surgeon is only authorised to make a "Medical Examination," the nature of which he decides for himself, by the *purpose* at which he aims. In the Prisons' Act the term though a little different (the prisoner is to "be examined by the surgeon") is precisely equivalent to that of the Contagious Diseases Acts, and the surgeon is left to decide for himself what is to be its nature, so that if he deem it necessary to the purpose of "finding" the condition of the woman, there is no limit to his powers. Surgeons uniformly state that there is no method of accomplishing this purpose, but that of inflicting on the woman the instrumental inspection which the opponents of the Contagious Diseases Acts have again and again denounced as an outrage on public decency, as hardening and degrading to the women subjected to it, and as wholly unjustifiable, except at the wish of the woman herself for the relief of her own sufferings. We cannot see that there is any less objection to the perpetration of such an outrage within the walls of a prison, as provided by the Bill of 1872, than there is elsewhere. Nay, does not the comparative secrecy and consequent irresponsibility under which it would be conducted in the former case, open a wide door for the addition of nameless atrocities, for the possible commission of which no law ought to leave a loophole?

3rd. As to the detention of the diseased.

The provisions of the Acts 1866 to 1869, and of the Bill of 1872, under this head, are virtually identical, and every objection raised against the former, applies equally to the latter. This detention of all the diseased women who have passed through the process of selection, is a practical certificate of health to every woman who, after having so passed, is found at large, or who, after detention, is again set at liberty. The woman who had passed through a prison under the Bill of 1872 would come out a certified harlot, having the same status in the market of vice as she would have after passing through the examining room under the present Acts. She would be sought for by libertines desiring to "participate in the benefit" of the regulations; the wages accorded to her infamy would be increased; she would be a "Queen's woman," a "State prepared and State subsidised harlot" precisely as under the present law. But the Bill of 1872 would have one feature peculiarly its own. In the reclamation of criminals, the associations by which they are immediately surrounded on their discharge from prison are of the utmost importance. The Bill of 1872 would attract procurers, brothel keepers, and libertines to the precincts of prisons in search of those coming out of prison, with whom indulgence would be regarded as safe. This would operate not only in dragging back to a life of infamy those who had been prostitutes before, but also in placing in serious jeopardy the virtue of those who had not previously fallen. Surely the originators and advocates of this measure, must have been studying the best method of making it hard to do right and easy to do wrong on the part of those poor creatures, who emerging from prison, perhaps

repentant, but still weak in resolution, ought to be helped by a kindly hand towards the paths of virtue rather than sent forth among those heartless wretches whose sole desire is to make them a prey.

Such then are the principles implied in the Government Bill of 1872. The Bill, it is true, proposes to abolish the "periodical" examination; but it institutes the systematic examination of all female prisoners. It might, though that is not clear, abolish the register of prostitutes now kept by the police; but should it do so, it would only be to institute the even less reliable register of character recorded only on the policeman's memory. Such a policy can only commend itself to those who are bent on the "protection of evildoers from the consequences of their evil deeds." There is not a feature in it the adoption of which would be other than a canker, eating into the virtue and morality of every class of society. So far from its being in any sense better than the present Contagious Diseases Acts, we regard it as a measure more dangerous to morality, because more subtle in its methods and more extended in its area. We regard it as more dangerous to liberty, because it more completely mixes up the administration of justice with the administration of wrong. We regard it as destructive of the reformatory influence of our penal institutions, because it makes those institutions directly pander to the gratification of lust. We regard it as only a step forward towards the complete recognition of prostitution as a necessity, a recognition which ever carries with it a blight upon virtue and a curse from God.

HALIFAX, *7th February*, 1874.

Information respecting the agitation for the Total Repeal of the Contagious Diseases Acts, 1866-69; also Tracts and Leaflets exposing the immorality and injustice of the Acts, can be obtained from the following Societies:—

THE NATIONAL ASSOCIATION FOR THE REPEAL OF THE CONTAGIOUS DISEASES ACTS.

Central Offices—27, Great George-street, Westminster, S.W.

Secretary—FREDERICK CHARLES BANKS.

