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ABATEMENT OF NUISANCES

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can afford to develop water, and as to them the cost is almost prohibitive. This will retard the development of the state to a large extent.

The power of regulating rates, controlling the use, and compelling adequate service of water to the public, is now vested by the state constitution in the state board of railroad commissioners (State Constitution, Art. XII, Sec. 23).

Besides the expense and cost of appropriating the water, there is an annual charge of ten cents for every miner's inch of water for irrigation; and \$2.50 for each theoretical horse-power up to 100 horse-power, and above that an extra charge, if appropriation is for power purposes. This

puts a continuing charge, tax and burden upon every appropriator of water, and is equivalent to general taxation in as much as it imposes a special charge upon a special industry that will have to be repaid by the public where it is public use, and borne by the industry itself where it is a private use. The consumer ultimately bears all these expenses.

The act does not give the commission power to initiate in any manner the conservation and preservation of water, but imposes litigation and a burden upon users of water and the public.

G. R. FREEMAN.

ABATEMENT OF NUISANCES.

Act submitted to electors by referendum.

Declares nuisance any building or place where acts of lewdness, assignation or prostitution occur, and general reputation admissible to prove existence of nuisance; prescribes procedure for abatement thereof; requires removal and sale of fixtures and movable property used in aid thereof, closing premises to any use for one year unless court releases same upon bond of owner; prescribes fees therefor, making same and all costs payable from proceeds of such sale, requiring sale of premises to satisfy any deficiency; makes fines lien upon interest in premises.

WHEREAS, the legislature of the State of California, in regular session in March, 1913, passed, and the governor of the State of California, on the 7th day of April, 1913, approved a certain law and act, which law and act, together with its title, is in the words and figures following, to wit:

An act declaring all buildings and places nuisances wherein or upon which acts of lewdness, assignation or prostitution are held or occur or which are used for such purposes, and providing for the abatement and prevention of such nuisances by injunction and otherwise.

The people of the State of California do enact as follows:

Section 1. The term "person" as used in this act shall be deemed and held to mean and include individuals, corporations, associations, partnerships, trustees, lessees, agents and assignees. The term "building" as used in this act shall be deemed and held to mean and include so much of any building or structure of any kind as is or may be entered through the same outside entrance.

Sec. 2. Every building or place used for the purpose of lewdness, assignation or prostitution and every building or place wherein or upon which acts of lewdness, assignation or prostitution are held or occur, is a nuisance which shall be enjoined, abated and prevented as hereinafter provided, whether the same be a public or private nuisance.

Sec. 3. Whenever there is reason to believe that such nuisance is kept, maintained or exists in any county or city and county, the district attorney of said county or city and county, in the name of the people of the State of California, must, or any citizen of the state resident within said county or city and county, in his own name may, maintain an action in equity to abate and prevent such nuisance and to perpetually enjoin the person or persons conducting or maintaining the same, and the owner, lessee or agent of the building, or place, in or upon which such nuisance exists, from directly or indirectly maintaining or permitting such nuisance.

Sec. 4. The complaint in such action must be verified unless filed by the district attorney. Whenever the existence of such nuisance is shown in such action to the satisfaction of the court or judge thereof, either by verified complaint or affidavit, the court or judge shall allow a temporary writ of injunction to abate and pre-

vent the continuance or recurrence of such nuisance.

Sec. 5. The action when brought shall have precedence over all other actions, excepting criminal proceedings, election contests and hearings on injunctions, and in such action evidence of the general reputation of the place shall be admissible for the purpose of proving the existence of said nuisance. If the complaint is filed by a citizen, it shall not be dismissed by the plaintiff or for want of prosecution except upon a sworn statement made by the complainant and his attorney, setting forth the reasons why the action should be dismissed, and the dismissal ordered by the court. In case of failure to prosecute any such action with reasonable diligence, or at the request of the plaintiff the court, in its discretion, may substitute any such citizen consenting thereto for such plaintiff. If the action is brought by a citizen and the court finds there was no reasonable ground or cause for said action, the costs shall be taxed against such citizen.

