

Contagious diseases and the insufficiency of the measures adopted for their prevention.

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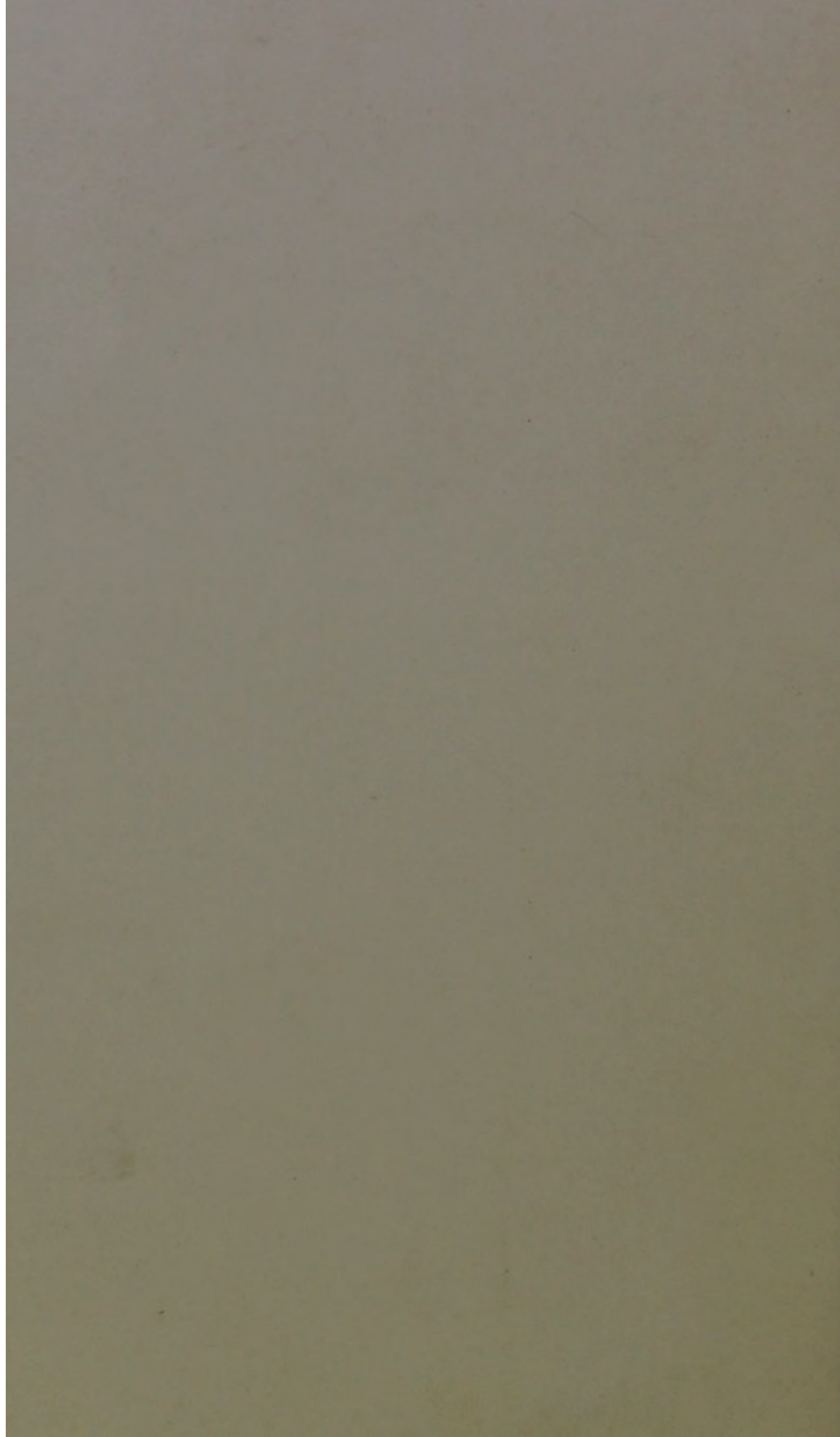
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CONTAGIOUS DISEASES

*And the insufficiency of the Measures
adopted for their Prevention.*

"DAT VENIAM CORVIS, VEXAT CENSURA COLUMBAS."
—JUVENAL.

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CONTAGIOUS DISEASES

LONDON:
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73 & 74, MARYLEBONE LANE, OXFORD ST., W.