THE LADIES' NATIONAL ASSOCIATION FOR THE REPEAL OF THE CONTAGIOUS DISEASES ACTS.

Hon. Sec.—MRS. BUTLER, 280, South-hill, Park-road, Liverpool.

THE NORTHERN COUNTIES' LEAGUE FOR THE REPEAL OF THE CONTAGIOUS DISEASES ACTS.

Hon. Sec.—HENRY J. WILSON, 255, Pitsmoor, Sheffield.

THE MIDLAND COUNTIES' ELECTORAL UNION FOR THE REPEAL OF THE CONTAGIOUS DISEASES ACTS.

Chief Office—4, Broad-street Corner, Birmingham.—SAMUEL J. AINGE, *Organizing Sec.*

FRIENDS' ASSOCIATION FOR ABOLISHING THE STATE REGULATION OF VICE.

ITS OBJECT—THE TOTAL, IMMEDIATE, AND UNCONDITIONAL REPEAL OF THE CONTAGIOUS DISEASES ACTS.

Hon. Secs.—J^OSEPH EDMONDSON, Halifax; ARTHUR J. NASH, Birmingham; GEORGE GILLETT, London; BARTON DELL, Bristol.

THE NORTH-EASTERN ASSOCIATION FOR THE REPEAL OF THE CONTAGIOUS DISEASES ACTS.

Secretary—REV. R. E. HOOPPELL, LL.D., South Shields.

THE SCOTTISH NATIONAL ASSOCIATION FOR THE REPEAL OF THE CONTAGIOUS DISEASES ACTS.

Chief Office—5, St. Andrew's-square, Edinbro'.—*Hon. Sec.*—STEPHEN WELLSTOOD.

THE EDINBURGH LADIES' COMMITTEE FOR THE REPEAL OF THE CONTAGIOUS DISEASES ACTS.

Secretaries—MISS WIGHAM, 5, Gray-street; MRS. JOHN MILLAR, 26, York-place; MRS. S. WELLSTOOD, 14, Duncan-street, Newington; MISS WISHART, 14, St. Vincent-street.

THE GLASGOW LADIES' COMMITTEE FOR THE REPEAL OF THE
CONTAGIOUS DISEASES ACTS.

Secretary—Mrs. MACLAREN, 43, Buccleugh-street.

THE DUBLIN BRANCH OF THE NATIONAL ASSOCIATION FOR THE
REPEAL OF THE CONTAGIOUS DISEASES ACTS.

Hon. Sec.—REV. J. T. WESLEY, 18, Grantham-street, Dublin.

THE CORK BRANCH OF THE NATIONAL AND LADIES' NATIONAL
ASSOCIATION FOR THE REPEAL OF THE CONTAGIOUS
DISEASES ACTS.

GENTLEMEN'S COMMITTEE.—*Secretary*—SCOTT ANDERSON, 5, Faulkner's-lane,
Cork.

LADIES' COMMITTEE.—*Secretary*—ELIZABETH ADDEY, 69, Patrick-street, Cork.

THE BELFAST BRANCH OF THE NATIONAL AND LADIES' NATIONAL
ASSOCIATIONS FOR THE REPEAL OF THE CONTAGIOUS
DISEASES ACTS.

GENTLEMEN'S COMMITTEE.—*Secretaries*—REV. CHARLES SEAVER, 16, Botanic
Avenue, Belfast; JOHN COATES, Esq., 12, Abercorn-terrace, Belfast; FOSTER
GREEN, Esq., Derryvolgie, Belfast, REV. J. W. M'KAY, Donegall-square, Belfast;
REV. GEORGE SHAW, Wellington-park, Belfast.

LADIES' COMMITTEE. — *Secretaries* — Mrs. PATTERSON, 96, Donegall-pass,
Belfast; Mrs. ROSS, Wellington-place, Belfast; Miss TOD, 8, Claremont-street,
Belfast.

N.B.—The English, Scotch, and Irish Associations alluded to in this list, are
working together in perfect accord for the Repeal of these Acts; and they have
Committees and Correspondents in upwards of 600 Towns in the United Kingdom.
They earnestly invite further co-operation.