

CONTAGIOUS DISEASE: THE RISE AND FALL OF NINETEENTH-CENTURY
BRITISH PROSTITUTION REGULATION

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CONTAGIOUS DISEASE: THE RISE AND FALL OF NINETEENTH-CENTURY
BRITISH PROSTITUTION REGULATION

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By

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2010

DEDICATION

I would like to dedicate this thesis to my grandmother, Barbara Dow Files (1929-2010). She passed away before it was completed, but I am sure she would have enjoyed reading it had she had the chance. She was always supportive of my academic endeavors, for which I am greatly appreciative. She will be missed.

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ABSTRACT

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The Contagious Diseases Acts were a series of legislation passed by British Parliament during the later half of the nineteenth-century. The acts were intended to control the high rates of venereal disease, namely syphilis and gonorrhea, within the armed forces through the sanitary regulation of prostitutes. The acts designated nineteen military districts within England and Ireland to be subject to regulation. Any woman suspected of practicing prostitution with a district subject to regulation could be identified by a policeman and given a notice to register. Unless the woman could successfully disprove the allegations she would be ordered to register as a common prostitute and undergo periodic medical examinations to check for venereal disease. If found to be diseased, she would be detained for treatment and moral education at a certified lock hospital. However, the Contagious Diseases Acts failed as both moral and sanitary regulation due to three structural flaws within the legislation. One, the acts were based

upon misguided assumptions about the true nature of the prostitute as a person and prostitution as a business. Two, the acts were contingent upon an unrealistic level of bureaucratic coordination and an incorrect assumption that the medical resources necessary to carry out such legislation were available. And three, the acts conflicted with the beliefs and values of a significant portion of the British people, as demonstrated by the success of the campaign to repeal the acts. The repeal campaign holds historical significance for the unprecedented number of women who took part as volunteers and held leadership roles within the various repeal organizations. The campaign gave the women's movement a platform from which to speak about important issues such as gender equality and treatment of the poor.

I. INTRODUCTION

The Contagious Diseases Acts were a controversial set of legislation passed by Parliament during the second half of the nineteenth-century in an effort to regulate the female prostitutes of Britain. Women suspected of practicing prostitution were recorded on the official register of common prostitutes, forced to undergo periodic medical examinations to check for venereal disease, and confined for treatment if found to be suffering from venereal disease. The acts originated from the British military with a single goal of reducing the rate of venereal disease within the armed forces. Although the acts originated within the military, and would remain partially funded as such, the affected population was always civilian. The acts eventually expanded to become far-reaching social legislation intent on reducing the number of prostitutes through moral reform, in addition to reducing the rate of venereal disease. The acts failed on both counts due to a series of false assumptions regarding human sexuality, prostitution, available resources, medical knowledge, and public opinion. These assumptions and their consequences will be discussed in detail within the following chapters. It is important to note that the assumptions made during the construction of the acts were indicative of prevailing Victorian ideologies of class, sexuality, and gender. However, these attitudes were shifting, making the Contagious Diseases Acts an intriguing framework from which to analyze certain social and political changes that took place before the turn of the twentieth-century. Consequently, the acts hold historical significance as an example of

nineteenth-century British government, medical practice, and social reform, and thus have been analyzed from numerous perspectives and by varied academic disciplines. Their history also has great significance for the history of the British women's movement.

For the purpose of this discussion, a few definitions should be made clear. First, Victorian discourse defined a prostitute as female and her client as male. While male prostitutes did exist in nineteenth-century England, the language of the Contagious Diseases Acts refers to women only. Because the acts did not technically regulate male prostitutes, they will be excluded from discussion. Second, unless otherwise specified, the prostitutes being discussed were working-class. While the acts did not explicitly define the term common prostitute used with the legislation, the regulations were only enforced for working-class prostitutes. This demonstrates that a working-class prostitute may have been the implied definition of the term. Third, unless a specific condition is referred to, the term venereal disease will refer to syphilis of all three stages and gonorrhea. While syphilis was the primary concern, both could be grounds for confined treatment under the acts.

By the middle of the nineteenth-century, England had become an industrialized nation with a "dominant economy, a worldwide empire and banking system, an unassailed fleet and most of the world's merchant shipping, a 'race' transplanted across the globe."¹ It was an empire upon which the sun never set. With unprecedented industrial success and a further increasing population, came urbanization.² The people of England were living in closer proximity to one another than ever before, with England

¹ Matthew, *The Nineteenth Century*, 1.

² Ibid.

becoming officially urbanized in 1850.³ While the strong national economy translated to a higher standard of living for many, poverty was still very much a reality for most.⁴ The working-class began to concentrate within cities and industrial towns where work could be found as the wealthier moved to suburbs and urban outskirts.⁵

While Victorian domestic ideology encouraged the man being the sole breadwinner of the family, many women were either not married or needed to work in order to supplement their husband's income. Work was available to women but generally paid less than men's employment and could be difficult to come by depending on location.⁶ For example, industrial towns dominated by labor and trade unions sometimes barred women from working in the dominant industry, such as coal mining.⁷

Ironically, demand for prostitution in mid-nineteenth century England may have sprung from the same strict Victorian ideologies that condemned it. Victorian domestic ideology encouraged monogamous marriage as the social ideal, the only appropriate outlet for sexuality. In 1836, the Marriage Act made it easier for poor couples to be legally married by allowing nonconformist ministers to perform the required ceremony. This was meant to encourage the Victorian domestic value of marriage within poorer communities that could not afford the traditional marriage ceremony. Additionally, women were discouraged from having pre-marital sex by the harsh treatment of unwed mothers. The Poor Law Amendment Act of 1834 barred them from receiving financial

³ The working rule of thumb: to be officially urbanized fifty percent of the population must live in communities of greater than 2000.

⁴ Matthew, *The Nineteenth Century*, 70.

⁵ Matthew, *The Nineteenth Century*, 33.

⁶ Matthew, *The Nineteenth Century*, 171.

⁷ Ibid.

aid and prevented them from suing the child's father for support.⁸ Although not by legal statutes, sexuality within monogamous marriages was also often restricted. In 1798, prior to the Victorian era, Thomas Robert Malthus published his *Essay on the Principle of Population*, a grim political and economical portrayal of the fate of civilization without population control. Malthus proposed that without sexual restraint populations would increase exponentially faster than the food supply, leading to starvation and disease.⁹ This produced legitimate fears during a time when populations were indeed rising. Because contraceptives were not a widely available nor generally a socially acceptable option, the solution was two-fold: delay marriage and refrain from sexual activity within marriage as much as possible.¹⁰ Essentially, sexuality was viewed as evil and something that was not to be discussed. It was a procreative act only to take place between husband and wife. The Victorian mindset inadvertently created a demand for prostitution by attempting to prevent the satisfaction of sexual urges for both married and single men.

The previous analysis of supply and demand does not suggest that prostitution was new to mid-nineteenth-century England, as it was not. Rather, it is meant to convey that prostitution was a practice involving many elements. It was to some extent, a market self-regulated by its own levels of supply and demand. The prostitute in Victorian England was not merely a fallen woman seduced by sin and her client may have been more than a sexual deviant.

To regulate prostitution beyond its self-regulated levels of supply and demand, as the Contagious Diseases Acts attempted to do, one must be conscious of its intricacies.

⁸ Matthew, *The Nineteenth Century*, 166.

⁹ Matthew, *The Nineteenth Century*, 166.

¹⁰ Matthew, *The Nineteenth Century*, 191.

The study of such intricacies was of intense interest within the public and political consciousness during the mid-nineteenth-century due to the work of various social researchers. One such researcher, William Acton conducted extensive research into both prostitution and venereal disease in England, and also in France under the supervision of renowned French venereologist Philip Ricord.¹¹ Acton was a well-regarded specialist in the field, his research findings and opinions influential during both the initial drafting and later defense of the Contagious Diseases Acts. Acton presented evidence of prostitution being a moral, social, and public health issue that needed to be dealt with rather than ignored for the sake of politeness. In prefacing the 1868 edition of his work, *Prostitution*, first published in 1857, Acton wrote, “Irrational is it to imagine that this irrepressible evil can exist without entailing upon society serious mischief... It is high time for us to get the better of ‘a fear that starts at shadows’.”¹² Acton’s view of prostitution as an irrepressible evil that causes serious mischief within society, namely venereal disease, came to be held by many doctors, politicians, and military officials, effectively beginning the regulation movement in England. The essential belief of the movement was that if prostitution and venereal disease could not be eradicated through the current system of criminalization and the voluntary medical treatment of disease infected prostitutes then the government must step in to regulate it in some other fashion. The Contagious Diseases Acts were the outcome of the regulation movement. However, the acts failed to effectively control prostitution and venereal disease due to the failure of Parliament to address inherent flaws within the legislation.

¹¹ Acton, *Prostitution*, 9.

¹² Acton, *Prostitution*, 24.

To determine the effectiveness of legislation one might simply compare the intended results to the actual results achieved. However, this would only yield a partially complete picture. One must also determine how the legislation is viewed by the people in contemporary terms. Ideally, laws should represent the view of an entire society, particularly within a society run by a representative government. While the British government cannot be considered completely representative during the nineteenth-century, due in particular to the disenfranchisement of women, the Contagious Diseases Acts should still be analyzed in such a context. Regardless of their lack of official political influence, British women were still able to successfully assert their opinion of the legislation as conflicting with societal beliefs and values.

Public opinion is even more important to legislation that deals with questions of morality, as the Contagious Diseases Acts did, because people are more likely to be personally offended by legislation which conflicts with their moral beliefs than by legislation that they merely disagree with. When personally offended on moral grounds individuals may take action rather than just accept the disagreement. The Contagious Diseases Acts, rather than representing the views of the British people, were representative of the view of one faction of the British people. Whether the acts were effective and appropriate as moral and sanitary regulation became an increasingly divided issue, both within Parliament and in the minds of the public.

In general, public opinion regarding prostitution and the Contagious Diseases Acts was largely divided by class. For the upper-class, prostitution was a stain on society, a public health issue that was contextually separated from their upper-class life. Due to a vast difference in life styles, the upper-class maintained a personal separation from the

nuances of the issue. They may not have had an accurate understanding of what life was like for the working-class, an omission that permeated the discussion and tainted decision making for upper-class members of Parliament. For the middle-class, prostitution was an issue that was close enough to solicit guilt, fear and sympathy. They passed the prostitutes on the streets, shielded the eyes of their children, but also felt a need to help the poor fallen women. The middle-class became the main crusaders for the repeal of the Contagious Diseases Acts on the grounds that they violated the rights of women. For the working-class, prostitution was a visible reality. Prostitutes and the so-called virtuous poor shared the streets and neighborhoods together. They may have still been seen as immoral, but prostitutes were also women struggling to make do by any means they could, a commonality they shared with the rest of the working-class. Prostitutes were a delicately integral piece of the working-class social structure and economy. Generally single, without a family to support, prostitutes had more disposable income than others of their class. This income was funneled back into the working-class businesses from which prostitutes would purchase their clothing, food, and shelter. Due to their interconnectivity to prostitution, the working-class would be the individuals directly affected by the Contagious Diseases Acts. Problems within the legislation largely stemmed from the large social gap between those drafting the acts, middle and upper-class men, and those affected by the acts, working-class women. The distant perspective of Parliament regarding the intricacies of prostitution caused assumptions to be made that were not necessarily true.

