"It is everywhere acknowledged, moreover, that any woman who has been in one of these houses, and subjected to the regulations, is marked by the State with the seal of gnominy, and can never again enter society. She is thereby condemned to perish miserably after a few years.

"Further, this system, by exacting from the special Police a constant contact and dealing with the keepers of these bad houses, and their victims, constitutes for the Police itself a serious cause of demoralization and corruption.

"Finally, it must not be forgotten how grievous and exasperating must be the effect of such an attitude of the State towards unfortunate women in the minds of the whole feminine world

"The regulation of prostitution and the protection of public houses of debauchery must therefore be regarded as demoralizing and unjust in the highest degree; and as a flagrant contradiction of the mission which the present defenders of social order attribute to the State.

"(Signed) A. BEBEL."

To be Obtained at the Office of
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The Programme of the N.U.W.S.S.

No. 2.

EQUAL MORAL STANDARD.

Resolution passed at the Council Meeting of the N.U.W.S.S. in February, 1918:—

"Since it is desirable that the laws dealing with moral offences should be based on the equal moral standard (not only verbally, but in their working out), this Council resolves to work for the abolition of the whole law dealing with solicitation and 'common prostitutes' including the custom of instituting prosecutions under sections which do not explicitly mention solicitation, but which are interpreted by the Courts as if they had special reference to solicitation (e.g., the "insulting words and behaviour" section).

"Inasmuch as these laws are often justified on the assumption that they are conducive to the maintenance of order in the streets, this Council declares that for the purpose of preserving order in the streets it is sufficient that obstruction by any person or molestation of any person or persons by any person should be an offence; and that to prove a charge of molestation police evidence alone should not be enough, but the evidence of the person molested should also be required."

At the present moment when reconstruction is in the air and most moral legislation in the melting pot, any demand for a change of law must be a demand backed by knowledge of the present conditions and of the proposals coming from various quarters for their amendment.

THE PRESENT POSITION.

The present position is difficult and complicated because, while there is very little law expressly concerned with solicitation, there are a number of regulations and customs under which the police and magistrates have power which they use in dealing with it. It must first of all be clearly understood that it is not illegal for men and women to indulge in promiscuous sexual intercourse. Prostitution is not illegal.

Solicitation is not illegal. Solicitation becomes a statutory offence in women only when its practice becomes an annoyance in the streets or in places of public resort, and when the person soliciting is what is called a "common prostitute." When these conditions are fulfilled, the offence is dealt with under various statutes.

ACTS DEALING WITH SOLICITATION BY WOMEN.

English Acts.

(1)—*The Vagrancy Act*, 1824, in force throughout England and Wales. Under this Act a "common prostitute" may be punished as an idle and disorderly person "if wandering in the public streets or public highways, or in any places of public resort, and behaving in a riotous and indecent manner"; the punishment may be either imprisonment, with or without hard labour, or a fine. The conduct to be dealt with by this act must be actually indecent; mere solicitation or even taking hold of a man does not come within the scope of the Act.

(2).—*Metropolitan Police Act*, 1839, in force in London only. Under this Act a "common prostitute" or "night-walker" loitering or being in any thoroughfare or public place for the purpose of prostitution or solicitation to the annoyance of the inhabitants or passengers may be summarily convicted and fined £2. Imprisonment may not be imposed as a punishment under this Act except in default of payment of the fine. The fine is often much less than £2 and the Summary Jurisdiction Act of 1879 regulates the number of days' imprisonment proportionately to the amount of the

fine; for a fine not exceeding 10s. it is 7 days imprisonment; not exceeding 20s. it is 14 days, and so on. The imprisonment is without hard labour.

(3).—*The Towns Police Clauses Act*, 1847, deals on the same lines with the offence of solicitation in the towns or urban districts outside the Metropolitan area. Many individual towns in the rest of the country are governed by special Police Acts of a similar nature.

Acts dealing with Solicitation by Men.

