

UNCHASTITY: JEALOUSY: MURDER

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Police Magistrate, Juvenile Court Commissioner,
Reformer and Authoress

A PAPER READ AT THE SOCIAL SERVICE
CONGRESS, CALGARY, ALBERTA,
NOV. 24th, 1916

THE NATIONAL COMMITTEE FOR THE SUPPRESSION
OF THE WHITE SLAVE TRAFFIC

Offices :

435 Confederation Life Building
518 Wesley Buildings
Toronto

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FOREWORD.

The National Committee for the Suppression of the White Slave Traffic is asking Parliament to amend the Criminal Code making habitual adultery an offence. The practice of habitual adultery in Canada is becoming alarmingly common, resulting in many cases in murder or attempted murder through jealousy, and the breaking up of numbers of homes. We make a criminal of the Mormon, who, on avowedly conscientious grounds, claims the right to live with more than one woman. All others, native born or foreigners, are at liberty to live in notorious adultery with as many women as they choose, and their conduct is neither criminal nor punishable. The future of Canada as a nation, and the happiness of numberless homes, demands that without delay we should, through our representatives in Parliament, right this great wrong. In most of the American States the Pre-Confederation Code, still in force, makes adultery an offence.

What Mrs. Murphy affirms, on the authority of the Attorney-General of Alberta, regarding that Province is true in all the Provinces in varying degree.

The National Committee, in this application to Parliament, has the support of the following bodies:

- The Social Service Council of Canada.
- The Church of England in Canada.
- The Methodist Church in Canada.
- The Presbyterian Church in Canada.
- The Baptist Church in Canada.
- The Congregational Church in Canada.
- The Dominion Grange and Farmers' Association.
- The Salvation Army.
- The Canadian Purity-Education Association.
- The Evangelical Association of North America.
- The Dominion Woman's Christian Temperance Union.
- The Christian Men's Federation of Canada.
- The National Council of the Y.M.C.A.
- The Dominion Council of the Y.W.C.A.
- The Canadian Council of Agriculture.
- The Canadian Council of Provincial Sunday School Associations.
- The National Council of Women.

UNCHASTITY: JEALOUSY: MURDER

MRS. ARTHUR MURPHY, Edmonton, Alberta.

THE subject upon which I am to address you to-day is the menace to the family from adultery and jealousy.

Adultery, as compared with other forms of unchastity, relates only to a violation of the marriage contract. In speaking of marriage as "a contract," I do so advisedly. Primarily, marriage is a civil contract, and in one form or another is the oldest institution of society.

As a contract, it differs from other contracts in that its incidents are fixed by public law, and because it affects the status of the parties thereto.

But, although the marriage contract takes precedence over all others, strange to relate, so far as our codes are concerned, its breach is attended with no penalty. As a vital, binding treaty, it is little more than "a scrap of paper," and yet its violation invariably turns the happiest home into another and more bitter Belgium. Speaking of this suffering by reason of the treachery of troth, an English writer has declared that after "alone," the word "unfaithful" is the saddest and most awful word in human speech. "One can imagine it," she says, "written innumerable times across the confines of Hell—*Unfaithful!*"

In other days traitors to the troth were punished by death. The code of Moses read as follows: "The man that committeth adultery with another man's wife, even he that committeth adultery with his neighbor's wife, the adulterer or the adulteress shall surely be put to death."

A very remarkable law for the trial of adultery was also instituted by Moses, causing the suspected woman to drink the bitter waters of jealousy, an account of which trial may be read in the fifth chapter of the Book of Numbers.

At the time of the Emperor Augustus, about 17 B.C., the old Julian law concerning adultery was modified, and special penalties consisting of forfeiture of goods and banishment, were imposed. The Justinian law condemned the wife to be whipped and imprisoned for life in a convent, unless released by her husband within two years.

The records of the Courts of Justiciary in Scotland show that capital punishment was frequently inflicted for this offence, and Lord Coke says that in early England it

was punished by a fine and imprisonment. At the present day it is punished in Great Britain only by ecclesiastical censure, and even this censure has fallen into desuetude. But when committed by the wife, it is regarded as a civil injury, and, till the passing of the statute 20 and 21 Vic., c. 85 and 59, formed the ground of an action of damages for what is known as *criminal conversation* by the husband against the paramour. No corresponding action is competent to the wife, either in England or on this continent, and her only remedy consists in obtaining a separation or divorce.

It can readily be deduced from the above data that from the extreme severity of the Mosaic code we, in modern times, have swung to an extreme laxity. As a result of this slackness, crimes which arise out of a violation of the marriage contract are becoming more frequent, and more increasingly a menace to the stability of the family.

In spite of our comparatively sparse population in this young Province, Alberta, since January, 1914, there have occurred no less than 13 murders, or attempted murders, by reason of jealousy and for unfaithfulness. In ten of these cases, the accused were men—the remaining three being women. As each murderer came under the shadow of the scaffold, our communities were stirred to their depths, and largely signed rolls, praying for commutation of the death sentence, were forwarded to the Honourable, the Minister of Justice, at Ottawa. We all felt during these periods of pain and stress, that our Criminal Code should contain punitive clauses against the infraction of the marriage contract, and to serve as a safe-guard against the passion of jealousy which had no other way of venting itself save by means of pistol, poison or pick-axe. But when, in each particular case, the death sentence had been commuted, all of us promptly forgot the distressing omission of the Code, or at best, hoped that some day someone would do something to bring the whole matter to the attention of the proper authorities—someone who had more time, or possibly more temerity, than we ourselves. It is, therefore, eminently fitting that we newly enfranchised women of the Province of Alberta, who have been so deeply exercised over this matter, should make it one of our first and most pressing duties, and should earnestly request the men, our brethren, to join with us in requesting the Federal Government to introduce, at the earliest possible moment, such legislation as they, in their wisdom, may deem to be advisable as a deterrent to the commission of crimes of passion. In the enactment of this legislation, our Government—should they require precedents, may obtain such from the codes of those continental countries where adultery is punishable by imprisonment and frequently accompanied by a fine.