The Contagious Diseases Acts demonstrate how a narrow perspective caused by poor situational analysis can negatively impact the success of a law. Due to Parliament's

misguided assumptions concerning key issues, the Contagious Diseases Acts failed to achieve measurable results or social acceptance, indicating that the legislation was ineffective. Specifically, the Contagious Diseases Acts contained three structural flaws that hindered their effectiveness as both sanitary and moral legislation:

- 1) The acts were based upon misguided assumptions about the true nature of the prostitute a person and prostitution as a business.
- 2) The acts were contingent upon an unrealistic level of bureaucratic coordination and an incorrect assumption that the resources necessary to carry out the legislation were available.
- 3) The acts conflicted with the societal beliefs and values of a significant portion of the British people.

These three major flaws within the legislation led to both a lack of literal success at achieving the goals of reducing rates of venereal disease and prostitution and the failure of the acts as demonstrated by the success of the campaign to repeal them.

The first structural flaw is evidence of the Contagious Diseases Acts as a prime example of Victorian ideology. The research data supporting the acts was based on gendered misconceptions regarding the nature of prostitution and human sexuality. False assumptions about the prostitute as an individual and how prostitutes lived their lives and conducted business limited effectiveness, tainted statistics and caused female discontent. The second flaw indicates that Parliament underestimated the bureaucratic coordination and medical knowledge necessary to implement such broad sanitary control measures. Without the proper resource foundation the acts were destined for failure. The first and second structural flaws were catalysts to the act's lack of statistical success. In this

instance success can be defined as legislation in which actual results either match or exceed intended or anticipated results.

However, the fatal flaw of Parliament's proposed solution was its third flaw, a disregard for public opinion, particularly female opinion, leaving the legislation open to the ruthless scrutiny that would bring about its repeal. The success of the repeal campaign demonstrated that the legislation was indeed incompatible with societal beliefs and values. Although ineffective at their intended purpose, the acts did succeed in prompting an unprecedented public discussion of sexuality, women's rights and treatment of the poor. The Contagious Disease Acts created a cause around which women could rally, placing themselves in the public sphere and asserting their political and social influence. The unprecedented involvement of women during the campaign to repeal the Contagious Diseases Acts would set the stage for later movements such as the women's suffrage movement.

In retrospect, the three flaws may seem as if they could have been easily avoided, but structural flaws such as these often occur within the workings of large bureaucratic institutions for a number of reasons. Information may be incorrect, communication systems may fail, and as is often the case, time may be limited. However, failure to notice and correct such issues can, and often does, lead to costly and inconvenient legislative failures.

To analyze the structural flaws within the Contagious Diseases Acts, and their inevitable consequences, sources from multiple disciplines provide the necessary variety of opinions and perspectives. Judith R. Walkowitz's book, *Prostitution and Victorian Society: Women, Class, and the State*, published in 1980, does a phenomenal job of

outlining the Contagious Diseases Acts as a formulation of Victorian concepts of class and gender using a very detailed analysis of period sources. In addition to contemporary research from disciplines such as history, statistics, medicine, and geography, primary sources, such as the acts themselves, newspaper articles, and the published works of nineteenth-century social researchers like William Acton and Henry Mayhew, help to give life to the legislative story. Moreover, period sources shed light on the opinions of those involved with the acts, and what they did and did not know at the time. Because statistical data from the period was not always entirely accurate, statistics from both contemporary research and period sources are a more useful combination. Statistics from period sources demonstrated what was believed to be the case at the time, while contemporary statistics highlight what may have been the reality.

The following chapters discuss the rise and fall of the Contagious Diseases Acts, from their formulation to the consequences of each structural flaw. The first chapter is an explanation of the acts themselves. The next three chapters each analyze one of the flawed assumptions that doomed the acts to eventual failure.

II. DIRTY SAILORS

The Contagious Diseases Acts began as a public health initiative, enacted at the request of the British military, to reduce the rate of venereal disease among enlisted men. The Contagious Diseases Acts were among of a number of other military reform initiatives during the mid-nineteenth-century.¹³ In addition to lowering rates of venereal disease, the British military was trying improve the quality of their forces by reducing problems of “manning and recruitment, desertion, alcoholism, and homosexuality.”¹⁴ What made the Contagious Diseases Acts unique among military initiatives was that they attempted to improve the armed forces through the regulation of a civilian population group. In the public consciousness, venereal disease was directly tied to prostitution; such diseases often referred to as the prostitute’s wages of sin. This connection indicated a need to control the prostitutes rather than the enlisted men. Therefore, the framers of the acts created a system of sanitary prostitution regulation similar to the regulation system operating in France. The French system served as a general model for the framers of the acts because it appeared to be achieving its purpose, a reduction in venereal disease. However, as the acts evolved through a series of amendments and extensions, they became increasingly controversial. The discussion of prostitution shifted to focus more on issues of morality rather than on disease control. Two opposing factions developed,

¹³ Walkowitz, *Prostitution and Victorian Society*, 73.

¹⁴ Ibid.

one supporting the extension of the acts to areas populated primarily by civilians and other supporting their complete repeal. The extension campaign argued that the acts could be used to lower the rate of venereal disease amongst civilians but ironically ignored the fact that the prostitutes themselves were civilians. The acts were eventually repealed after an intriguing campaign that brought an unprecedented number of women into the political spotlight.

Let those who have never seen a ship of war, picture to themselves a very large and very low room with 500 men and probably 300 or 400 women of the vilest description shut up in it, and giving way to every excess of debauchery that the grossest passions of human nature can lead them to, and they see the deck of a gun ship upon the night of her arrival in port.

- Admiral Edward Hawker, A Statement of Certain Immoral Practices Prevailing in H.M Navy¹⁵

Admiral Edward Hawker's account may be overly colorful and is probably an exaggeration, but prostitution was a common sexual outlet among military men. Enlisted men were not required to refrain from sexual intercourse, but they were prohibited from marrying in order to create a "professional bachelor army without family ties," hence a reliance on commercial sex.¹⁶ However, enlisted men frequenting prostitutes would not have been of concern had those men not been contracting venereal diseases also, costing the British military both time and money.¹⁷ The military was obligated to cover both treatment costs at a military hospital and continued pay during treatment for enlisted men.¹⁸ As a result, the total cost of venereal disease for the navy during the three years prior to the Contagious Diseases Acts was consistently over 20,000 pounds.¹⁹ In addition

¹⁵ Walkowitz, *Prostitution and Victorian Society*, 73.

¹⁶ Walkowitz, *Prostitution and Victorian Society*, 74.

¹⁷ Walkowitz, *Prostitution and Victorian Society*, 49.

¹⁸ Rosenbaum, "More Than a Century of Army Medical Statistics," 462.

¹⁹ Hill, "Statistical Results of the Contagious Diseases Acts," 479.

to the literal costs of medical care and continued pay, the military suffered from a substantial loss of available man-power due to the length of treatments. For example, within the army the average length of treatment for venereal disease was over twenty-three days in 1859.²⁰ In the three years prior to the Contagious Diseases Acts the navy averaged over 100,000 total sick days per year due to venereal diseases.²¹ While, venereal disease within the British military was not a new development, cases of syphilis had been steadily increasing since 1823, hard statistical evidence of its prevalence and resultant costs was new.²²

The lengthy statistical analysis of venereal disease within the armed forces that led to the enactment of the Contagious Diseases Acts actually began as an unrelated investigation. The high number of non-battle related deaths during the Crimean War (1854-1856) led to a general inquiry into the health of the armed forces, resulting in the formation of the Royal Commission on the Health of the Army in 1857.²³ While the commission did find higher rates of “sexual dissipation” among military men than among civilians, they did not immediately recommend regulation.²⁴ Instead they recommended that an army statistical department be established, much like the one in place for the navy since 1840, so that more accurate data could be collected.²⁵ In addition, the commission recommended the “discontinuance of the periodic genital examination of soldiers, on the grounds that it destroyed the man’s self-respect and was medically inefficacious.”²⁶ The

²⁰ Rosenbaum, “More Than a Century of Army Medical Statistics,” 462.

²¹ Hill, “Statistical Results of the Contagious Diseases Acts,” 479.

²² Walkowitz, *Prostitution and Victorian Society*, 49.

²³ Walkowitz, *Prostitution and Victorian Society*, 74.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

suggestion was indicative of the double standard of sexuality for men and women built into the enforcement of the acts. Historian Keith Thomas aptly defines the double standard as “the view that unchastity, in the sense of sexual relations before marriage or outside marriage, is for a man, if an offence, none the less a mild and pardonable one, but for a woman a matter of the utmost gravity.”²⁷ Military men who had contracted a venereal disease were respectfully treated on a voluntary basis yet a woman with an identical medical complaint would be declared a prostitute and forced to undergo confined medical treatment. The treatment of women but not men was medically ineffective and the injustice of such a system was a future criticism of repeal supporters, both male and female.

By the early 1860s extensive data was collected that supported a need for action. In 1864, one out of every three army hospital patients was suffering from a venereal complaint.²⁸ Within the navy, the rate was one out of every eleven in 1862.²⁹ The reports also indicated that certain districts were worse than others, with Plymouth and Portsmouth appearing to have the highest rates of venereal disease. It was reported that “whenever the crew of a sea-going ship is permitted to land on liberty at either of these ports, the indulgence is sure to be followed by a rise in the sick list.”³⁰ The results of the statistical departments were alarming to military officials, but there was still not uniform support for regulation. Some, such as Sir John Liddle, Director General of the Naval Medical Department, argued that regulation would “arrest disease at its source” and

²⁷ Thomas, “The Double Standard,” 195.

²⁸ Walkowitz, *Prostitution and Victorian Society*, 49.

²⁹ Walkowitz, *Prostitution and Victorian Society*, 75.

³⁰ Ibid.

encouraged a modified model of the French system.³¹ The French system was a complex but generally successful system in which prostitutes were registered, either voluntarily or by order of the court, and submitted to regular medical examinations.³² The prostitutes worked independently or within a hierarchical system of government regulated brothels.³³ Florence Nightingale, an opponent of regulation and member of a 1962 venereal disease investigation committee, thought the French system of prostitution regulation suggested by others was “morally disgusting.”³⁴ She suggested that military men be encouraged to pursue more morally acceptable activities. The sentiment of the former won, as Parliament concluded that the military could never be a “moral institution.”³⁵ While the French system may have been more expansive in jurisdiction and a step closer to full legalization than the British were willing to take, it did serve as a working model.