(4).—*The Vagrancy Act*, 1898, in force in England and Wales. This is the one Act dealing with solicitations by men. Under it "every male person who in any public place persistently solicits or importunes for immoral purposes shall be deemed to be a rogue and vagabond." This section however is mainly directed to the soliciting of men by men, and is seldom put in force when women are solicited.

Scotch Acts.

In Scotland the Burgh Police Act, 1892, and the Immoral Traffic Act, 1902, and various Police Acts in Edinburgh, Glasgow, Aberdeen, Dundee, and Greenoch, have the same underlying principles as the English Acts. The above towns already had their Acts before the passing of the Burgh Police Act of 1892 and were therefore exempted from it, though they have since adopted some of its sections. It is of interest to note that in Scotland the word solicitation is not used; the offence is simply "loitering for the purposes of prostitution." It is also interesting to know that in Glasgow at any rate men also are dealt with under the Glasgow Police Act of 1866. I do not further deal with the Scotch Acts. The following dscussion on the working of the law considers only the English law.

The Working of the Law.

It will be seen that the offence of solicitation, in the vast majority of cases is dealt with under Police Acts which only apply to "common prostitutes" and to them only when annoyance is caused. As the person annoyed need not appear in court, the word of the policeman is taken as sufficient to prove that both the requisite conditions are fulfilled, and in the great majority of cases conviction follows on police evidence alone. This evidence is given sometimes by one

policeman and sometimes by two. In one of the London Police Courts, of which I have reports, first one policeman goes into the box and gives his evidence against the woman, and then a second policeman is sworn who does not give evidence directly, but is merely asked whether he agrees with what has been said by the first witness.

I have, however, myself been in court on two occasions when the Constable described how he had joined a man and woman talking together. In each case the question of money was being discussed; in both cases the policeman induces the man to appear against the woman and accuse her of soliciting him, though in one case the man admitted that he had got off his bicycle to accost the woman. In both cases the woman was convicted and the man was apparently regarded as having done good service to the community by giving evidence against her. In a third case a constable in plain clothes himself loitered near a woman till she solicited him, when he immediately arrested her. In this case the man can hardly be supposed to have been annoyed by the success of his plot; the woman was deliberately tempted and entrapped.

It seems then that there are ways of dealing with the shortcomings of the law, though some courts may be more legal in their methods than others. For such courts the complaint may remain true "that the more flagrant act of solicitation is not an offence which could be established before a magistrate under the law as it now stands"; i.e., unless the woman committing the act is a prostitute and the man declares himself annoyed.

The law as it stands then, legally administered, appears to be futile for its only purpose, that of keeping solicitation within bounds. But by the aid of other enactments (one belongs to the time of Edward III.) the enabling powers of which "are not very clear, being somewhat lost in the haze of antiquity," severe sentences have recently been secured. In March, 1917, some young women were sentenced to imprisonment for six weeks in default of finding sureties in £5 for their good behaviour, on the charge simply of "*accosting*" soldiers. One girl of 18, charged with soliciting, was dealt with under the Probation of Offenders' Act, 1908, and having broken the conditions of probation, i.e., having again solicited, went to prison for six months, in default of finding sureties for that time.

There is very special abuse in connection with the administration of Section 54 (13) of the Metropolitan Police Act, 1839. This Section reads:—"Every person who in any thoroughfare or public place shall use any threatening, abusive, or insulting words or behaviour, with intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned . . .may be arrested by any constable who witnesses the offence, and is liable to a fine of 40s. Because this Section applies to 'every person,' although it does not refer to solicitation, (a solicitation is only illegal under special conditions not here satisfied) it is used in a great many cases against women simply for solicitation when it cannot be assumed that the women are 'common prostitutes,' because, it is contended, 'insulting words or behaviour' are used as though they included solicitation. To such shifts are we reduced for lack of a just and equal law.

To sum up the present position. Solicitation is an offence only when committed by certain persons under certain conditions. The same offence is punishable in one person and not in another. The result is an administration of the law which is both unjust and futile.

