

DEAR SIR :—

I enclose herewith, a copy of a proposed legislative enactment, and while it may not meet with your approval, I have confidence to believe it will receive your candid consideration. It is fair to myself to state that I do not assume to have devised the only feasible remedy for our acknowledged social disorders, nor do I urge the adoption of this proposition with that end in view ; the purport of my insistence is that some legislative action should be taken in reference to its subject matter, either by the adoption of this, or of some other equally comprehensive measure, and in furtherance of that purpose, my intention is to submit this proposition to the consideration of every State Legislature within the Union, and I do so in the belief that should it become a law, it will prove a salutary specific for the class of crimes it undertakes to deal with, and for that reason alone, I do not hesitate to invoke the hearty co-operation of all law-observing citizens in its behalf.

The chief functions of a social organism are, not only to protect the lives, liberties, and property of its members, but to mould public sentiment in favor of social order and legalized authority through strict enforcement of its formulated laws ; nor is such Government properly constituted, nor can it exist in security, except its acts are in conformity with known law.

That the State then, has an undoubted right to repel lawless invasions from without, or quell resistance to its authority from within its autonomy, will not be controverted by any properly informed person, and in this latter aspect of its organic functions, it is equally clear that its powers of supervision are not limited to overt acts of malefeasance ; since the State by the very instrument of its creation, is bound to take cognizance of all phases of lawless condition within the purview of its jurisdiction, hence lawless defiance strikes at the very roots of social order, and its unchecked outbreaks are certain to become aggravated and intensified evils, that sooner or later, culminate in usurpation of public prerogatives by irresponsible private forces, and the prostitution of legal methods to malevolent ends. When such conditions are reached in organized society, a distrust in the potency of Government is sure to be awakened, as well as the moral sense of mankind offended ; therefore, it becomes no trite aphorism to affirm that the safety of the state rests on the virtue and morality of its citizens ; or that respect for authority and obedience to law, is the highest expression of social order.

Criminal assaults on the chastity of women, and the summary and lawless execution of an alleged criminal class, are execrable crimes, that have put a fearful stigma upon the State and Society ; these menacing evils are full of danger to all classes, and are without doubt, the foulest blots on our civilization, hence, the barbarisms of physical brutality ought to be extirpated at all hazards and at any cost. The time has come for American patriotism to assert itself. Let us strip these issues of every element of sectional bias, partisan strife, or race prejudice, and unite in one supreme effort for the suppression and extermination of these great wrongs.

There is a wide-spread distrust of our ability to deal wisely with these issues, and we need hardly be advised that confidence in our integrity cannot be restored by inaction, nor can responsibility be evaded by silence. It seems to me that many sound reasons of public policy, if not of moral self-respect should constrain us to immediate action and our imperative duty, as I see it, is to institute wise, impartial and inexorable methods of justice, for the protection of personal chastity, and the promotion of community morality.

I am fully cognizant that these existing evils, however pregnant they may be with social danger, are nevertheless, hedged about with great difficulties, and which, for any abatement, will call into service all the resources of whatever sound wisdom or ingenuous statesmanship we possess, but notwithstanding, it is equally true that we cannot afford to go on forever pandering to vice, or being dominated by law-breakers ; the one, constantly puts in jeopardy the welfare of the State, the other, needlessly imperils the social purity of its citizens ; besides we ought to know, that through a continuance of these disorders, a cataclysm of horrors awaits us, for not only is class discrimination in crime fundamentally unjust, but in the end, it is bound to breed bitter strife, and lead to indiscriminate retaliation ; hence, if for no other reason than to maintain an equitable poise in its judicial treatment of the criminal class, it becomes the organic duty of the State to thoroughly safeguard the rights and immunities of every citizen.

The problem before us then, as I see it, is narrowed down to a choice of two courses. One, is to permit Society to be engulfed in moral perdition through passive indifference ; the other, is to attempt its purification and protection by logical means and legitimate methods. In my judgment, conditions are ripe for instituting processes for social purity. A widespread moral upheaval, we may depend on it, will avert impending disasters, and a moral revolution can be brought about through any of these three inter-related methods ; which are personal regeneration, the social evolution of classes, or the restraint of immorality by stringent legal enactment. It will be admitted of course, that only the first two methods are forces of permanent value, but in conjunction with the last, this movement of mine as directed at the moral redemption of a vicious class, becomes in its fundamental aspect and logical sequence, a social lift of transcendent importance.