Did time permit, a study of the thirteen murder cases of Alberta, above referred to, would be of value in helping us to arouse public opinion for, after all, Abraham

Lincoln was splendidly right when he said, "Public sentiment is everything. With public sentiment nothing can fail; without it, nothing can succeed. Public sentiment makes a statute possible of execution."

The case to which I would especially refer are (1) that of Mrs. Jennie Hawkes. You will remember this was the case of a husband introducing another woman into the homestead and telling his old wife to "clear out," that he was tired of her. Under the Justinian code, this offence was considered so serious that it was the only one for which a wife could obtain a divorce. But in this case of *Rex vs. Hawkes*, not only was another woman introduced into the household, but the property was sold to her without the wife's consent. And then the wife, after vainly pleading with her husband to protect her, and, with the woman to leave the house, finally was obliged to leave herself. But one day—she told me the story herself—Mrs. Hawkes returned home to get her blankets and some little trinkets she had left behind, only to be ordered away with threats. It was then, under well-nigh unbearable provocation, and in a terrible agony of despair, that the murder madness flared up in the brain of this old work-worn woman, so that, without any quality so definite as mercy, she sent to the final reckoning of all humanity, Rosetta, the wife of Henry Stoley. It has been urged by her friends that Mrs. Stoley was the victim of jealousy, and wholly innocent of the charges preferred against her. This only makes the case the more tragic, for the victim was young and she had a family of little children. Poor ill-fated Rosetta Stoley. May the kind gods who mend all human errors cause it to be well and ever well with you!

But, without entering into the truth or untruth of the allegations against the dead woman, or against the man Hawkes, who shortly afterwards met so shocking a death, there can be little doubt that if, during the two weeks Mrs. Hawkes lived across the road from her home, she had been able to lay complaint against Mrs. Stoley, under some clause of the Criminal Code, she, to-day, would be enjoying her liberty, her home, and her sanity.

And secondly, I would remind you of the case of Ralph W. Bradley, of Peace River, who, in July, 1915, was charged with having deliberately shot and killed the man for whom his wife had deserted him. Bradley was acquitted of the charge of murder, the plea of self-defence having been urged, but largely because of the nebulous ordinance known as "the unwritten law." Just why the law should remain unwritten, no one has come forward to explain. It is in the hope that some awesome angel of "the churches" may say "Write!" unto the law-makers of this Dominion, that I make bold to speak with you concerning this matter to-day.

The shooting of Frank Whiteside, M.L.A. for Alberta, only two months ago, by

Thomas E. Hembolt, an erstwhile friend, because of the unfaithfulness of Mrs. Hembolt, is too painful and too recent for reference, other than as a further demonstration of the vitally urgent need of remedial laws.

In all parts of the Dominion similar breaches of the marriage contract have taken place, with equally disastrous consequences.

But while we have been speaking of marriage solely as a civil contract, we are not unmindful of the fact that its spiritual side is of equal, if not greater, importance. The man who is unfaithful to the marriage contract, is not only guilty of a crime against himself, his wife and his children, but against society at large and against God. The same applies equally to women.

Moreover, adultery is the highest sort of theft. The adulterer steals from his neighbor that which is more than goods and estate; he steals away his wife who is "flesh of his flesh." To steal an amount of \$10,000 sends a man to prison; to steal happiness and honor, only gives a right to sue for damages, as though "the jingling of a guinea healed the hurt that honor feels."

No place is so well worth fighting for as the home, and one who has missed happiness at home has missed success in life. Because of our climatic discipline, the word "home" means more to us northerners than any other people. It stands for warmth, shelter, color, love. We speak of the home as "a nest," and of all the similes this seems the one most appropriate. We cannot understand the indifference of southern people to their home, and so one of our Saxon poets has sung:

"Oh, tell her, swallow, thou that knowest each,
That bright and fierce and fickle is the South,
And dark and true and tender is the North!
Oh, tell her, swallow, that thy brood is flown,
Say that I do but wanton in the South;
But, in the North, long since my nest is made!"

Aye! the nest is the ultimate work of lovers; the finality of all their ambitions. If the home be dishonored, it becomes a mere hostelry, or even a place of punishment.

The foundation and maintenance of happy homes should be the main object of statecraft and of law, and is bound to become increasingly so as civilization advances. Nothing can be more essential for the social order than that the relationship of marriage, upon which all subsequent relations are based, and upon which the stability of the home rests, should be jealously guarded against any and every form of attack.

The greatness of Canadians, as a people, will depend upon the strength and purity of their homes, and if the marriage relation may be violated with impunity, the

virus of death is surely and certainly at work. Rome rose by the sanctity of her family life, and fell when it was undermined, as any fabric, however stately, will fall when the foundation is removed. We should be aroused from indifference by her experience, for like cause produces like effect.

Surely at this time of world stress, when all that we prize most seems tottering to the fall, it behooves us to look well to the springs of our national life, and to take to heart, as never before, that oft-repeated, but oft-neglected verse that "Righteousness exalteth a nation, but sin is a reproach to any people."

TRANSCRIBER NOTES

Misspelled words and printer errors have been corrected. Where multiple spellings occur, majority use has been employed.

Punctuation has been maintained except where obvious printer errors occur.

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[The end of *Unchastity: Jealousy: Murder* by Emily F. (Mrs. Arthur) Murphy (psd. Janey Canuck)]