PROPOSED CHANGES IN THE LAW.

During the war various attempts have been made to strengthen the hands of the Police in dealing with solicitation in the streets. "Attempt after attempt has been made to insert into legislation the thin edge fo the wedge of State Regulation of Vice. In the midst of great stress and a panic concerning venereal disease three Criminal Law Amendment Bills have been defeated because they introduce wrong principles."

These attempts at legislation having failed, recourse was had to the Defence of the Realm Act and a new *Regulation* 40 *D* was issued, such as no House of Commons could have passed. It was described by a leading London Doctor as being "conceived in panic, born in a hurry, futile, stupid, and wrong."

Its expressed purpose and intention was limited, viz., "to protect his Majesty's Forces from the danger of venereal disease." By this regulation any woman suffering from

venereal disease in a communicable form who had sexual intercourse with a soldier or sailor, or who solicited or invited a soldier or sailor, was guilty of a summary offence and liable to imprisonment for six months or to pay a heavy fine. The accused woman was allowed a week's remand in which to be examined by her own doctor, if she preferred, rather than by the prison doctor. Under this regulation any soldier could bring a charge against *any* woman, and cases of malicious charges being made were proved.

The brief history of this regulation is a very instructive one. With all the force of Military and Police behind it, just over 200 charges were brought, and just over 100 convictions were secured. In my own Police Court experience, it was made perfectly clear that, owing to the nature of the disease, proof of guilt and proof of innocence were equally impossible to obtain by medical examination. Again, futility was as evident as injustice. Regulation 40 D has now been withdrawn, but its principle was alive in Clause V. of Lord Sandhurst's *Criminal Law Amendment Bill* brought before the House of Lords last Session. A committee of both Houses was sitting at the close of the last Parliament to consider both that Bill and Earl Beauchamp's "Sexual Offences Bill" with a view to producing a short, useful and contentious Measure. The Committee will probably be reappointed and the Clauses they are being urged in some quarters to recommend are far from being uncontentious. The National Council for combating Venereal Diseases in particular are working for two objects outlined in Clauses III. and V. of Lord Sandhurst's Bill, introduced into the House of Lords, April, 1918.

Clause V. ran:—"A person who is suffering from Venereal Disease in a communicable form shall not have sexual intercourse with any other person, or solicit or invite any other person to have sexual intercourse with him or her." The National Council wishes to substitute for the "solicit or invite" clause, one by which "the communicating of such disease to any person by any other person through culpable negligence," shall be made penal. It will be seen that the first part of Clause V. is 40 D applied to both sexes and to civilian and soldier alike. The experience already gained in watching the administration of 40 D, that neither legal nor medical proof can be obtained, makes me agree with the

reconsidered verdict of the Association for Moral and Social Hygiene, and I cannot do better than quote the Resolution put out by the Society on Clause V of Lord Sandhurst's Bill, 1918, expressing their inability to approve any "*general* measure for penalising the communication of venereal disease." They consider that "in conduct so essentially irresponsible and unhygienic as that involved in promiscuous sexual intercourse, it is impossible to fix responsibility for transmission of venereal disease, and that the attempt to do so by penalising such transmission is inexpedient and misleading." The Association is however of opinion that children and young persons should be specially safe-guarded by strengthening the section of the Children Act of 1908 as to causing injury to health by neglect or ill-treatment so as specifically to cover all cases of venereal infection by negligence or assault. And as regards infection in marriage, each partner could be protected by the statutory recognition of the principle that infectious Venereal Disease should be a sufficient ground for nullity or dissolution of marriage. The Association thus gives practical suggestions for carrying out that part of the Clause specially advocated by the National Council for combating Venereal Diseases, while urging the impossibility of fixing the blame or justly punishing either party where both have indulged in "essentially irresponsible and unhygienic" conduct. Any measure that gives such conduct a false appearance of safety—(and real safety is utterly unsecurable in promiscuous intercourse)—tends to increase instead of to lessen the incidence of venereal disease.