The first of the Contagious Diseases Acts, titled *Act for the Prevention of Contagious Diseases*, was passed on July 29th, 1864. The initial act passed through Parliament without much opposition or discussion. The legislation came up late in the session with a title curiously similar to another set of laws that would regulate production of animals for human consumption, possibly confusing some Members of Parliament.³⁶ Repeal supporters would claim that the legislation was passed in secrecy to avoid dissent, a claim about which Parliament said little.³⁷ While it is possible that the initial act was passed in secrecy under a deliberately confusing title, it is also possible that the confusion

³¹ Walkowitz, *Prostitution and Victorian Society*, 76.

³² Corbin, *Women for Hire*, 31.

³³ Corbin, *Women for Hire*, 58.

³⁴ Walkowitz, *Prostitution and Victorian Society*, 75.

³⁵ Walkowitz, *Prostitution and Victorian Society*, 76.

³⁶ Howell, *Geographies of Regulation*, 30.

³⁷ Howell, *Geographies of Regulation*, 31.

and lack of attention paid to the legislation during debate was simply an over-site during a particularly busy time.³⁸

Regardless of controversy regarding the specifics of its passing, the 1864 act laid the foundation for how the acts would function.³⁹ This initial act applied to eleven districts in England and Ireland⁴⁰ that housed large numbers of military men as either army bases or naval ports.⁴¹ Although the act was of military origin, it most directly affected the civilian women who lived within the subjected districts. If a woman within a subjected district was thought to be a prostitute she would be given a summons to appear in court before a local magistrate.⁴² The official notice was a standard form that made three assumptions regarding the woman in question: first, she was believed to be a prostitute, second, had a contagious disease, and third, was residing within the subjected district for the purpose of practicing prostitution.⁴³ Unless the woman could successfully disprove the allegations, she would be registered as a common prostitute within the district and ordered to undergo an internal medical examination to determine if she did in fact have a contagious disease.⁴⁴ If found to have a venereal disease, she could be detained for treatment in a certified lock hospital for no longer than three months.⁴⁵ Lock hospitals were government regulated venereal disease treatment facilities authorized to operate under the specifications and partial funding of the acts. If the suspected prostitute refused either the medical examination or medical treatment she would be deemed guilty

³⁸ Howell, *Geographies of Regulation*, 31.

³⁹ *Contagious Diseases Prevention Act 1864*, 310.

⁴⁰ A map showing each of the districts added during each amendment can be found on page 22.

⁴¹ *Contagious Diseases Prevention Act 1864*, 314.

⁴² *Contagious Diseases Prevention Act 1864*, 312.

⁴³ *Contagious Diseases Prevention Act 1864*, 316.

⁴⁴ *Contagious Diseases Prevention Act 1864*, 312.

⁴⁵ *Contagious Diseases Prevention Act 1864*, 313.

of an offence against the act. She could then be sentenced to imprisonment for one month in the case of a first offence and two months in the case of any additional offences.⁴⁶

The most significant difference between the British and French systems was the notion of true legalization. The French system legalized prostitution as a means of regulating it, as symbolized by the system of government monitored and taxed brothels. Additionally, the brothels in France were a useful administrative apparatus. Prostitutes could easily be tracked and taken to their medical examinations because their place of residence was registered and monitored. The British system did not include legalized brothels, but rather declared them illegal and a violation of the Contagious Diseases Acts. However, independent prostitutes were only in violation of the acts if they refused examination, detainment, or treatment.⁴⁷ This choice demonstrates a larger problem within the Contagious Diseases Acts. The acts delicately avoided any affirmative statement of whether they made prostitution illegal or legal. In addition to neglecting to declare a legal status of prostitution as a practice, the first act neglected to define the term common prostitute. The term was assumed to be understood but was essentially left to be interpreted as the authorities saw fit. This was “consistent with the traditional legal treatment in Britain of women and outcast groups - as the ‘Other,’ an entirely negative and collective presence before the law.”⁴⁸ While the acts of 1866 and 1869 attempted to remedy some of the shortcomings of the first act, neither would declare a legal status for prostitution nor define the term common prostitute.

⁴⁶ *Contagious Diseases Prevention Act, 1864*, 313.

⁴⁷ *Ibid.*

⁴⁸ Walkowitz, *Prostitution and Victorian Society*, 87.

Reactions to the first act ranged from very positive to extremely negative, as would be the case throughout the course of the Contagious Diseases Acts. A group of letters to the editor published in the *Times* praised the act for regulating “one of those foul streams running through humanity in the mass which proves its tendency to moral decay.”⁴⁹ The letters also expressed encouragement for more extensive regulation like the French had in place.⁵⁰ However, the *British Medical Journal* called the act a “most bungling attempt at legislation on a most painful and delicate subject.”⁵¹ While the reactions were as opinionated as those that would later arise during the repeal campaign, they were much less numerous and not nearly as public. Discussion of the act’s effectiveness and further potential is evidenced by an 1865 report in the *Times*.

There is much evidence to show that the moral usefulness of this restrictive system is not greatly inferior to its physical utility. The women detained, and prohibited from diffusing disease, are brought under religious influences while in hospital, and a proportion of them absolutely reclaimed and restored to their friends.⁵²

The report indicates that conversion of the acts to a moral agenda rather than a strictly sanitary one had already begun, even prior to the official inclusion of a moral education clause within the Contagious Diseases Act of 1866.

The Contagious Diseases Act of 1866, passed on June 11th, was intended to both extend the jurisdiction of the 1864 act and to remedy some of its shortcomings. While only two new districts were added to the schedule, Devonport and Windsor, a number of additional parishes within the already subjected districts were added.⁵³ The general

⁴⁹ Walkowitz, *Prostitution and Victorian Society*, 77.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² *The Times*, Dec. 01, 1865.

⁵³ A map showing each of the districts added during each amendment can be found on page 22.

workings of the act were the same as they were in 1864, with a few notable differences. Registered prostitutes were now to undergo “periodical medical examinations” for a period of one year from registration rather than one initial exam.⁵⁴ However, the act left it up to the Visiting Surgeon to determine how often a particular woman’s examinations would take place.⁵⁵ The Visiting Surgeon was a medical doctor appointed by either the Admiralty or the Secretary of State for War to act as the official medical doctor for the purposes of the acts.⁵⁶ Each district was appointed its own Visiting Surgeon whose duties included conducting the periodical medical examinations, authorizing treatment when necessary, and certifying a woman free of disease following her course of treatment.⁵⁷ A woman could be released from periodic examination in two ways: by certificate of discharge from a certified hospital, signed by the Visiting Surgeon, as disease-free following treatment or by proving to the court that she was no longer a common prostitute.⁵⁸

The 1866 act also made two significant changes regarding hospitals certified under the act. The 1864 act had contained a clause stating that the act would not actually be put into force in any district until a hospital was certified either within the district or within fifty miles of the district.⁵⁹ Because there was a general shortage of hospital accommodations for venereal patients throughout England, this was a very necessary clause.⁶⁰ However, the clause was removed from the 1866 act despite the continued

⁵⁴ *Contagious Diseases Acts 1866*, 269.

⁵⁵ *Contagious Diseases Acts 1866*, 270.

⁵⁶ *Contagious Diseases Acts 1886*, 266.

⁵⁷ *Contagious Diseases Acts 1866*, 269.

⁵⁸ *Contagious Diseases Acts 1866*, 275.

⁵⁹ *Contagious Diseases Prevention Act 1864*, 314.

⁶⁰ Hill, “Statistical Results of the Contagious Diseases Acts,” 480.

shortage of hospital accommodations. Ironically, the omission of the hospital clause may have been an effort by Parliament to get the acts operational in all of the proposed districts. Due to the shortage of certifiable lock hospitals, only one district, Portsmouth, was able to immediately commence operation of the 1864 act.⁶¹ The others had to either build a hospital or remodel an existing facility in order to meet the criterion of having a certifiable lock hospital within fifty miles of the district. Consequently, the 1864 act was only ever operational in five of the eleven districts named within the act.⁶² By removing the hospital clause all of the named districts were able to more quickly commence operation of the 1866 act, though often without a key element, a hospital.

The 1866 act did, however, contain detailed instructions for how a hospital was to be certified and run. One such instruction was that a hospital would not be certified until “adequate provision is made for the moral and religious instruction of the women detained therein under this act.”⁶³ For clarification, each district did not need to supply for moral and religious instruction, just each hospital. This change demonstrates a shift in the intended purpose of the acts. The acts were becoming social legislation with a purpose of moral reform rather than strictly sanitary legislation.

Although the efforts of extension supporters and repeal advocates alike were not yet in full swing, the acts were beginning to draw attention as a possible solution to the issue of venereal disease within the civilian population. In 1867, a letter to the editor of the *Times* described both the successes and failures of the current acts but ended by stating the following.

⁶¹ Howell, *Geographies of Regulation*, 43.

⁶² Ibid.

⁶³ *Contagious Diseases Acts 1866*, 268.

The Association to which I have alluded desires to extend the provisions of this act to the entire civil community, and contends that, as Government is the guardian of the public health, such an interference is not only a legitimate exercise of its functions, but one imperatively called for by the necessities of the case.⁶⁴

Supporters of extending the acts to the civilian population rightly argued that venereal disease not only affected the military, but rather, affected the entire nation. As the above letter shows, the advocates of extending the acts believed that government action in the form of extending the acts was the necessary remedy. However, many others were in opposition to such a claim believing that the acts themselves, even before extension into civilian populations, were a breach of civil liberties and constitutional rights.

While the two factions may have disagreed on the appropriate action to be taken, neither could discredit evidence collected over the past two decades that showed venereal disease to be of increasing civilian concern. William Acton's study of venereal disease among the civilian population in 1846 reported that almost half of the surgical outpatients at St. Bartholomew's Hospital in London suffered from venereal disease.⁶⁵ Reports from the Royal Free Hospital in the 1860's showed an even higher percentage than Acton's earlier report, supporting the assumption that incidence of venereal disease was indeed rising.⁶⁶

While venereal disease was an issue common to both the military and civilian populations, the issue was viewed from a different moral stance depending on the group in question. When the Contagious Diseases Acts were originally drafted, "only the exceptional conditions of military life, requiring the effective celibacy of enlisted men,

⁶⁴ *The Times*, Nov 14, 1867.

⁶⁵ Walkowitz, *Prostitution and Victorian Society*, 49.

⁶⁶ *Ibid.*

justified the state protection of sexual promiscuity,” namely prostitution.⁶⁷ For the civilian population, sexual promiscuity was “a preordained form of Russian roulette for the transgressors of the respectable sexual-moral code.”⁶⁸ Essentially, it was understood that the acts were an extraordinary measure taken to protect the military, and hence the safety of the nation, and could be rationalized as such. To extend such an extraordinary measure into the civilian population required a different rationalization. Such moral assumptions regarding the appropriate treatment of different groups of people were indicative of future class and gender conflicts.