CONTAGIOUS DISEASES.

INTRODUCTION.

WHETHER the Contagious Diseases Acts of 1866 and 1869 should be repealed, or remain on the Statute book, is a question on which it is exceedingly difficult for us to make up our minds, however desirous we may be to do so.

The violation of personal freedom, the legalization of sin, and the hitherto unheard of powers which these Acts confer on the police, are objections that force themselves on every one's attention. At the same time, syphilitic diseases are such a scourge to the innocent as well as the guilty, that it seems difficult to find fault with any laws, however stringent, which have been made for their extermination.

Thus the mind halts between two opinions. It can hardly be otherwise. The pleadings used on both sides are so convincing that, if an impartial reader peruses one side only, he thinks it impossible for arguments to be produced that will counterbalance such a weight

of reasoning ; and, when he compares both sides, he is at a loss to come to a conclusion which will satisfy his mind.

Nevertheless, although this uncertainty attaches to the question of repealing the Acts, there is one point on which all are agreed—one common ground on which all opinions meet,—that is the desire to bring the law to bear on the man rather than on the woman, if it were possible, seeing that the former is necessarily aware of the harm he is doing, and can never plead poverty as his excuse. Any law, therefore, which would punish him would meet the wishes of all parties ; and, if the Contagious Diseases Acts are not eventually repealed, it will deprive them of that one-sidedness which is their most repugnant feature.

But how is such a measure to be accomplished, or how are we to make any approximation towards its accomplishment ?

Hitherto it has been thought that no *direct* law could be passed for the punishment of men who communicate contagious diseases. It was argued that such a law would be too alien to the spirit of the times, and that therefore the Legislature would not, and could not, pass it. Nor, it was said, can there be much use in appealing to the common sense and common feeling of the nation : such appeals being of use only when they coincide with public opinion, and public opinion almost always taking part with a young man against a bad woman.

Happily these forebodings have been dispelled in

some degree by the manner in which the Duke of Somerset's proposal to punish offenders was received lately in the House of Lords. It is true, the proposal was rejected by Government; but this was for special reasons, not for reasons which involved a rejection of the principle of the measure.

It may be observed further that, over and above direct legislation, the end in view may be obtained by other means—by the revival of usages which have fallen into desuetude, or by side laws which will have an indirect influence on the offender. To consider these points will be our object in the following pages. Not that we are sanguine enough to imagine that our suggestions, or, indeed, that any suggestions will have much effect. But they may assist a little towards breaking the ice in relation to a subject which has never until now, as far as we know, been discussed in our own or any other country.

With these prefatory remarks, we would suggest, for the mitigation of the acknowledged evil,—

- I.—An Act analogous to the Law of Filiation.
- II.—An improved System of Quarantine.
- III.—An Extension of the Contagious Diseases Act to Soldiers.
- IV.—The Duke of Somerset's proposed Amendment on Clause 124 of the Public Health Act.

CHAPTER I.

AN ACT ANALOGOUS TO THE LAW OF FILIATION.

A great means of checking the spread of contagious disease would be to make the man who communicates it to a woman liable for the cost of her maintenance during the time she is in a union-house or in an asylum.

According to the Law of Filiation, a single woman who is enceinte, and has no other means of maintaining herself and child, may go into the union-house; and, on her pointing out the man who is responsible for her condition, the Guardians can compel him to reimburse them for her and her child's maintenance; and, if he fails to do so, they can send him to prison.

Now, might not this plan, or something analogous, be adopted as a check to the spread of contagious disease?

When a diseased woman is admitted into a union-house or into an asylum, she may be questioned as to the origin of her malady; and, if she can name the person from whom she contracted it, he may be compelled to reimburse the institution for the expense of her cure and maintenance, or suffer imprisonment until the amount be paid.

Objections Considered and Answered.

§ 1. The first objection which will, of course, be made to this proposal is, that it would give women the power of *accusing innocent men*, whether unintentionally, from mistake, or intentionally for the

purpose of extorting money. But those who make this objection should remember that it applies *in a much stronger degree* to the law of filiation; under which it does not appear that false accusations have taken place to any great extent. We say "*in a much stronger degree*," because there is a decided difference between the two cases. Under the law of filiation a charge may be brought against a respectable man (a father of a family, for instance), and he may have no means of disproving it; whereas, under the enactment proposed, no man can be charged with communicating disease to a woman unless he be himself diseased, or has lately been so; in which case he would not be what is commonly called a "respectable man."