Sec. 6. Any violation or disobedience of either any injunction or order expressly provided for by this act shall be punished as a contempt of court by a fine of not less than two hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail for not less than one month nor more than six months, or by both such fine and imprisonment.

Sec. 7. If the existence of the nuisance be established in an action as provided herein, an order of abatement shall be entered as a part of the judgment in the case, which order shall direct the removal from the building or place of all fixtures, musical instruments and movable property used in conducting, maintaining, aiding or abetting the nuisance, and shall direct the sale thereof in the manner provided for the sale of chattels under execution, and the effectual closing of the building or place against its use for any purpose, and so keeping it closed for a period of one year, unless sooner released, as hereinafter provided. While such order remains in effect as to closing, such building or place shall be and remain in the custody of the court. For removing and selling the movable property, the officer shall be entitled to charge and receive the same fees as he would for levying upon and selling like property on execution, and for closing the premises and keeping them closed, a reasonable sum shall be allowed by the court.

Sec. 8. The proceeds of the sale of the property, as provided in the preceding section, shall be applied as follows:

- 1st. To the fees and costs of such removal and sale;
- 2nd. To the allowances and costs of so closing and keeping closed such building or place;

3rd. To the payment of plaintiff's costs in such action;

4th. The balance, if any, shall be paid to the owner of the property so sold.

The proceeds of such sale do not fully discharge all such costs, fees and allowances, the said building and place shall then also be sold under execution issued upon the order of the court or judge and the proceeds of such sale applied in like manner.

Sec. 9. If the owner of the building or place has not been guilty of any contempt of court in the proceedings, and appears and pays all costs, fees and allowances which are a lien on the building or place and files a bond in the full value of the property, to be ascertained by the court, with sureties, to be approved by the court or judge, conditioned that he will immediately abate any such nuisance that may exist at such building or place and prevent the same from being established or kept thereat within a period of one year thereafter, the court, or judge thereof, may, if satisfied of his good faith, order the premises closed under the order of abatement, to be delivered to said owner, and said order of abatement canceled so far as the same may relate to said property. The release of the property under the provisions of this section shall not release it from any judgment, lien, penalty or liability to which it may be subject by law.

Sec. 10. Whenever the owner of a building or place upon which the act or acts constituting the contempt shall have been committed, or of any interest therein has been guilty of a contempt of court and fined therefor in any proceedings under this act, such fine shall be a lien upon such building and place to the extent of the interest of such person therein enforceable and collectible by execution issued by the order of the court.

Sec. 11. All acts and parts of acts in conflict with the provisions of this act are hereby repealed: provided, that nothing herein shall be construed as repealing any law for the suppression of lewdness, assignation or prostitution.

NO WHEREAS, said regular session of the said legislature finally adjourned May 12, 1913, and ninety days having since said final adjournment;

Now, therefore, sufficient qualified electors of the State of California have presented to the secretary of state their petitions asking that said law and act hereinbefore set forth, so passed by the legislature and approved by the governor, as hereinbefore stated, be submitted to the electors of the State of California for their approval or rejection.

ARGUMENT IN FAVOR OF ACT FOR ABATEMENT OF NUISANCES.

The Redlight Abatement Act makes investments in exploitation of prostitution insecure. Under this act, any citizen may proceed against a house of prostitution as a nuisance. If the nuisance be proved, the house must be closed for one year unless the owner furnishes a bond that the house shall be used only for lawful purposes.

The act is not an experiment. Similar laws are in force in Oregon, Washington, Iowa, Nebraska, Utah, South Dakota, Wisconsin, Minnesota and Kansas. Congress recently enacted, and President Wilson signed, a similar law for the District of Columbia.

The commission appointed by the Massachusetts legislature to investigate this problem says: "The laws for the suppression of 'places resorted to for the purpose of prostitution,' should provide for the penalizing of the property so used." The committee then recommends the Iowa plan of abatement. The New York vice committee says that "the abatement law in force in Iowa would be equally effective in New York."