Observe, if you will, that this proposition embraces essential deterrent features as well as punitive functions, and therefore aims to realize a two fold object in dealing with these particular offences; moreover, there is good ground for concluding that in any practical test of this measure, its proposed penalties, which are not the least of its commendable points, will exert a positive restraining influence upon the less vicious class; in fact, I believe a rigorous enforcement of any legal measure of this kind will speedily instill a wholesome respect for law, and develop in all classes, observing obedience thereto. I am equally confident that in the presence of such an act, crimes against the chastity of women will largely cease, and as the judiciary can be fully trusted, when dealing with actual crime, to conserve the ends of justice, a legislative statute of this character, ought to remove every inducement to commit acts of overt lawlessness against law offenders. Such a realization would mark a vast stride in the direction of stable Government, and show a tremendous cleavage between orderly methods and anarchic tendencies.

In actual operation, the severity of this proposition may work occasional injustice to innocent persons; that of course must be a regrettable miscarriage of justice, but still that remote possibility should not prevent a resort to heroic methods in dealing with the outlawries of crime; on the other hand, the lawless and barbarous methods of ex-parte criminal procedure, now in vogue, are never to be approved even as crime deterrents, for if current reports are to be trusted, felonious assaults on female chastity multiply in an inverse ratio to the severities inflicted upon lustful offenders; however, here as elsewhere, crime begets crime, and of logical necessity, the atrocities of lynching are as execrable in enormity as rape itself; besides, the evil which it entails by breeding lawless propensities, threatens to inundate every nook and corner of our social life.

I am profoundly interested in the social and material raising of our submerged classes of all degrees and races, still for all that, my chief concern centres in the true and upright development of the freedmen. For twenty-five years I have been actively interested in Southern Negro education, and believe I understand the social characteristics of that people thoroughly, but I have not the least disposition to condone or extenuate their faults and follies; I am painfully aware as others must be when brought into observing contact with them, that they set no value on chastity, and are controlled wholly by impulsive desire. I know they have but slight knowledge of moral rectitude, and we all must deplore the fact, that during these years of freedom, no instituted agency has efficiently trained them either by precept or example, in the ethics of true morality, and for the lack of discipline of their moral faculties and physical passions, all classes of them, are wanting in robust integrity and moral sobriety; hence in the face of such conditions, no one has a right to question that some Negroes do so far abandon themselves to unbridled sexual laxity as to commit criminal assaults on the chastity of women. But candor compels me to say that neither North nor South has done its full measure of duty by a people entrusted to the care and guidance of a great nation. We gave them physical freedom and mental follies, but scorned to teach them civil duties, or train them in social obligations.

Small wonder then that barbarisms reappear in unexpected places, or that physical regeneration and spiritual transformation are the greatest needs in Negro education, for without these vivifying acquirements, their knowledge of letters is a snare and delusion. Our penitentiaries are crowded with Negro convicts who can read and write.

I am fully aware that in assuming the initiative in this matter, I occupy no enviable position, hence I have a right to say, that I am not actuated by either race or sectional sentiment, nor am I advised to this step by the suggestions of others, but on account of the appalling crimes that darken our history, I deem it a public duty to offer such suggestions in the way of practical legislation as I conceive will most effectively rid us of current evil besetments.

Moreover, this proposition is only an emphasized public expression of my well-known views on the subject of rape, and lynching, and indicates what in my judgment, ought to be done for the prevention and punishment of such crimes.

Though I am a Southern citizen and not unknown in any State of that section, it may not be amiss for me to say that I am a colored man, a native of Ohio, and that for four years during the late war I was in the Federal Army, and lost my right arm in an engagement at Wilmington, N. C., in the closing days of the Rebellion.

I commit this matter to your best judgment, and with sentiments of fraternal patriotism, subscribe myself,

Very truly yours,

WILLIAM HANNIBAL THOMAS.

To Judge Tongue

this is my contribution
toward a collection of our
sectional disorders.

W. H. Thomas

476. Havenor et al.

Boston mass.

CHAUTAUQUA COUNTY NY HISTORICAL SOCIETY 2013

An Act: Entitled an Act to prevent and punish Criminal Assaults on Female Chastity, and other Felonious Acts.

Whereas, the character of our civilization is impeached, and the stability of our institutions imperilled by crimes of heinous enormity, and of frequent occurrence, upon the person and chastity of our female population, and whereas, by the commission of these crimes, public sentiment is aroused and animosity engendered, and lawless violence inflicted upon alleged criminals, and whereas, in consequence thereof, the competence of our judicial system to deal with these several disorders is called in question, and our social fabric brought to the verge of disrepute, therefore, to adequately punish this class of criminals, to deter others from committing like crimes, and to remove all incitement to lawlessness consequent thereon, or justified excuse therefor, the following act is hereby enacted by the Senate and House of Representatives in Legislature assembled.