Clause III. of Lord Sandhurst's Bill embodies a proposal which will certainly be brought forward again. It gives power to order detention in a home, up to the age of 19, of a girl who "being a common prostitute" under 18 years of age is loitering or importuning passengers for the purposes of prostitution or solicitation. This is further to extend the powers of a fundamentally unsound law. At present the law "protects" a girl till she is 16; but as "reasonable cause" to believe her to be that age is accepted as defence when she is only 15 or even 14—(I have known a case of 13 when the man was let off, though the charge of assault was not denied)—the protection is only nominal. If a girl is to be treated as a woman till she becomes a common prostitute before she is 18,

it is too late to begin then to treat her as a child and shut her up for an offence which every other adult is allowed to commit with impunity. It is, by special Act of Parliament, to lock the stable door after the steed is stolen and only to add to that most unjust and inefficient type of legislation which calls certain actions crimes when committed by certain people and legitimate (if undesirable) when committed by others.

Protection of Boys and Girls.

The practical way of helping such unfortunate girls is to extend the Children Act to include young persons up to the age of 18 and also to raise the age of consent to 18 (and to remove the plea of reasonable cause to believe the girl or boy to be 18), and to protect in this way young boys as well as young girls. The young boy drifting into habits of promiscuous intercourse is as much a part of the whole social problem as the young girl drifting into prostitution. Each acts on the other and the vicious circle is created by "the dual standard of morality which we allow to exist, to be fostered in Society, and actually to keep its place in our Statute Books."* Society had not realised the disasters caused by immorality in men till its eyes were opened by the revelations of the Royal Commission on Venereal Diseases. Society has always disliked the sight of prostitution in public places. Hence the solicitation laws. It has realised the disaster of prostitution for the individual girl; and hundreds of good people have devoted their lives to trying to rescue her. It has been like trying to dam a stream with a sieve. They have forgotten the boy. It is the man (the fornicator for whom prostitution exists) who begets the fore-doomed children, and infects the large majority of *innocent* sufferers from venereal disease.

In the panic caused by fear and disgust, once more it is the prostitute who is to be dealt with and punished under the name of reform. The vicious circle will remain unbroken. Girls are to be swept into Homes and men will find fresh girls —girls who are not to be protected and educated till 18, but shut up and reformed after our civilisation has allowed them with impunity to become common prostitutes at 15.

*Mr. Cecil Chapman.

With the Children Act protecting boys and girls till they are 18, and its administration transferred from the Police to the Board of Education, through the Local Education authorities, all offenders under 18 could be dealt with as children, and Boarding Schools on educational lines could be instituted to receive these young offenders for whom the protection of the home, the day school and the law have proved insufficient, and whose moral tendencies are making them a source of danger to themselves and to others. It must be quite clear that both boys and girls are to be protected from the vicious adult of either sex; but the boy and girl of vicious tendencies (a very small number) must have the opportunity of "re-education" rather than punishment. And for this purpose an "indeterminate" time at school may be necessary.

Order and decency must be preserved in our streets and public places. Laws of general application restraining all members of the community who may offend and protecting all members of the community equally would command general respect and be comparatively simple in administration. The mere "moving on" of undersirable loiterers of both sexes can effect a great deal. The friendly help which may at the same time be given by a police-woman to foolish and reckless girls and boys combined with authority that they recognise and respect, will prove a far greater reforming influence than any mere arrest and compulsory detention. It would often lead (as it sometimes does now) to the voluntary acceptance of training and discipline. We need just Laws, sympathetic administration, and far more guardianship in our streets and public places of the young people, whose lives are necessarily spent for the most part away from their homes, and in constant temptation. These are not quick methods but they would be far-reaching; and combined with them would be the new and better education, housing, control of drink and care of health. And in the place of panic measures accentuating the old and pernicious standards, would be uplifting and educating ideal of an equal moral standard for all.

E. Bethune Baker.

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