Large amounts are invested in exploiting prostitution. The profits are enormous.

The Empire House at San Francisco cost some \$8,000.00. The seventy cribs rented at \$5.00 a night each—\$350.00 a night, \$127,750.00 a year. (See transactions of the Commonwealth Club of California, Vol. VI, No. 1, page 48.) A San Francisco trust company has been shown to have invested trust funds in a five-story assignation house. (Report published by San Francisco supervisors, on Causes of Municipal Corruption, 1910, pp. 18-19.) At the trial of Mayor Schmitz, testimony was given that one of these San Francisco houses represented an investment of \$400,000.00. (Transcript, *People vs. Schmitz*, p. 557.)

No blackmail or extortion has been attempted in other states under this act. "The talk about blackmail is without merit," writes Attorney General Cosson of Iowa, "and is circulated by believers in segregated districts." Attorney General Martin of Nebraska writes: "I have never heard of a case where this law was used for the purpose of blackmail." District Attorney Evans of Portland, Oregon, states, "Within my knowledge the Oregon law has not been used for the purpose of persecuting innocent property owners nor for blackmail."

The scattering of the evil throughout the residence district would be impossible under this act, because any citizen is given the legal machinery to drive prostitution out. Such abatement laws in other states have not resulted in "scattering." They have, however, resulted in wiping out the unclean profits of those who prey upon fallen women, thereby reducing prostitution to its minimum.

The owner who rents property for legitimate purposes has nothing to fear from this law. It simply requires that owners shall know as much about the use of their property as their neighbors know. The owner who rents property for purposes of prostitution has much to fear.

To vote in favor of the Abatement Act mark your ballot "Yea." EDWIN E. GRANT.

State Senator Nineteenth District.

ARGUMENT AGAINST ACT FOR ABATEMENT OF NUISANCES.

The referendum against the so-called Red Light Abatement Law was inaugurated by property owners of this state. It is, therefore, the purpose of the writer to treat the subject from the viewpoint of the property owner.

Lack of space precludes a specific analysis of the various sections of the act; but a general statement of the drastic provisions of the same will enable the writer to point out how far the authors of the bill have wandered from their purpose.

Sections one and two of the act should be read together. Their provisions affect the owner of any building which may be entered through the same outside entrance, and in which building any act of lewdness, assignation or prostitution is held to occur, and in that event, such building shall be abated. It is easy to conceive how the owner of a flat building, rooming house, apartment house or hotel, or even an office building, may become the innocent victim of these sections, and unless the owners thereof establish a censor of morals in their buildings, they will soon become the innocent victims of enthusiastic reformers. But one act of prostitution, assignation or lewdness in any building is sufficient to cause the building to be abated.

The legislature undoubtedly intended that the law should be directed against houses of prostitution, and if the act becomes effective, naturally the houses of prostitution will close without court proceedings. The obvious result will be that the women who ply that business will seek other

places for their abode. It will, therefore, become impossible for the owner of property to determine when renting his property, the character of those desiring to become his tenants, and no matter how straight-laced the owner of residence property may be, he will sooner or later become the landlord of an unfortunate woman. It is well to bear in mind that but one act of prostitution, assignation or lewdness in any building with a common entrance is sufficient to have the building abated or enjoined.

Sections 7 to 10 of the act are the property-destroying clauses thereof. Substantially they provide that if the existence of a nuisance be established, a judgment of abatement shall be entered as a part of the judgment in the case. Thereupon all the movable fixtures and property

in any building sought out for attack are to be removed, and the building kept closed for a period of one year.

If the Red Light Abatement Bill become effective, prostitution will not be abated minimized, but property will be abated, and its value impaired. The property owner and his respectable tenant will pay the price of this act of the legislature: but, irrespective of that, the prostitute will go merrily on, plying her trade as she has plied it from the beginning, and a citizen will always be doubtful as to the character of the person in the house next door.

