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## The Association for Moral & Social Hygiene.

ORCHARD HOUSE, GREAT SMITH STREET, WESTMINSTER, S.W.1.

### MEMORANDUM

#### On Bill to repeal certain laws relating to prostitutes and to amend the law relating to order in streets and public places.

The object of this Bill is :—

(1) To repeal provisions in the existing law, which refer to solicitation by common prostitutes, and other provisions, which do not explicitly refer to solicitation but are sometimes used for dealing with such conduct.

(2) To substitute a simple provision, which substantially covers the same ground as the existing law, but applies to all persons alike; and

(3) to enact that proceedings shall only be taken on complaint by or on behalf of the party aggrieved.

The main provisions of the law, which directly refer to solicitation are contained in the Metropolitan Police Act, 1839, and the Town Police Clauses Act, 1847, and these are in both cases contained in a section dealing with numerous other kinds of street disorder. The latter Act is applied to nearly all towns and districts outside London; a few towns have special bye-laws of a similar character but somewhat differently worded.

*Section 54 of the Metropolitan Police Act runs as follows :—*

*Penalty.* " Every person shall be liable to a penalty not more than forty shillings, who within the limits of the Metropolitan Police District shall in any thoroughfare or public place commit any of the following offences :— . . .

*Offence.* (11) Every common prostitute or nightwalker loitering or being in any thoroughfare or public place for the purpose of prostitution or solicitation to the annoyance of the inhabitants or passengers. . . .

*Power of Arrest.* and it shall be lawful for any constable belonging to the Metropolitan Police force to take into custody without warrant any person who shall commit any such offence within view of any such constable."

The corresponding section in the *Town Police Clauses Act* is as follows :—

*Penalty.* Section 28. Every person who in any street to the obstruction annoyance or danger of the residents or passengers, commits any of the following offences shall be liable to a penalty not exceeding forty shillings for each offence, or in the discretion of the justice before whom he is convicted may be committed to prison there to remain

*Power of Arrest.* for a period not exceeding fourteen days and any constable . . . shall take into custody without warrant and forthwith convey before a justice any person who within his view commits any such offence :— . . .

*Offence.* Every common prostitute or nightwalker loitering and importuning passengers for the purpose of prostitution. . . .

There is another provision under Section 54 of the *Metropolitan Police Act*, which does not occur in the *Town Police Clauses Act*, but which has

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been adopted in the Bye-laws of a few towns outside London, under which many women and a few men have been arrested and convicted for solicitation, viz. :

(13) 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.

Cases of ordinary solicitation are also occasionally dealt with under a provision of the *Vagrancy Act*, 1824, by which common prostitutes guilty of riotous or indecent behaviour in streets or public places may be sentenced to imprisonment for one month, or for a longer period on second or subsequent convictions.

Clause 1 of the Bill proposes to repeal the whole of the above provisions in the existing law and similar bye-laws.

Clause 2 proposes to substitute the following, which covers the substance of the repealed provisions in the two general Police Acts and corresponding provisions in any special Police Act, viz. :

Every person who in any street or public place wilfully causes annoyance to any person by words or behaviour shall be liable to a penalty not exceeding forty shillings for each offence.

Nothing is enacted to replace the repealed provisions in the *Vagrancy Act* since "behaving in a riotous or indecent manner" is sufficiently met by other provisions of the existing law.

Clause 3 prescribes that offenders can only be arrested on complaint by or on behalf of the party aggrieved.

Clause 4 is inserted to show that complaints may be made by "residents" as well as "passengers" as is the case in the repealed provisions of the two Police Acts.

Clause 5 extends the Bill to England and Wales and gives short title.

### BILL

#### To repeal certain laws relating to prostitutes and to amend the law relating to order in streets and public places.

Be it enacted, etc. :—

1. (1) In Section three of the *Vagrancy Act*, 1824, the following words are hereby repealed, namely, "every common prostitute wandering in the public streets or public highways or in any places of public resort and behaving in a riotous or indecent manner."
- (2) In Section fifty-four of the *Metropolitan Police Act*, 1839, paragraphs (11) and (13) are hereby repealed.\*

\*Paragraphs (11) and (13) are quoted in above Memorandum.

(3) In Section twenty-eight of the *Town Police Clauses Act*, 1847, the following words are hereby repealed, namely, "every common prostitute or night walker loitering and importuning passengers for the purpose of prostitution."

(4) Any Acts or Bye-laws made thereunder so far as they incorporate the above or any similar provisions are hereby repealed.

2. Every person who, in any street or public place, wilfully causes annoyance to any person by words or behaviour, shall be liable to a penalty not exceeding forty shillings for each offence.

3. Any constable or other peace officer may arrest without warrant any person committing an offence against this Act, provided that no person shall be taken into custody for such offence except upon complaint by or on behalf of the party aggrieved.

4. The expression "party aggrieved" in Section 3 of this Bill includes any resident or passenger.

5. This Act shall extend to England and Wales and may be cited as the *Street Act*, 1923.

### REASONS FOR THE BILL

It will be seen that the basis of the existing law on the subject of solicitation is merely the preservation of order, and the prevention of annoyance, in streets and other public places, and no attempt is ostensibly made to punish immorality. The fact however that the law is chiefly aimed against "common prostitutes" encourages the disastrous principle of a double standard of morals.

A serious objection to the present law, and especially to the way in which it is administered is that it puts women officially designated by the law as "common prostitutes" completely under the power of the police. This is neither fair to the women concerned nor to the police. It is fully believed that, in spite of the difficult position in which the police are placed by the existing laws, they mostly carry out their duties with care and discretion. The law now compels them to discriminate between men and women and between one woman and another, subjecting the police authority to bitter criticism by the public if, on the one hand, they make an error in arrest, or if, on the other, they fail to maintain order in the streets.

It would materially assist and protect the police if the law clearly laid down for all persons alike, that evidence of annoyance must be produced. Clause 3 has, therefore, been inserted in this Bill, requiring complaint by,

or on behalf of, the annoyed person, as is now generally required in the case of men. The alternative to the requirement of evidence of the annoyed person in the case of both women and men, would appear to be its requirement in neither case; this seems a worse and less acceptable alternative.

It is believed that the provisions of this Bill offer the best way of securing impartial justice and that order in the streets would not be endangered thereby. At present solicitation, whether by men or women, is carried on quietly, for the most part, and annoyance is rare if police are within call. Amongst other factors the presence in the streets at all hours, of respectable women of every age and class, has, during the past generation, tended to reduce incitements to vice independently of the action or inaction of the police. Ostentatious solicitation, where it exists, can be checked by the general power of the police to "move on."

The merits of this Bill and specially Clause 3 would doubtless receive the fullest discussion, and Parliament could if it thought fit refer the Bill to a special Committee with power to take evidence from magistrates, police authorities and other experts, in order that equal justice might be secured without hampering the police in their necessary function of securing street order.

The existing law is inadequate to present conditions, unequal between the sexes and partial in operation; under its provisions convictions against "common prostitutes" can only be secured by unduly straining the law and by neglect of the safeguards which have been laid down to protect the rights of accused persons in our courts.

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*Full particulars and further explanatory papers concerning the proposed Bill can be obtained on application to the Secretary, A.M. and S.H., Orchard House, Gt. Smith Street, S.W.1.*