

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

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And the sufficiency of the
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1874

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



"DAT VENIAM CORVIS, VEXAT CENSURA COLUMBAS."
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LONDON:
PRINTED FOR THE AUTHOR BY HENDERSON, RAIT, & FENTON,
69, MARYLEBONE LANE, OXFORD STREET.

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CONTAGIOUS DISEASES

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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WHETHER the Contagious Diseases Acts of 1866 and 1869 should be repealed, or remain on the Statute book, is a question on which it is exceedingly difficult for us to make up our minds, however desirous we may be to do so.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, notwithstanding this uncertainty which 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,—and that is the desire to bring the man rather than the woman to grief, seeing that the former must necessarily be aware of the harm he is doing, and can never plead poverty as his excuse. Any law, therefore, which would transfer the penalty, or part of the penalty, from the female to the male offender, would meet the wishes of all parties ; and, if the Contagious Diseases Acts are not repealed, it would deprive them of that injustice which is their most repugnant feature.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 ?

It is evident that no *direct* law can be passed for the punishment of men who communicate contagious diseases. Such a law would be too alien to the spirit of the times. The Legislature would not, and could not, pass it. Neither would there be any use in appealing to the common sense and common feeling of the nation. Such appeals are of use only when they coincide with public opinion ; and public opinion always takes the part of young men against bad women.*

* See Appendix B.

That, however, which cannot be accomplished by means of direct legislation, may be brought about by other means—by the enforcement of existing statutes, or by the revival of usages which have fallen into desuetude, or by side laws which will have an indirect influence on the offender. To give some instances of these 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 do a little towards breaking the ice on a subject which has never yet, as far as we know, been discussed in this or any other country.

With these prefatory remarks, we propose, 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.—An Extension of the Sanitary Act of 1866.

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 prostitute liable for the cost of her maintenance during the time she is in the Government 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 Lock Hospitals become general (which sooner or later will be the case) each woman who is admitted into one of these institutions 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 hospital 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 master 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. They 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 the 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—viz., that, seeing women are, as a rule, imperfectly acquainted with 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 her 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 hospitals knows how tractable patients become when they have been a short time domiciled in the wards.

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 too often 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 *men of all ranks* 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, has been especially 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 why they should deteriorate the soldier's. For one can hardly suppose that his feelings are more sensitive than hers.

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 mind 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 still 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.

EXTENSION OF THE SANITARY ACT.

There might be an extension, or, at all events, a more rigorous enforcement, of that part of the Act Victoria xxix. and xxx., cap. 90, by which persons who wilfully endanger the lives of others by spreading infectious maladies, are considered guilty of misdemeanour, and punished accordingly. That portion of the Act is not generally known, and hitherto has been very sparingly used; the chief convictions under it being those of poor persons travelling in public conveyances. But one cannot see why it might not be brought to bear against men who spread contagious diseases of the kind we are treating of. It might apply to them as the wording now stands. At all events, it might be made applicable to them by a slight alteration, such as the addition of the word "contagious" after the word "infectious."

Some persons will object that, however desirable the enforcement of this law may be in theory, it must fail in practice, because there would be so few convictions under it, owing to the difficulty of finding witnesses and prosecutors. But, in answer to this objection, our readers should consider—First, that it is not necessary for the success of a legislative measure that it should be perpetually enforced. If only one offender in a thousand be brought to justice and his offence made public, his example will be sure to deter others. And secondly, that the enforcement of a law depends more on the energy of a few persons than of the public prosecutor. It is wonderful how

much a few individuals, working unanimously and employing efficient agents, can do towards enforcing or modifying the acts of the Legislature. We have proof of this in the Society of which the *Shield* is the organ, and in the affiliated Vigilance Society.

The best illustration of our meaning, however, is afforded by the Society for the Prevention of Cruelty to Animals. Thirty years ago, when a few persons united to form an association for the enforcement of the law against cruelty to animals, every one predicted that it would be a failure. They said that the system was too novel—that no convictions could take place under it—that no prosecutors or witnesses could be found. But by the energy of a few spirited individuals and the employment of able and zealous agents this law is now far from being inoperative. Many kinds of cruelty have disappeared from our streets; and many sports which, it was supposed, the populace would never consent to forego, have been abolished.

Is it not, therefore, possible that a day may arrive when some zealous philanthropists, employing energetic agents, may render the Act Victoria xxix., cap. 90, really effective, in deterring men as well as women from communicating contagious diseases?

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 perpetually enforced. If only one offender in a thousand be brought to justice and his offence made public, his 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 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 the 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 from residents in the colony, we believe that it has hitherto been a dead letter. The fact is discouraging ; for if so salutary 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 large, and there is so little control over individual actions.

Nevertheless, this colony deserves the best thanks of mankind for a most important step made in social science. They have done what no legislature of the Old World seems to have thought of. They have put the two sexes on an equal footing, in theory at least ; 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 admitted as a plea for rendering the marriage contract void, is a question which is hardly suitable for a *brochure* like the present.

Nevertheless, it is generally admitted that the Christian dispensation authorizes us to consider extreme cruelty as a reason for annulling a marriage: and syphilis may surely 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 for women.

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.