GEORGE APPELL,

Attorney Property Owners' Protective Association of California.

NON-SALE OF GAME.

Act amending Penal Code section 626k, submitted to electors by referendum.

Declares the buying, selling, shipping, offering or exposing for sale, trade or shipment, of any wild game, bird, or animal (except rabbits and wild geese), protected by law and mentioned in part I, title XV, chapter I of Penal Code, or the dead body of the same, or any part thereof, a misdemeanor; prescribes punishment therefor; and declares section does not prohibit sale of wild duck from November 1st to December 1st of same year.

WHEREAS, the legislature of the State of California, in regular session in May, 1913, passed, and the governor of the State of California, on the 16th day of June, 1913, approved a certain law and act, which law and act, together with its title, is in the words and figures following, to wit:

An act to amend section 626k of the Penal Code of the State of California, relating to the sale of wild game or the dead bodies thereof.

The people of the State of California do enact as follows:

Section 1. Section 626k of the Penal Code is hereby amended to read as follows:

626k. Every person who buys, sells, ships, offers, or exposes for sale, barter, trade or shipment, any wild game, bird, or animal, except rabbits and wild geese, protected by law and mentioned in part one, title fifteen, chapter one, of this code, or the dead body of any such game, bird, or animal, or any part thereof, whether taken or killed in the State of California or shipped into the state from another state, territory, or foreign country, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not less than twenty dollars nor more than five hundred dollars, or imprisonment in the county jail of the county in which the conviction shall be had, not less than twenty days nor more than six months, or by both such fine and imprisonment; and all fines and forfeitures imposed and collected for violation of any of the provisions of this section shall be paid into the state treasury to the credit of the fish and game preservation fund. Nothing in this section shall be construed to prohibit the sale of any species of wild duck from the first day of November to the first day of December of the same year.

AND WHEREAS, said regular session of the said legislature finally adjourned May 12, 1913, and ninety days having not expired since said final adjournment;

Now, therefore, sufficient qualified electors of the State of California have presented to the secretary of state their petitions asking that said law and act hereinbefore set forth, so passed by the legislature and approved by the governor as hereinbefore stated, be submitted to the electors of the State of California for their approval or rejection.

Fifty-two

ARGUMENT IN FAVOR OF NON-SALE OF GAME ACT.

The market hunter has caused the enactment of legislation for the protection of the wild life from extermination in forty-seven states of the union. Why?

First—The larger species of wild game, such as the buffalo, elk and antelope, first fell prey to his deadly work, and these in turn were followed by the passenger pigeon. As a consequence these species have become so scarce that he has turned his attention to netting snaring even our song birds. They have found by the thousands in cold storage by the authorities.

Second—Elimination of the market hunter is not a new idea. It is his deadly slaughter that has brought to the people a realization that he is merely a reaper. He sows nothing, in 99 per cent of instances is not a taxpayer, is an avowed violator of all limit laws which are based upon equity. His limit is his stock of ammunition, his trail can be easily followed through every state by the attendant depletion of every available form of wild life, and he is the father of open and unrestricted, wanton and cruel destruction.

Third—The market hunter kills for the market a greater pro rata of wild game than do all of the 163,000 men, women and children who provide the total fund for the protection of game. The taxpayers of the state at large do not have to contribute one cent for the protection of game; for it is not a direct tax upon the people, being provided entirely by those who hunt and fish.

Fourth—With the passing of the market hunter the great mass of hunters will have an opportunity to shoot upon the vast areas he now monopolizes, and where he has carried on his slaughter of hundreds of thousands of our migratory waterfowl and other birds.

Fifth—Our sister states, younger in statehood than California, have eliminated the market hunter, thereby perpetuating the supply of waterfowl to California. Thousands of them are bred annually throughout Oregon, Washington, Idaho, Nevada and in the provinces of Canada; yet they prohibit the market hunting of birds and the taking of eggs. Commercial interests gathered eggs by the shipload on the Yukon until our own government put a stop to