On August 11th, 1869, the Contagious Diseases Acts underwent their final amendment.⁶⁹ The 1869 act served the same purpose of the 1866 act, to extend jurisdiction and rectify previous issues, but in the opposite proportion. The 1869 act offered only minor adjustments in policy but expanded the jurisdiction of the acts to include an additional six districts for a total of nineteen subjected districts. The six additional districts were Canterbury, Gravesend, Maidstone, Southampton, Dover, and Winchester.⁷⁰

⁶⁷ Walkowitz, *Prostitution and Victorian Society*, 72.

⁶⁸ Ibid.

⁶⁹ *Contagious Diseases Acts 1869*, 562.

⁷⁰ *Contagious Diseases Acts 1869*, 565-568.

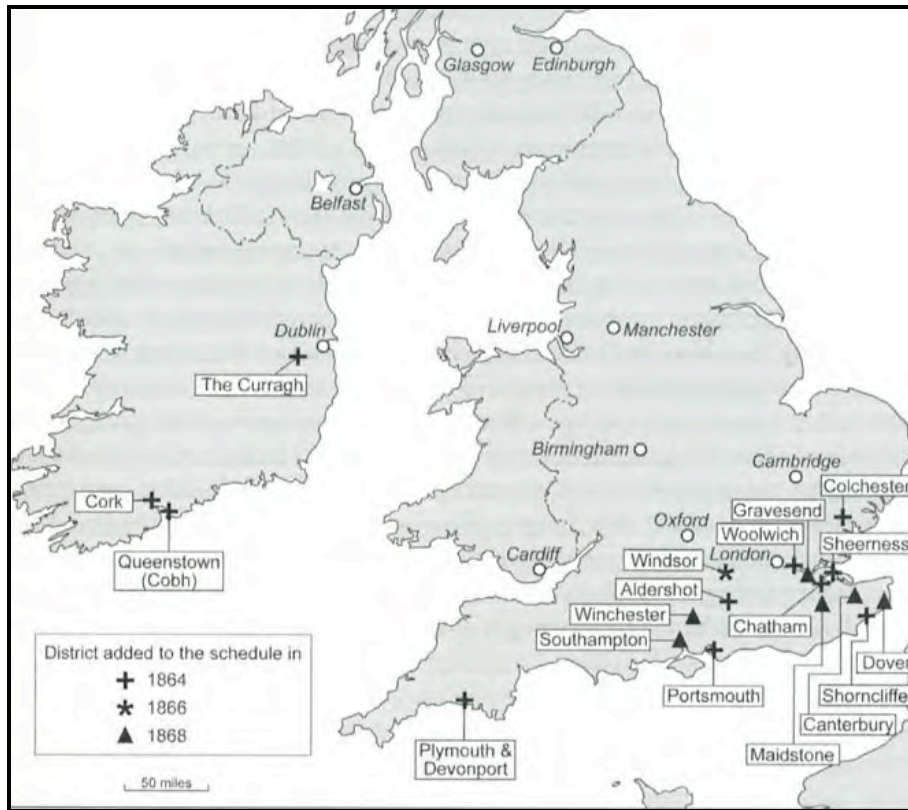


Figure 1. *Subjected Districts under the Contagious Diseases Acts*⁷¹

As demonstrated by the map in Figure 1, the districts subject to regulation under the acts were primarily clustered in the southeastern region of England. In other words, while the legislation was created by two national government bodies, Parliament and the military, it was actually rather localized.

In addition to adding new districts, the 1869 act added a clause extending the reach of jurisdiction within all of the subjected districts. A woman suspected of practicing prostitution could now fall within the jurisdiction of the acts in a number of ways other than simply residing within the district. A woman could be served notice if she was a resident of the district, lived within ten miles of the district, had no specific home but had

⁷¹ Howell, *Geographies of Regulation*, 29.

been within the district for the purpose of practicing prostitution within the previous two weeks, or had been practicing prostitution outside of the district with men who lived within the district.⁷² The extension of jurisdiction effectively brought prostitutes outside of the military districts, even those who may have had an entirely civilian clientele, under control of the acts. The 1869 act also removed the one year limit on periodical examinations of registered women. An “order for subjecting a woman to periodical medical examination shall be in operation and enforceable as long as and whenever such woman is resident within ten miles of the limits of the place where the order was made.”⁷³ The removal of the one year limit was a significant change in the legislation based upon the incorrect assumption that prostitution was a career rather than a temporary occupation. A woman registered as a common prostitute who was no longer practicing prostitution would need to prove herself as virtuous to the court in order to be removed from the register and excused from periodic medical examination. Many women chose to simply relocate to another district.

The acts became increasingly complex with each amendment but never succeeded in achieving their primary goals: the decrease in both venereal disease and prostitution. As Figure 2 shows, there was not a clear difference in the rates of venereal disease among men stationed at districts under the acts and districts not under the acts. There were, however, vast differences between individual districts implying that there may have been additional factors influencing the rate of venereal disease within military districts. Without a legitimate statistical correlation between the acts and a drop in venereal disease infection, the acts must be deemed ineffective.

⁷² *Contagious Diseases Acts 1869*, 563.

⁷³ *Ibid.*

	Average ratio per 1,000	Average ratio per 1,000
1. Pembroke Dock	Not under Acts	34.0
2. Athlone	ditto	43.0
London (Household Cavalry) 9 yrs	ditto	48.0
3. Chatham and Sheerness	Under Acts	56.0
4. Shorncliffe	ditto	57.0
5. Woolwich	ditto	58.0
6. Belfast	Not under Acts	63.0
7. Devonport and Plymouth	Under Acts	64.0
8. Cork	ditto	65.0
9. Portsmouth	ditto	66.0
10. Edinburgh	Not under Acts	66.6
11. Winchester	Under Acts	67.3
12. Warley	Not under Acts	67.5
13. Fermoy	ditto	68.3
14. Aldershot	Under Acts	68.8
15. Curragh	ditto	69.6
16. Dover	ditto	71.0
17. Hounslow	Not under Acts	79.3
18. Isle of Wight	ditto	79.6
19. Canterbury	Under Acts	85.0
20. Windsor	ditto	88.0
21. Colchester	ditto	90.0
22. Limerick	Not under Acts	96.0
23. Maidstone	Under Acts	110.0
24. Preston	Not under Acts	111.0
25. Manchester	ditto	118.0
26. Sheffield	ditto	119.0
27. Dublin	ditto	159.0
28. London (Foot Guards), 9 yrs	ditto	162.0

*Figure 2. Statistics of venereal disease infection of men in stations under or not under the Contagious Diseases Acts, 1867-72*⁷⁴

The Contagious Diseases Acts were unsuccessful because their inherent flaws were never rectified. The acts were overtly gendered by only treating female prostitutes for diseases that also infected their clients, as well as male and female members of the population who had nothing to do with prostitution. This oversight was a result of both inaccurate medical knowledge and general sexism. Inaccurate medical knowledge regarding the nature of venereal disease and the effectiveness of treatment methods would still have hindered the effectiveness of the acts as sanitary legislation regardless of other flaws. In addition to singling out prostitutes as the dispensaries of disease, the acts were also built around common assumptions about prostitutes that were generally

⁷⁴ Howell, *Geographies of Regulation*, 52.

incorrect. The regulation system assumed the existence of a professional class of prostitutes who stayed within one area. In reality, prostitution was a transitional and migratory profession that women would cycle through quite quickly. With prostitutes leaving the profession or the district as quickly as new ones joined, the list of registered common prostitutes was always inaccurate.

Parliament also misjudged the extent to which both prostitutes and their female sympathizers would be offended by the process of medical examination. The use of the speculum, a tool that allows one to more easily view the inside of the vagina, would later be called instrumental rape by repeal advocates. A complex system involving military, civilian, national and local entities, the acts were inadequately funded, poorly organized, both under-staffed and under-supplied. It was a bureaucratic nightmare that stood little chance against the well-organized and privately funded repeal campaign

III. FROM DOLLY-MOPS TO COURTESANS

By not including a description of the common prostitute within any of the Contagious Diseases Acts, Parliament implied that one was not necessary. This omission is a central clue to the first flaw within the Contagious Diseases Acts, their reliance on misguided assumptions regarding the true nature of the common prostitute as a person and prostitution as a business. This would prove to be detrimental to the success of the acts as both sanitary and moral legislation because without an accurate understanding of the situation at hand, namely prostitution, the acts were predisposed to other structural flaws such as the previously noted omission of the one-year limit on registrations.

The stereotypes about prostitution present within of the Contagious Diseases Acts stemmed from social research begun over twenty years prior to the passing of the initial act in 1864. During 1840s a new kind of social research began within England that emphasized empirical and statistical analysis. Unfortunately, much of the data was either inaccurate or used out of context. Nonetheless, later researchers would continue to rely on this early “examination of causes to results, extent and remedies for prostitution” when arguing for or against the Contagious Diseases Acts.⁷⁵ Both sides were “carefully manipulating social details to bolster their argument for or against regulation.”⁷⁶

⁷⁵ Walkowitz, *Prostitution and Victorian Society*, 32.

⁷⁶ Walkowitz, *Prostitution and Victorian Society*, 46

The early British researchers were often religious men and doctors influenced by evangelical thinking who viewed their explorations into the underworld as a “personal exposure to a sexual temptation, a test of their own moral fiber.”⁷⁷ Some prominent early researchers, such as William Acton, conducted their studies from a distance, not ever recording an interview or significant personal interaction with a prostitute.⁷⁸ Consequently, British researchers had a difficult time separating their actual observations from their moral opinions or as Philip Abrams explains, “seizing on a solution or a main cause which is drawn not from his analysis of society but from his ulterior moral and political principle.”⁷⁹ While accurate data was available, stereotypes and sensational accounts, such as those found within Henry Mayhew’s *London’s Underworld*, were common. For example, many of Mayhew’s accounts of women’s entrance into prostitution involved a story of seduction, a narrative French researchers of the same period found to be generally inaccurate. The women of Mayhew’s underworld may have been telling the expected tale to avoid exposing their true background or Mayhew may have selectively included a larger portion of accounts that fit the stereotype of the seduced and abandoned woman gone to the streets.

In the 1840s, the prostitute was viewed by middle-class observers as “an object of fascination and disgust ... ingrained in the public consciousness as a highly visible symbol of the social dislocation attendant upon the new industrial era.”⁸⁰ However, the prostitute also became a “private obsession for some respectable Victorians,” including politician and four time liberal Prime Minister, William Gladstone, who called

⁷⁷ Walkowitz, *Prostitution and Victorian Society*, 33

⁷⁸ Walkowitz, *Prostitution and Victorian Society*, 44.

⁷⁹ Walkowitz, *Prostitution and Victorian Society*, 38.

