

# A tawdry, sensational case

Back in the 1950s, a big civil liberties target was a Massachusetts law making it a felony to circulate or publish birth control information. "Enlightened" folk, having come to believe that family planning amounted to a moral obligation, found the 19th Century statute offensive.

Defending the law, the Roman Catholic hierarchy argued that its repeal would lead to family dissolution, moral disintegration, epidemic venereal disease, child abuse and abandonment, illegitimacy and various other developments which were, at the time, regarded as social evils. The "enlightened" people, who eventually won the argument, held the Catholic view to be alarmist and tyrannical.

That was a generation ago. The other day, Judge Margaret Taylor, in New York City, dismissed prostitution charges against a 14-year-old girl. What the child had done, the judge reasoned, was permissible for an adult in an age

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## DAVID B. WILSON

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which has come to accept "recreational sex." Therefore, the child was not criminally liable.

The city, it is reported, will appeal. Mayor Edward Koch has expressed shock. Babylon, bankrupt, is mustering what remains of its forces to punish a child for doing for money what American culture encourages children to do for fun. This is supposed to have something to do with decency.

Judge Taylor may well have her decision overturned. Laws against prostitution are intended more to abate a nuisance, to prevent the misdemeanors of idle and disorderly or assaultive behavior, than to regulate people's sex lives.

Nevertheless, it is to be hoped that the questions raised in the case will be argued thoroughly and publicly so as to give the public some accurate sense of what the true issues are in this tawdry and sensational case.

One surely must be equity. Privileged youth, in sexually integrated college dormitories, furnished with pre-paid psychiatric and abortion services and stroked incessantly by pop culture, regard recreational sex less as a civil right than as a social entitlement.

It is difficult to see how an act regarded by law as permissible can be made into a crime just because it involves a fee so long as the contracting parties are not otherwise coerced.

Prostitution is defined as promiscuous unchastity for gain. But if promiscuity comes to be admired and if chastity is no longer valued, what business has the government punishing people for pursuing gain in what is supposed to be a free economy?

Since antiquity, prostitution has been a means of earning a living which a certain proportion of women prefer to other means; any and all efforts to prevent it have failed.

History's most successful hooker, the Byzantine Empress Theodora, had a palace alongside the Bosphorus remodeled some 1400 years ago as a hostel and social agency for 500 of her sisters. They were so bored that many of them cast themselves into the sea, and the experiment had to be abandoned.

Whoring was tolerated before the Reformation. The Bishop of Winchester licensed London prostitutes. In France, some of their revenues were devoted to building universities. German cities built brothels and rented them to women in the trade.

Its greatest evils, pimping and corruption, are derived from efforts to

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prohibit it. The pimp serves as protector against the vice squad and as negotiator of a mutually rewarding partnership with it. Heavy fines against prostitutes give municipalities an interest in their earnings. Police everywhere prey on them.

Mayor Koch is quoted as saying that the state "can't look aside when a 14-year-old girl decides to sell her body." In fact, the state can "and probably should. To fine her is to participate in her business. To punish her is pointless. To "rehabilitate" her may not be impossible but is certainly beyond the competency of the state.

Unless society is ready to have the government resume its ever-futile attempts to regulate sexual behavior, prostitution, full- and part-time, will continue to flourish.

Its unprecedented prevalence in our culture does not cause immorality. It is a natural consequence of the immorality of regarding people as things.

*David B. Wilson is a Globe columnist.*