§ 2. Another objection is that the measure would be inoperative from the amount of penalty not being sufficient to restrain profligate young men. But this objection exists in theory rather than in practice. It is a mistake to suppose that, because a pecuniary penalty is small in comparison with the offence, it is disregarded by the mass of the population who come within its scope. Those who are rich enough to make light of a small mulct form a trifling minority of the population of a country. The far greater number have no more than sufficient for their necessities, and would find a weekly payment for the maintenance of the patient a serious incumbrance. Those, again, who are in easier circumstances would be affected in another way, even more seriously. Young men of the middle classes have a great dread of appearing before magistrates. They are so dependent on their character for their success in life, that to have their names brought before the public in connection with a disgraceful affair is ruin to them. It cannot, therefore, be doubted that such a law would exercise a repressive influence upon the great mass of the community.

§ 3. A third objection may be urged against this

proposal — namely, as women have little or no knowledge of the men from whom they receive infection, they cannot designate them. “How,” it will be said, “can they give up the names of strangers?” As an argument, this seems at first sight fatal to the proposed measure; yet it is the reverse of conclusive if examined more closely, for it applies only to professional prostitutes in the largest cities. In country villages (where, it may be observed in passing, contagious diseases are quite as common as in towns, and more dangerous, because less under medical control) there will be no difficulty in tracing the offender. Neither does it apply to the Universities, nor to Garrison towns, nor to any towns of ordinary size; because, in all such, profligate men form a class apart, sufficiently well known to the prostitutes and to the civil authorities.

§ 4. But, it will be said, even should a woman know the name of the man who has infected her, she will not betray him. Her reluctance to appear before magistrates, her misplaced feeling of honour, or her compassion for her paramour, will prevent her coming forward as his accuser.

Such an inference might strongly affect the proposed measure if its working depended on the woman becoming the prosecutor. But this will not be necessary. The initiative will be taken by the parochial authorities, or managers of the institution; and all that will be required of the woman will be to give information. Nor is this likely to be refused, after proper exhortation and counsel. Everyone who has had much to do with asylums knows how tractable patients become when they have been a short time domiciled in the wards.

40 Grosvenor

SIR,

On the other side is a copy of a petition which it is proposed to present to Parliament. If you should be willing to add your signature to it, or to a petition on either of the subjects suggested in the pamphlet, would you so state at the bottom of this note, and return it as directed, not troubling yourself to affix a postage stamp.

Your obedient servant,

Edgell Wyath: Edgell

THE HUMBLE PETITION OF THE UNDERSIGNED
RESIDENTS AND INHABITANTS OF LONDON.

That your petitioners have observed with deep interest those clauses of the Public Health Act of last Session which render liable to a penalty any persons who, while suffering from dangerous infectious disorders, wilfully expose themselves in any street, public place or public conveyance, or cause other persons so suffering to be so exposed, or who transmit infectious clothing or let infectious apartments without previous disinfection.

That your petitioners believe it to be of great public importance that these provisions should be enforced.

be effectually accomplished by a short amendment of the before-mentioned Public Health Act, and inserting in such Act a clause making it a misdemeanour for persons to endanger the lives and health of their fellow creatures by wilfully spreading *either contagious or infectious* diseases in the above-mentioned or in *any other* way.

Your petitioners therefore humbly pray your Honourable House that the said Public Health Act may be so amended as to subject to a penalty any person who, suffering from disease, whether infectious or contagious, shall knowingly spread or personally communicate the same.

Rev. E. W. E.,

40, Lower Grosvenor Street,

Grosvenor Square,

LONDON, W.

CHAPTER II.

AN IMPROVED SYSTEM OF QUARANTINE.

There is a general opinion that the worst forms of syphilis are imported from abroad by our sailors, especially those returning from our Eastern dominions. And when the Contagious Diseases Acts were so much discussed in 1865 and 1867, one of the principal arguments employed in their favour was, that being enforced in the larger naval stations they would confine the contagion to those localities, and prevent its advancing further into the country.

But, though this argument is a valid one as far as the common soldiers and sailors are concerned, it does not hold good in respect to officers. The younger officers, on landing, proceed at once to the metropolis where they spread disease without thought; or else they repair to their homes in the country, and thus the parsonage and the manor-house become fresh centres of contagion.