SECTION 1. It is enacted, that hereafter, when any male person fifteen years of age, and upwards, shall attempt to commit a criminal assault on a female person of any age or condition, with intent to violate her chastity, or undertakes to have carnal knowledge of her under duress, and against her will, or is charged therewith, that such offending person may be arrested, either by warrant, or on information, and when so apprehended, shall undergo, before a court of competent jurisdiction, an impartial examination; should the evidence adduced thereat, indicate a reasonable probability of guilt, then the person, so accused, shall be held in further custody for speedy trial by due process of law, and should conviction follow, and he be adjudged guilty of felonious assault on female chastity, the penalty thereof shall be his semi-castration, in the manner and by the means hereinafter described. It is moreover provided, that any person who is convicted and punished for the said crime of felonious assault on female chastity, shall forever be deprived of all the rights of citizenship, but nevertheless, every person convicted of, and punished for the aforesaid crime, shall have the right to enter into bonds for future good behavior, and upon tendering a reasonable amount, with two or more approved sureties, shall be discharged from further custody, or such persons may be released on their personal recognizance, in the discretion of the court.

SEC. 2. It is further enacted, that on and after the passage of this act, when any male person fifteen years of age and upwards, shall commit a criminal assault on a female person, with intent to violate her chastity, and has carnal knowledge of her by force and against her will, and is arrested therefor, and convicted thereof, by due process of law, he shall undergo as the penalty of such crime, full castration; and furthermore, be held in custody and to service for life, and be employed in such labor as will give the State a reasonable compensation. It is provided, however, that one-half of the net earnings of such penal service, shall be added to the Public School fund of the County wherein the aforesaid crime was committed, and the residue thereof, applied, when necessary, to the support of the female whose person was deflorated; but otherwise, it shall go toward the maintenance of the public highways of the before-mentioned County.

SEC. 3. It is further enacted in conformity to the foregoing sections of this act, and that full force and effect shall be given to the obvious intent and purpose thereof, that the Governor of the State is hereby authorized and directed, to appoint in and for each and every judicial circuit within the State three reputable surgeons, resident therein, and who by this act, and for the purpose herein expressed, are constituted and styled Executive Surgical Bailiffs, and are assigned to the jurisdiction of the circuit court wherein they have domicile, and by which, they are to be held to a faithful performance of such duties as are herein specified, and therefor the said Executive Surgical Bailiffs, are hereby vested with authority, and in every respect, fully empowered to castrate in part, or altogether as directed in the two preceeding sections hereof, each and every person, duly convicted within the limits of their judicial circuit, of felonious assault on female chastity, or, of having had carnal knowledge of females in the manner set forth in this act; but nevertheless, the said Executive Surgical Bailiffs are hereby forbidden, and otherwise fully inhibited from exercising their functions of office at any time, or in any place, or upon any person, other than under specific instruction from the aforesaid circuit court, and pursuant to a decree of record made expressly for that purpose.

SEC. 4. And it is still further enacted, that on and after the passage of this act, it shall be unlawful for any person or persons to assemble or congregate, for the purpose of conspiring, planning and concocting, or by any other means whatsoever, to agree to commit of themselves, or to incite others to commit, or to undertake to commit, without warrant of law, or in any manner connive at lawless violence, by shooting, hanging, burning, or otherwise killing, or by maiming, mangling or torturing any person or persons charged with the crime of rape, or of any other criminal offence, either before arrest, or while in custody, or after the acquittal or conviction of such person or persons, and every violation of this act, shall constitute a felonious crime against the peace and dignity of the State, and each and every person so transgressing, shall, when duly convicted thereof, undergo imprisonment in the penitentiary at hard labor for a term of not less than five years, or more than ten years, and in addition thereto, shall be deprived of all rights of citizenship. It is not however, within the meaning of this act to prohibit, nor shall it be construed as prohibiting any Father, Husband, Son, or Brother of any female who is being criminally assaulted, or having her person violated as herein before described, from summarily executing at the time of such act, and at the place of such crime, any male person, caught committing a rape or attempting to ravish such next of female kin, nor shall this act deter or prevent law observing citizens from arresting or attempting to arrest with, or without warrant of law, any, and all persons found in their vicinity, charged with the commission of the herein enumerated crimes, nor shall it prevent such citizens from using such means, or employing such force as may be necessary to affect the arrest, and detention of such criminal offenders, but otherwise, this act remains in full force and effect.

SEC. 5. This act shall take effect immediately on its passage, and all acts, and parts of acts, contrary thereto, are hereby repealed.

This Bill is drawn and presented by WILLIAM HANNIBAL THOMAS.