⁸⁰ Walkowitz, *Prostitution and Victorian Society*, 32.

prostitution “the chief burden on [his] soul.”⁸¹ Some middle-class individuals believed that their own class was to blame for women’s entrance into prostitution claiming that “ladies’ maids and other upper servants fell victim to middle-class seduction and betrayal, whereas the demand for prostitution came largely from men of the propertied classes.”⁸² While this was not actually true for the majority of prostitutes, in some ways this sentiment encouraged middle and upper-class involvement, particularly among women, in charitable efforts by invoking a sense of guilt. Societies were formed to prevent young girls from succumbing to prostitution and to support measures to punish prostitutes and brothel keepers.⁸³ Current prostitutes were often viewed as “irrevocably fallen women” who were beyond saving.⁸⁴ The early charitable societies were also acting on a selfish agenda as the members of the society were “the principle beneficiaries of the program: activity in a righteous cause tested their virtue while repressive laws and institutions of confinement protected them and their sons from unrestrained moral contagion.”⁸⁵ Middle-class women would later stand up for prostitutes as their fallen sisters during the successful campaign to repeal the Contagious Diseases Acts.

The British researchers were likely influenced by a prominent French researcher, Dr. Alexandre Jean Baptiste Parent-Duchatelet, who conducted an extensive analysis of French prostitutes during the early part of the nineteenth-century. While his findings on the demographics of prostitutes were quite accurate, his general conclusions were tainted by common stereotypes much like the British. For example, he found that prostitutes

⁸¹ Walkowitz, *Prostitution and Victorian Society*, 32.

⁸² Walkowitz, *Prostitution and Victorian Society*, 34.

⁸³ Walkowitz, *Prostitution and Victorian Society*, 40.

⁸⁴ Walkowitz, *Prostitution and Victorian Society*, 39.

⁸⁵ Walkowitz, *Prostitution and Victorian Society*, 41.

were generally fuller figured than other French women, but concluded the cause was their greed and laziness rather than their choices of food.⁸⁶ Parent-Duchatelet's findings about the demographics of prostitutes were repeated by British researcher William Acton. Both found that prostitutes were generally young women in their late teens and early twenties, often orphaned, who had migrated from nearby areas, and would likely return to a respectable existence within a few years. This was not the stereotype of a professional class of prostitutes that the Contagious Diseases Acts relied on. The fact that an accurate portrayal of the common prostitute was known by Acton, who was involved in the making of the acts, demonstrates that such research was ignored in favor of the more sensational stereotype of the common prostitute.

Like the British, Parent-Duchatelet was only interested in the control of public prostitution, or prostitutes that sought out their clients in the public eye and who were generally working-class.⁸⁷ These were streetwalkers, women in bars and dance halls, and those beckoning from their windows. While the Contagious Diseases Acts never directly defined the term common prostitute, enforcement of the acts was only applied to working-class prostitutes suggesting that the term may have been a reference to the common people or commoners who were considered working-class. Prostitution existed within all classes, in both England and France. Prostitutes of a certain class also generally catered to clients of their own class, with a vast difference in price and discretion depending on the class of the prostitute. The upper-class prostitutes, kept women and professional courtesans, were not of concern because they were discrete and could generally fit in with upper-class society. This discrepancy in enforcement signals that the

⁸⁶ Corbin, *Women for Hire*, 9.

⁸⁷ Corbin, *Women for Hire*, 3.

acts were also about class, an attempt to control the undesirable behavior of the poor.

Although the exchange of money for sexual favors was of the same principle for both the dolly-mop in a back alley and the pampered courtesan, the transaction was treated much differently.⁸⁸

According to Victorian stereotypes popularized by social investigators, the common prostitute would be a vain sexual deviant with distaste for honest work, these “vicious inclinations strengthened and ingrained by early neglect or evil training, bad associates and an indecent mode of life.”⁸⁹ Parent-Duchatelet reported similar findings as well. The prostitute was a symbol of “disorder, excess, and improvidence – in other words, a rejection of order and economy.”⁹⁰ She was also said to be fond of alcohol, food, dancing, gossip, and gambling away rather than saving her money.⁹¹ While it may have been true that prostitutes spent far more time than most eating, drinking and dancing in the bars and dance halls, it must also be noted that this may have been a necessary method of attracting clients. Additionally, while many prostitutes claimed to be orphans or to come from broken homes, in most other ways they were remarkably similar to other women of their class. However, Parent-Duchatelet did note that prostitutes were often in better health than their peers. He claimed that “despite so much excess and so many causes of diseases, their health is more resistant than that of most women who have children and do housework.”⁹² This finding contradicts the common image of the

⁸⁸ Walkowitz, *Prostitution and Victorian Society*, 14.

⁸⁹ Acton, *Prostitution*, 118.

⁹⁰ Corbin, *Women for Hire*, 7.

⁹¹ Ibid.

⁹² Corbin, *Women for Hire*, 9.

prostitute withering away in the streets and may have been a result of the prostitutes more leisurely lifestyle as compared to that of her peers.

In addition to being stereotyped as decrepit women of poor health and excess, prostitutes were also portrayed as the “silent victims of social injustice” in exposés of child trafficking and seduction, such as W. T. Stead’s *The Maiden Tribute of Modern Babylon*.⁹³ Although published in 1885, soon before the acts were repealed, Stead’s work is an excellent example of the sensational journalism that promoted unfounded fears of child prostitution. In *The Maiden Tribute of Modern Babylon*, Stead describes his search for the five-pound virgins of London. Stead writes that, “after champagne and liquors, my old friend G—, M—, Lane, Hackney agreed to hand me over her own child, a pretty girl of eleven, for five pounds, if she could get no more. The child was *virgo intacta*, as far as her mother knew.”⁹⁴ Stead intended to prove both the possibility of and ease at which one could acquire a child prostitute if one so wished, but claimed to have not actually gone through with any of the deals he made. Stead was not actually against the Contagious Diseases Acts, but rather, was hoping to encourage the passing of legislation to criminalize child prostitution and entrapment. Other such accounts of child prostitution include Henry Mayhew’s “Statement of a Prostitute” within his work *London Labor and the London Poor*. A girl of about sixteen describes living in a low lodging-house after being orphaned at the age of ten.

Many a girl—nearly all of them—goes out into the streets from this penny and twopenny house, to get money for their favorite boys by prostitution. If the girl cannot get money she must steal something, or will be beaten by her “chap” when she comes home.⁹⁵

⁹³ Walkowitz, “We Are Not Beasts of the Field,” 74.

⁹⁴ Ledger, *The Fin De Siecle*, 38.

⁹⁵ Mayhew, *Selections From London Labor and The London Poor*, 65.

While such accounts were sensational and persuasive, child prostitutes were exceptional cases. Even if child prostitutes, or even five-pound virgins, did exist, it was not the norm among common prostitutes. Most reported their entrance into prostitution taking place one to two years after their first sexual experience, usually a non-commercial affair with someone of a similar social class.⁹⁶ The prostitute's first sexual experience likely occurred around the age of sixteen according to the above report and lock hospital data. Lock hospitals reported "eighteen and nineteen being the most common ages of female inmates," many of which had been practicing prostitution for less than one year.⁹⁷

The men drafting the Contagious Diseases Acts assumed that the common prostitute was a professional streetwalker, easily distinguishable from other working-class women, and unlikely to leave prostitution behind on her own. In reality, the common prostitute was very similar to other women of her class, struggling to make do with the "extremely limited opportunities open to working-class women."⁹⁸ The common prostitute was usually not a victim of seduction or child trafficking, nor was she an overly sexed deviant. Contrary to the Victorian stereotypes, most women's entrance into prostitution was voluntary, gradual and prompted by financial necessity.⁹⁹ The prostitute may have been facing difficult circumstances in which prostitution was a "choice among a series of unpleasant alternatives."¹⁰⁰

Similar to other members of the working-class, prostitutes were often migratory, in search of housing and work. This posed a problem for the Contagious Disease Acts

⁹⁶ Walkowitz, *Prostitution and Victorian Society*, 18.

⁹⁷ Ibid.

⁹⁸ Walkowitz, *Prostitution and Victorian Society*, 20.

⁹⁹ Walkowitz, *Prostitution and Victorian Society*, 13.

¹⁰⁰ Walkowitz, *Prostitution and Victorian Society*, 19.

because prostitutes were likely to move if their place of residence was subjected to enforcement. Parliament attempted to amend this problem by expanding the acts to cover more districts, but this solution was both opposed by much of the public and logistically impossible due to a lack of necessary resources.

Prostitution was also a transitional occupation rather than a career, as “most prostitutes seem to have moved onto the streets in their late teens and remained there for no more than a few years.”¹⁰¹ The success of the Contagious Diseases Acts as a sanitary control measure was contingent on a stable population of prostitutes, which was not a reality. Prostitutes rotated in and out of the occupation rather quickly making any list of registered prostitutes largely inaccurate and incomplete. The stereotype of the common prostitute also fails to account for the much less visible clandestine prostitutes who “supplemented their meager earnings as dressmakers, milliners, and the like, by occasional prostitution.”¹⁰² The Contagious Diseases Acts would never have been able to maintain a complete and accurate list of all prostitutes, much less treat them all for disease. Judith Walkowitz contends that the Contagious Diseases Acts may have actually increased the length of the average prostitute’s career by making her a notorious public figure, unable to find respectable employment.¹⁰³ According to Walkowitz, the prostitution population was aging according to the statistics, meaning that new prostitutes were not being registered and registered prostitutes were not leaving prostitution.¹⁰⁴ The acts created a professional class of prostitutes, deprived of anonymity and therefore the possibility of honest work later on.

¹⁰¹ Walkowitz, *Prostitution and Victorian Society*, 19.

¹⁰² Walkowitz, *Prostitution and Victorian Society*, 14.

¹⁰³ Walkowitz, “We are Not Beasts of the Field,” 101.

¹⁰⁴ *Ibid.*

The discrepancies between perceptions and realities of prostitution produced misidentifications of the common prostitute, forcing virtuous women to register as prostitutes and undergo examination. Prostitutes were not the only young single women living within the subjected districts. Given the scarce employment opportunities available to women, many were forced to live in disreputable lodgings as this was all they could afford. The vast degree of authority afforded to the police when identifying prostitutes meant that any honest women living in such lodgings could potentially be registered as a prostitute based on police assumptions and generalizations. A view of prostitutes as “degraded and outcast women,” already demoralized by a life of sin, also justified their inhumane treatment under the acts, angering feminist crusaders for civil liberties.¹⁰⁵

The lack of objective understanding of the true nature of prostitution made the statistical evidence produced to prove the effectiveness of the acts arguably inaccurate. In an 1870 report read before the British Association at Liverpool, statistical results depicted a decrease in prostitution in certain subjected districts.¹⁰⁶ According to the Police Commissioner of Portsmouth, “returns show that 7,766 women have been placed on the register, and that 4,750 have been removed.”¹⁰⁷ The results as evidence of a decrease in prostitution was disbelieved by repeal advocates and those with a greater understanding of the habits of prostitutes. Even the Police Commissioner himself doubted the validity of the report as evidence of a decrease in prostitution. He speculated that 2,085 women left the profession through the natural cycling out of age, 107 were reported dead and 2,558

¹⁰⁵ Walkowitz, “We are Not Beasts of the Field,” 73.