The only effectual way to remedy this evil would be the adoption and strict enforcement of a Quarantine Law, which would subject *sailors of all grades* to a medical examination before they were allowed to land. And to be effectual, this law ought to be made applicable to the mercantile service, as well as to the Royal Navy; and not only, as at present, to the principal naval stations, but to every port along the coast.

It is worthy of remark that one of our Eastern colonies which has scrupulously carried out this arrangement, is said to be of all others the most free from contagious disease.

* See Appendix A.

CHAPTER III.

EXTENSION OF THE ACT XXIX. AND XXX. VICTORIA,
CAP. 35.

There should be a *bonâ fide* examination of our soldiers on their entering our service, instead of the present one, which—at least in the case of officers—is little more than nominal. And the practice of examining the men periodically should also be revived.

The object which Government had in view for instituting periodical examinations under the Contagious Diseases Acts being to ensure the health of the soldiers, one would have thought that a more direct way of accomplishing this object would have been to examine the *soldiers themselves*, rather than the women with whom they cohabited.

Such a practice is adopted (it is said) with great success in the Belgian Service; and twenty or thirty years ago it was also the practice in our own. The soldiers were examined once a month or once a fortnight by their regimental surgeons, and, if found diseased, were sent into hospital.

This was not only a more direct method of arresting the spread of disease in a garrison than the present one of inspecting women, but it was also preferable in other respects; for it was less easily evaded, and it embraced a larger number of individuals in its scope. The reason of its being discontinued was chiefly the demoralizing effect which it was supposed to have on the soldier's mind, by violating his sense of delicacy. But if the periodical examinations of women now adopted do not deteriorate the prostitute's mind (which is the opinion of those who are best

acquainted with the working of the new Act) it is not easy to see how they can deteriorate the mind of a soldier.

There are exceptional regiments, no doubt, and there are exceptional men in all regiments; but as a general rule soldiers are an immoral class. The well-principled ones form a small minority, who (being for the most part religious and thoughtful men) would not object to a regulation which they knew to be for the general good. Nor is there any reason why men of recognized character might not be exempted from the examination, as has always been the case with regard to married men.

Any commanding officer, therefore, who revives the practice, or who prevents its discontinuance where it now exists, will deserve the best thanks of the population among whom he is quartered. The towns which may in future become military stations will have less reason to fear the presence of the regiments coming among them; and, in the old-established garrisons, which are already included in the schedule of the Act, the two systems of examinations, supplementing each other, will render the spread of contagion less probable than ever.

CHAPTER IV.

THE DUKE OF SOMERSET'S AMENDMENT TO
CLAUSE 124 OF THE PUBLIC HEALTH BILL.

The Public Health Act of 1875 consolidates all the previously existing laws which referred, directly or indirectly, to the health of the community.

When this Act passed through committee in the House of Lords, the Duke of Somerset moved an amendment to Clause 124, the effect of which would be to bring within the operation of the Bill "any person who, suffering from a contagious disorder, wilfully communicated such disorder." But the Duke of Richmond said that he could not accept the amendment, because the word *contagious* had been studiously kept out of the Bill; and because it would be difficult to get a conviction under it if it were adopted.

Lord Hampton approved of the amendment, and said that he should "support it if it were pressed to a division; for the subject was one of extreme importance, as it touched the health of the people to a large extent, and related to a question which had excited a strong feeling in the country." And there is little doubt but that, if a division had taken place, the amendment would have found a large number of supporters.

Now, as to the Duke of Richmond's first objection—persons who do not remember the session may wonder why the Government should have studiously avoided

the word "contagious," or, indeed, how they could have avoided it in so long a document as the Public Health Bill. Suffice it to say that the reason was a special one irrespective of the principle of the measure, and that it may cease to exist at no very distant period.

As to the Duke of Richmond's second objection—"that it would be difficult to get a conviction under it if the amendment were adopted"—we may answer that the chief purpose of every law is to *deter* offenders; and therefore it is not necessary for its success that it should be constantly enforced. If only one offender in a thousand be brought to justice and his case made public, the number deterred by the fear of a like fate will be incalculable.