¹⁰⁶ Hill, “Statistical Results of the Contagious Diseases Acts,” 463.

¹⁰⁷ Hill, “Statistical Results of the Contagious Diseases Acts,” 474.

left the subjected district to practice their trade elsewhere.¹⁰⁸ The Contagious Diseases Acts did not actually lower the number of prostitutes but had rather, diverted them to other districts. What the Police Commissioner did not discuss was the likelihood that some prostitutes may have not actually left the district at all, but had been doing their business secretly behind closed doors rather than in the street. When read without an accurate understanding of the nuances of prostitution, these and other statistics seemed to prove the acts were working. They were presented in support of expansion and as a justification of current practices. When viewed from another perspective, that of the repeal campaign, the statistics proved just the opposite, the acts have accomplished nothing other than to demonstrate the narrow perspective of Parliament. Had the makers of the Contagious Diseases Acts taken more care to develop an accurate and complete understanding of the intricacies of prostitution, including the prostitute as a person and her general manner of business, the acts would have had a better chance at accomplishing their goals and demonstrating valid statistical success.

¹⁰⁸ Hill, "Statistical Results of the Contagious Diseases Acts," 474.

IV. BUREAUCRACY AND MERCURY

In addition to relying on false assumptions with respect to the nature prostitution, Parliament also underestimated the availability of resources necessary to effectively enforce the acts. With neither the necessary resources of adequate hospital accommodations nor funding, nor bureaucratic coordination to organize enforcement, now accurate medical knowledge the acts were doomed to be a statistical failure.

The success of the Contagious Diseases Acts was contingent on the cooperation of multiple levels of enforcement. The acts were created by the national government, under the control and funding of the Admiralty and the War office, but relied on local enforcement by the metropolitan police force, provincial magistrates, and civil hospitals.¹⁰⁹ The written acts devoted the majority of their clauses to defining each level of authority, a sign of their bureaucratic complexity. While the hierarchy was well defined, the sheer number of levels made them difficult to coordinate and oversee. Additionally, the levels of authority became more extensive and complex as the acts progressed. The initial 1864 act laid the groundwork upon which the additional elements of bureaucracy were built. The Admiralty, a military entity, was given the responsibility of overseeing the acts, a position that gradually expanded in scope to include responsibilities such as appointing a Medical Officer to serve as the Inspector of

¹⁰⁹ Walkowitz, *Prostitution and Victorian Society*, 2.

Hospitals certified to function for the purposes of the acts, funding expenses incurred through the enforcement of the acts, appointing a Visiting Surgeon for each hospital, as well as certifying each hospital. The act of 1866 more than doubled in length the 1864 act, with the new primary focus being the management of certified hospitals. The act of 1869 was not nearly as lengthy because it was meant as an addition to the act of 1866 rather than a complete replacement. By 1869, the acts contained extensive instruction on how prostitutes were to be notified, hospitals managed, officials appointed, and punishment for noncompliance given. The central issue was the spread of authority amongst multiple levels of bureaucracy, including local, national, civil, and military entities, without an adequate system of communication.

According to geographer Miles Ogborn, British policy formulation and administration underwent a significant change after 1830 when “the relationships between central and local government were reconfigured in an attempt to ensure that administration would be uniform across the nation’s territory, and to maintain a systematic surveillance of local practices by channeling information through traveling inspectors.”¹¹⁰ This change clearly influenced the administration of the Contagious Diseases Acts, but as Ogborn notes, it would be flawed to only consider where power was concentrated, at the state or local level. It is important to also consider the “relationships within which it is deployed.”¹¹¹ This argument is illustrated in Figure 3.

¹¹⁰ Ogborn, “Local Power and State Regulation in Nineteenth Century Britain,” 215.

¹¹¹ Ogborn, “Local Power and State Regulation in Nineteenth Century Britain,” 216.

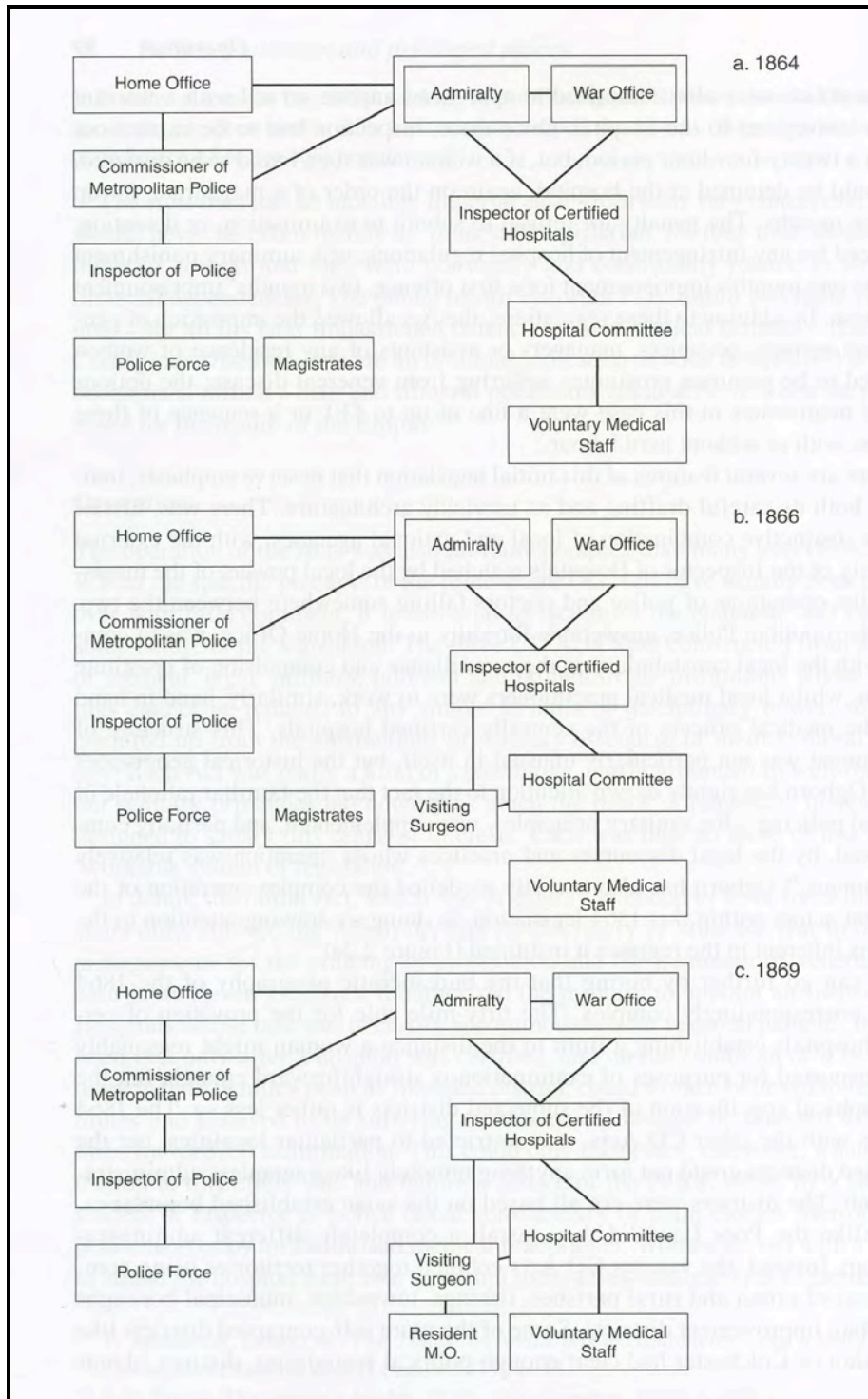


Figure 3. *The administrative structure of the Contagious Diseases Acts of 1864, 1866 and 1869*¹¹²

¹¹² Howell, *Geographies of Regulation*, 40.

The flow chart in Figure 3 depicts the administrative structure of the acts by year of amendment. The bureaucratic structure of the acts is clearly divided into two sections: identification, or the police, and treatment, the hospitals. The top level of the hierarchy demonstrates the act's unique combination of civil and military authority. The Home Office, an entity of civil government, was in charge of the identification division while the Admiralty and the War Office, both military entities, were in charge of the treatment division. Below the top of the hierarchy there was no clear connection or channel of communication between the divisions. The identification division only handled the prostitutes as they were entering or leaving the registration system while the treatment division handled them during the time they were active within the system. The lack of interconnectivity between the two divisions left the system open to corruption and inefficiency.

A division of power without a well-organized system of checks and balances, or at least ample communication, may be susceptible to corruption and inefficiency. For example, police were given the important task of identifying the common prostitute, yet their localized nature made them open to bribery and their own prejudice. The local police knew the area and the population well and were under minimal supervision. The police power of summary judgment concerning the identification of prostitutes gave them extensive authority. Abraham Flexner explains that these “women are exploited by pimps, by liquor dealers, by bordello-keepers; yet regulation assumes that the morals police who are every moment in position to sell favors, exemptions and privileges will refrain from doing so.”¹¹³ While the local police were integrated into a national network,

¹¹³ Flexner, *Prostitution in Europe*, 270.

Walkowitz notes that this “crucial...administrative apparatus...had been in existence only a short time.”¹¹⁴ The Police Bill of 1856 had created the first national police network “intended to stretch across space to ensure the local implementation of central policies and programmes.”¹¹⁵ The notion of a national police network had been openly criticized as too centralized, the bill even being rejected due to opposition in 1854. When the first of the Contagious Diseases Acts was passed, metropolitan police administrations were still adjusting to the new division of power, possibly further contributing to police corruption.

While the metropolitan police served as the primary identifiers of common prostitutes, multiple authorities were authorized to do so. For example, the 1864 act specified that based upon information “laid before a Justice of the Peace by a Superintendent or Inspector of Metropolitan Police, or by a Superintendent or Inspector of Police or Constabulary authorized to act in any place to which the act applies, or by any medical practitioner duly registered as such, the Justice may, if he sees fit, issue to the woman named in the information a notice.”¹¹⁶ Without a specific definition of the common prostitute for the authorities to follow, streamlining the process, the identification of common prostitutes was left up to the subjective opinion of anyone authorized to identify common prostitutes, who were all likely to have differing opinions based upon their varying positions. In practice, the metropolitan police handled most of the identifications of common prostitutes, avoiding some confusion. However, the fact

¹¹⁴ Walkowitz, *Prostitution and Victorian Society*, 76.

¹¹⁵ Ogborn, “Local Power and State Regulation in Nineteenth Century Britain,” 220.