Further, it is worthy of remark how much has been done by societies towards fixing public attention and bringing the law to bear on offenders who would otherwise have gone unpunished. We have proof of this in the Society for the Suppression of Vice, the Vigilance Society, and a number of others. There already exist associations for enforcing the laws for the protection of women, which, notwithstanding their limited means and very limited legal powers, have succeeded in obtaining many convictions.

CONCLUSION.

We have made the above suggestions in order to prove that it would not be so difficult, as is generally supposed, to bring about a more equitable treatment of the sexes.

That nothing of the kind has ever been thought of either here or on the Continent, is certainly extraordinary, considering how much has been done and is being done by philanthropists in England for the protection of females, and how many European Governments have enacted laws for the regulation of prostitution.

But civilization advances with rapid strides ; and the experience of the last fifty years proves that it brings not only social science but also the improvement of morals along with it. Our children, therefore, may live to see the two sexes placed on an equal footing, and the *young* man treated with as little respect as the *bad* woman.*

In conclusion, we must again remind our readers—for it cannot be too often repeated—that the difficulty of enforcing laws is not necessarily a bar to their usefulness. It is not essential that laws should be constantly enforced. If only one offender in a thousand be brought to justice and his offence made public, this example will be sure to deter others.

As the case now stands, men who spread contagious diseases not only escape the law, but also escape the censure of public opinion ; because that delicacy which prevents the open discussion of sexual matters prevents their sin from being known to the public, and especially to the class of persons whose good

* See Appendix B.

opinion is most important to them. Hence, from never being reminded, they are apt to forget how great their sin is ; and hence men are often found to speak of giving infection with a levity which it is awful to hear. But should the measures we have proposed be carried into effect, and prosecutions be reported from time to time in the public papers which are read by all classes, people's eyes would be opened. Young men, being aware that their acquaintances know what is going on in their world, will be anxious to avoid even the suspicion of such a degree of turpitude ; and, with the general improvement of morals which must follow, there will be a corresponding diminution of contagion.

APPENDIX A.

THE colony alluded to is Hong-Kong. This colony has not confined its legislation to indirect enactments. On the 23rd May, 1867, it passed an ordinance (No. 10 of that year), which decreed that, *if any man be proved to have infected* with a contagious disease the inmate of a brothel, he shall be liable to a fine or imprisonment.

We wish we could add that such an attempt at legislation had been a successful one. But from all the information we have been able to collect, we believe that the Act has hitherto been a dead letter. It may be said that if a law cannot be carried out in a small island, having a male population for the most part inured to military discipline and a female population hardly raised above domestic slavery, there is little hope of its being carried out in a country like England, where the population is so much larger, and there is so little control over individual actions. But events have shown that we need not be discouraged.

In the meanwhile, this colony deserves the best thanks of mankind for almost important step made in social science. They have done that which no legislature of the old world had hitherto thought of. They have put the two sexes on an equal footing, and made provision for punishing the offender, as well as the comparatively helpless sufferer.

APPENDIX B.

Perhaps nothing shows the *one-sidedness* of public opinion more than the partial use of these epithets. A "young man" is said to have kept company with a "bad woman." How little does the person who so speaks reflect that the male offender is probably the older, and certainly the most inexcusable of the two.

APPENDIX C.

Whether syphilis will ever be a plea for rendering a marriage null and void, is a question which is hardly suitable for a *brochure* like the present.

Nevertheless, as it is generally admitted, even by Churches which look on Holy Matrimony as a Sacrament, that there *can* be circumstances which render the ceremony void, assuredly the endangering of the life of one of the parties may come under that category.

When we think how many children are registered every week as dying of syphilis, and how much the number so described in the registers must fall short of the reality—when we think how many more are doomed to live out a life of protracted misery—and, lastly, when we think of the broken constitutions and mental anxieties of so many mothers, we cannot but long for a time when this mass of misery will be avoided by some measure of relief.

The instances of women wishing for separation would, of course, be rare. They would be rare amongst women of the higher classes, both on account of their reluctance to incur publicity, and their repugnance to return to the single state, to which, in the higher ranks, so many disadvantages are annexed. They would be rare also amongst the lower classes, at least amongst the peasantry, because in that rank of life the acquaintance of the parties before marriage is generally too intimate to admit of their being surprised at any revelations which can take place afterwards. But to the middle classes, the facility of escaping from the yoke of matrimony under such distressing circumstances would be a great boon, and resorted to often enough to impress libertines with a salutary dread of exposure.