¹¹⁶ *Contagious Diseases Act 1864*, 312.

that the acts contained such a possibility within their wording is evident of other bureaucratic confusions that were problematic.

The framers of the Contagious Disease Acts took great care when describing the relations between hospital and government officials under the acts, yet the function of civil hospitals within law enforcement was such an uncertain undertaking that bureaucratic difficulties involving their management were nearly inevitable. According to the 1866 act, the Admiralty or the Secretary of State for War would appoint a Medical Officer to be Visiting Surgeon at each certified hospital, which would be overseen by another appointed Medical Officer, the Inspector of Hospitals.¹¹⁷ The 1866 act further describes the management of certified hospitals, presumably an attempt to standardize the treatment of detained prostitutes. After visiting the Royal Albert Hospital in Devonport and the Royal Portsmouth Hospital, Inspector Sloggett noted that it was “difficult to believe that the two establishments could be conducted and maintained by similar governing boards and on the same principle.”¹¹⁸ The Devonport hospital contained patients with no complaints who were becoming well rehabilitated while the Portsmouth hospital tried to quell daily riots.¹¹⁹ Inspector Sloggett witnessed the lack of standardized treatment caused by poor bureaucratic coordination.

Had the Contagious Diseases Acts been more effectively organized, they would have still failed to meet their goal of reducing venereal disease due to inaccurate medical knowledge causing a reliance on ineffective treatment methods. The regulation system under the acts was based on three assumptions regarding sanitary control of venereal

¹¹⁷ *Contagious Diseases Act 1866*, 267.

¹¹⁸ Walkowitz, *Prostitution and Victorian Society*, 215.

¹¹⁹ *Ibid.*

disease: syphilis and gonorrhea were spread primarily by illicit sex with prostitutes, voluntary treatment was ineffective and current diagnostic and treatment methods would be sufficient in carrying out a mandatory regulation system.¹²⁰ While voluntary treatment had not proven to be an effective system, the other two assumptions were inherently flawed. Interestingly, voluntary treatment of venereal disease failed as an effective system of disease control for the same reasons that the system of mandatory treatment did. First, the medically naive and gendered understanding of venereal disease that presumed prostitutes were the carriers of disease limited the effectiveness of treatment by creating a cycle of re-infection. As we now know, venereal diseases can be carried and transferred by both genders. It is also not strictly a result of commercial sex. Second, treatment methods being used at the time of the acts were ineffective and sometimes harmful. Third, hospital facilities available to treat venereal disease were in short supply and poorly funded both before and during the course of the acts.

Isolating prostitutes as the cause of venereal disease alleviated their customers, from responsibility. Although viewed as the wages of sin, venereal disease would logically have spread beyond the prostitute herself, yet she was the only one treated. It was well known that both men and women suffered from venereal disease, as shown by the military statistics on infected men that prompted the enactment of the Contagious Diseases Acts. Mandating treatment for prostitutes, but not their customers, did not break the chain of disease because prostitutes were likely to be re-infected if they were in fact cured, which was likely not the case. This misjudgment was in part due to Victorian

¹²⁰ Walkowitz, *Prostitution and Victorian Society*, 48.

sexual ideology and gender prejudice, but also to a naïve understanding of venereal disease.

While there was a general consensus that venereal diseases were contagious, as noted by the name of the acts, Victorian doctors did not agree on the specifics of the how such contagion occurred, in cases of gonorrhea, or in cases of syphilis, for how long the individual was contagious. Most doctors falsely believed that gonorrhea was spread as a result of excessive vaginal irritation, hence its common occurrence among prostitutes. This diagnosis alleviated men from responsibility because a woman was only at risk based on her own immoral actions. The diagnosis of gonorrhea as a vaginal affliction, rather than a disease of the uterus, cervix, and fallopian tubes that could lead to infertility if left untreated, also lead to the misdiagnosis of a variety of non-venereal vaginal infections.¹²¹ Consequently, a woman could be confined for venereal disease treatment under the acts for something as benign as a yeast infection. Additionally, doctors were not in agreement as to whether chancroid, “a local ulceration of the genitals,” was a form of syphilis or a unique disease of its own.¹²² Infections of chancroid documented in the nineteenth-century may have been cases of initial syphilis that entered a stage of latency rather than progressing to the visible second stage characterized by either full-body or localized skin irritations. The three stages of syphilis (initial, secondary, and tertiary) had been mapped out by Philippe Ricord in 1838, but by the mid-nineteenth-century it was still unknown “whether one attack of syphilis ‘gave future immunity’ to the sufferer, and whether syphilis remained infectious after the initial stage.”¹²³ What likely confused

¹²¹ Walkowitz, *Prostitution and Victorian Society*, 54.

¹²² Walkowitz, *Prostitution and Victorian Society*, 51.

¹²³ Ibid.

Victorian doctors the most was the ability of syphilis to enter stages of latency in which the sufferer would show no symptoms. Symptoms would reoccur but would falsely be identified as a new infection of syphilis, encouraging doctors to believe that their treatment methods were working.

In reality, the treatment methods used by mid-Victorian doctors were not only ineffective, but sometimes more harmful than the disease itself. For example, syphilitics treated with mercury injections or ointments, as was common under the Contagious Diseases Acts, had mortality rates higher than those who received no treatment.¹²⁴ Mercury supposedly rid the body of syphilis by “stimulating the flow of pituita, or phlegm, which helped to discharge the vicious humors.”¹²⁵ The patient’s excessive salivation and perspiration was seen as evidence that the disease was leaving the body. In reality, mercury may have cured some of the external symptoms of syphilis, such as genital sores, but it did not cure the patient of the disease itself.¹²⁶ Unfortunately for syphilitics treated with mercury, the supposedly curative dose was dangerously close to the lethal dose.¹²⁷ Because Victorian doctors were not aware of the real harm gonorrhea caused women, infertility, their prescribed treatment of vaginal douching likely encouraged such an outcome by pushing the infection further into the woman’s reproductive system.¹²⁸ Inaccurate medical knowledge combined with blind confidence in their methods caused Victorian doctors to do more harm than good for their venereal patients. They also could not have predicted “that syphilis would decline spontaneously

¹²⁴ Walkowitz, *Prostitution and Victorian Society*, 53.

¹²⁵ Walkowitz, *Prostitution and Victorian Society*, 52.

¹²⁶ Walkowitz, *Prostitution and Victorian Society*, 53.

¹²⁷ Ibid.

¹²⁸ Walkowitz, *Prostitution and Victorian Society*, 54.

over the course of the nineteenth-century, irrespective of medical intervention or the operation of programs for the sanitary control of prostitutes.”¹²⁹ The decline may have been due to general improvements in personal hygiene amongst the population. Therefore, the periodic medical examinations and treatments mandated by the Contagious Diseases Acts were unnecessary, ineffective and harmful.

While Parliament may have been unaware, along with the medical profession, that current treatment methods were insufficient, they were surely aware of the inadequacy of the treatment facilities themselves. Although more hospitals were built and more beds allocated to venereal patients after the enactment of the Contagious Diseases Acts, the hospitals still lacked both space and funding. In 1882 a survey found that “there were only 402 beds for female patients in all the voluntary lock hospitals in Great Britain and... only 232 were funded for use.”¹³⁰ In 1868, William Acton, a supporter of the acts, also noted the insufficient number of beds devoted to venereal patients, both voluntary and compulsory under the acts.

Although the population of London numbers over 3,000,000, there are only 155 beds given up to females labouring under venereal affections, if we deduct the 120 bed at the Lock Hospital devoted to the Government patients sent there from Woolwich, Aldershot, and other garrison towns.¹³¹

Given the much larger number of registered prostitutes suffering from venereal diseases, the facilities were clearly inadequate. Also, the fact that Acton, a researcher known to have been involved in the development of the acts, was clearly aware of the deficiency shows that the framers of the acts were also likely aware.

¹²⁹ Walkowitz, *Prostitution and Victorian Society*, 48.

¹³⁰ Walkowitz, *Prostitution and Victorian Society*, 58.

¹³¹ Acton, *Prostitution*, 88.

Hospitals under the Contagious Diseases Acts were lacking in funds as well as available beds. In fact, the two issues were intertwined through the system of financial assistance set up by the Contagious Diseases Acts. Certified lock hospitals were funded by the Admiralty, but the specific amount of funds allocated to each hospital was contingent on the number of patients received.¹³² Conversely, the number of beds available was also contingent on the amount of funding available. The lock hospitals were in a constant race to make ends meet. Therefore, funding was generally inadequate necessitating reliance on charitable donations. Lock hospitals had difficulty receiving charitable funds due to the common view of venereal disease as the divine punishment for vice, an ailment which should be left alone. Additionally, lock hospitals could not participate in some traditional fundraisers such as “open advertisements, gala benefits, concerts, and bazaars” as these were inappropriate for venereal hospitals due to the unrespectable profession of their patients.¹³³ The lock hospital was a keystone in the failure of the Contagious Diseases Acts. Without successful treatment methods or adequate facilities and funding, the hospitals could not bring about the result Parliament was seeking, a reduction in venereal disease.

The Contagious Diseases Acts were a vast bureaucratic undertaking, limited in potential success by their complexity and lack of resources. Relying on the coordination of a number of administrative entities for enforcement, including local, state, civil and military persons and organizations, the acts became too complex to be an efficient system of social legislation. Consequently, they were enforced differently depending on the views of the authorities within each district, leading to corruption and fueling the

¹³² Walkowitz, *Prostitution and Victorian Society*, 218.

¹³³ Walkowitz, *Prostitution and Victorian Society*, 60.

arguments of repeal supporters. Regardless of their bureaucratic deficiencies, the acts failed as sanitary measures due to the lack of medical knowledge concerning the effectiveness of treatment methods and the nature to venereal disease contagion. Most importantly, the Contagious Diseases Acts lacked a key element of the successful sanitary regulation of prostitutes, adequate hospital facilities within which to treat them.

V. THE CRUSADE FOR THEIR FALLEN SISTERS

Misguided assumptions regarding the nature of prostitution, bureaucratic organization and current medical capabilities prevented the Contagious Diseases Acts from achieving the anticipated statistical results, a reduction in both prostitution and venereal disease. However, a third structural flaw within the legislation proved to be the ultimate failing of the acts, a failure that brought about their final repeal in 1886. By 1869, the year the third and final amendment to the acts was passed, it was clear that the Contagious Diseases Acts were openly opposed by a significant proportion of the British public, most notably by women. Individuals and activist groups not only protested the possible extension of the acts, but also advocated for their complete repeal from the statute books. Repeal advocates believed that the Contagious Diseases Acts promoted vice, functionally legalized prostitution, supported a double standard of sexual morality, and violated the basic civil liberties and constitutional rights of women. The arguments of the repeal advocates against the continuation of the acts can be viewed in terms of a structural flaw within the legislation for two reasons. First, the repeal advocates were pointing out legitimate criticisms that hindered the effectiveness of the acts as both sanitary and moral legislation. These infringements could have been avoided. Second, the repeal campaign successfully forced the repeal of the acts by a vote of Parliament,

indicating that the view of the repeal advocates may have been more representative of the opinion of the British public than that of the supporters of the acts.

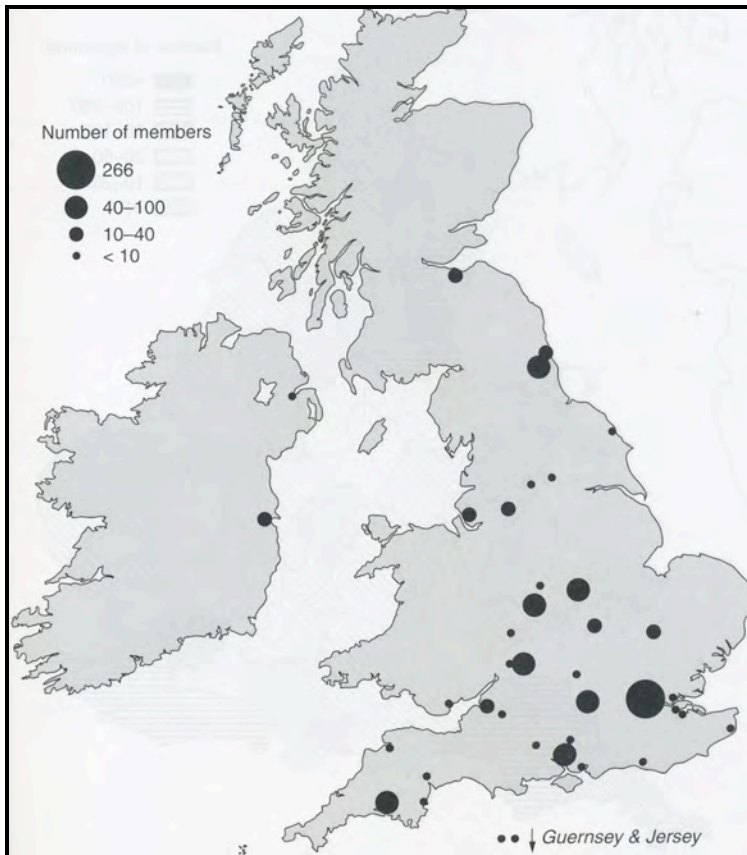


Figure 4. *Members of the Association for Promoting the Extension of the Contagious Diseases Acts, 1870*¹³⁴

For example, when comparing the map in Figure 4 showing the concentration of members of the Association for Promoting the Extension of the Contagious Diseases Acts to the map in Figure 5 that shows the number of signatures petitioning for the repeal of the acts by area, it is clear that a greater number of individuals supported repeal as opposed to extension.

¹³⁴ Howell, *Geographies of Regulation*, 57.

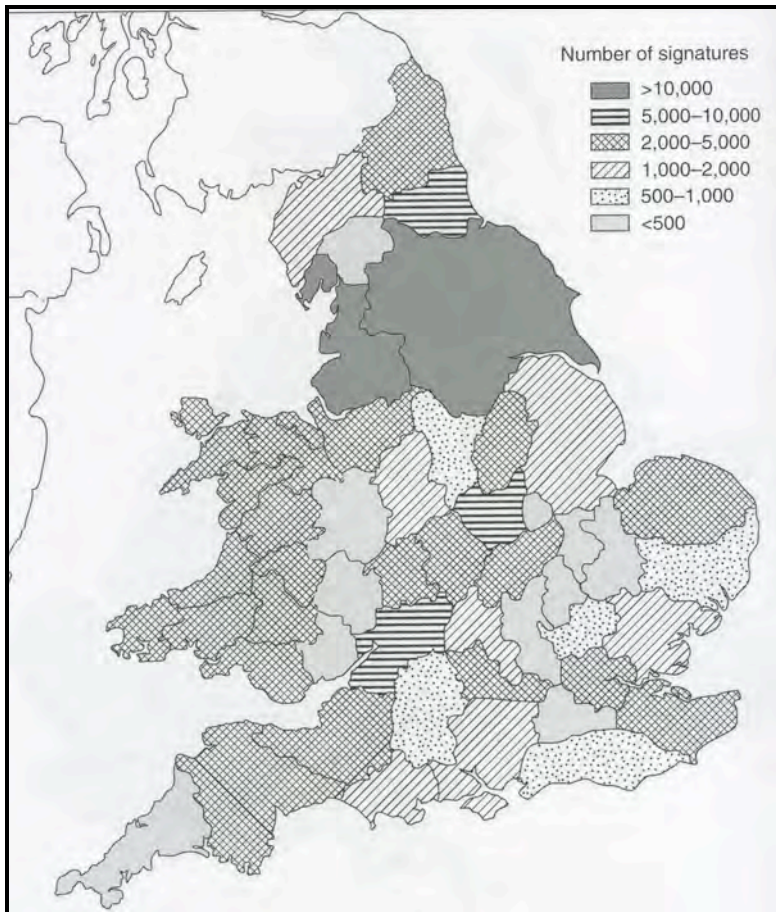


Figure 5. *Petition for repeal of the Contagious Diseases Acts, 1878*¹³⁵

Furthermore, the repeal campaign accomplished more than just the repeal of the Contagious Diseases Acts. It gave women a meaningful and successful cause around which they could rally, increasing the momentum of the women's movement toward other important milestones such as women's suffrage. According to historian Margaret Hamilton, "no aspect of the woman's movement is more poignant, or more clearly reveals how deeply women felt, about the unequal treatment which they were accorded than their struggle to secure for prostitutes their constitutional rights."¹³⁶

¹³⁵ Howell, *Geographies of Regulation*, 60.

¹³⁶ Hamilton, "Opposition to the Contagious Diseases Acts," 15.

In 1869 two activist groups were formed to promote the repeal of the acts, the National Association for Repeal of the Contagious Diseases Acts, and the Ladies' National Association for the Repeal of the Contagious Diseases Acts.¹³⁷ The Ladies' National Association was formed in response to the initial refusal of the National Association to allow women to attend meetings. While women were soon accepted as members of the National Association alongside their male counterparts, the Ladies' National Association continued to function as an all female group.¹³⁸ Male and female repeal advocates were similar in their liberal political views and middle-class upbringing, a commonality among other mid-Victorian reform groups such as “the National Education League, and the antivaccination movement,” but female advocates often maintained a more religious stance than the men.¹³⁹

Amongst the leadership of the repeal movement, two key individuals deserve mentioning, James Stansfeld and Josephine Butler. Stansfeld was a Member of Parliament and open supporter of repeal who helped to transform the movement into “a more effective political pressure group and propagandist effort” through his political connections and experience.¹⁴⁰ He advocated attacking the medical and scientific justifications for the acts with counter medical and scientific evidence rather than a moral or constitutional argument.¹⁴¹ Stansfeld would later call for the vote in Parliament that officially repealed the acts. While Stansfeld was fighting supporters of the acts within Parliament, Josephine Butler was leading the women of the Ladies' National Association

¹³⁷ Walkowitz, *Prostitution and Victorian Society*, 93.

¹³⁸ Ibid.

¹³⁹ Walkowitz, *Prostitution and Victorian Society*, 99.

¹⁴⁰ Walkowitz, *Prostitution and Victorian Society*, 97.

¹⁴¹ Ibid.

in an impassioned campaign to regain the constitutional rights of their fallen sisters.

Butler was a deeply religious middle-class woman whose outspoken personality helped promote a variety of causes within the women's movement, including women's rights to higher education and personal property.¹⁴² Butler's arguments against the Contagious Diseases Acts were famously documented in her lengthy 1871 essay titled *The Constitution Violated*. The work demonstrated the passion of the women's movement in general as well as Butler's own personal passion for the cause. Her words deserve to be quoted at length:

I am convinced that the people of this country are as yet but very partially awakened to the tremendous issues involved in the controversy before us, considered as a matter of constitutional rights; therefore it is that I venture, though I am no lawyer, to bring before them its extreme importance under that respect. For this time of agony for the patriot, who can in any degree foresee the future of the country which violates the eternal principles of government, drives many of us, unlearned though we be, to search the annals of our country, to inquire into past crises of danger, and the motives and character of the champions who fought the battles of liberty, with that keenness and singleness of purpose with which, in the agony of spiritual danger, the well-nigh shipwrecked soul may search the Scriptures of God believing that in them he has eternal faith.¹⁴³

The following pages will discuss the arguments of the repeal campaign as indicative of structural flaws within the Contagious Diseases Acts that as Anne Summers explains, "infringed principles of morality, of the political constitution, and of natural justice."¹⁴⁴

The Contagious Diseases Acts upheld the double standard of sexual morality pervasive during the nineteenth-century by prosecuting the prostitute and not her male customer. In 1869 William Acton described prostitution as "an inevitable attendant upon

¹⁴² Summers, "The Constitution Violated," 3.

¹⁴³ Butler, *The Constitution Violated*, 3.

¹⁴⁴ Summers, "The Constitution Violated," 2.

civilized and especially, closely-packed population.”¹⁴⁵ According to Acton, prostitution was a function of supply and demand, with prostitution being “the artificial supply of a natural demand, taking the place of the natural supply through the failure of the latter.”¹⁴⁶ The natural supply would be traditional sexual gratification through marital intercourse, which Acton saw as failing due to a later age of marriage, leaving post-pubescent men without natural outlets for sexual desire. Because military men were generally young and not married, as necessitated by the occupation, supply and demand naturally suggested a greater number of prostitutes in garrison towns, the initial target of the Contagious Diseases Acts.¹⁴⁷ While both the prostitute and her customer were described as succumbing to immoral impulse, the prostitute was placed at fault. Supposedly, men would be able to resist indulging their natural sexual impulse if it were not for the existence of prostitutes, making prostitution “a result produced by and a cause producing immorality.”¹⁴⁸

Although the Contagious Diseases Acts did not technically legalize prostitution but rather attempted to regulate it, repeal supporters saw the acts as condoning vice and therefore confusing the public. Regulation could have been misconstrued by the public as the legalization of prostitution and “a lowering of the moral standard in the eyes of the people.”¹⁴⁹ Butler echoed Acton’s statements about supply and demand by proclaiming, “when the moral standard is lowered the practice of vice will be increased.”¹⁵⁰ The repeal campaign enhanced their moral argument by suggesting, in concurrence with statistical

¹⁴⁵ Acton, *Prostitution*, 32.

¹⁴⁶ Acton, *Prostitution*, 114.

¹⁴⁷ Acton, *Prostitution*, 125.

¹⁴⁸ Acton, *Prostitution*, 118.

¹⁴⁹ Hamilton, “Opposition to the Contagious Diseases Acts,” 18.

¹⁵⁰ Ibid.

data, that the acts were not lowering incidence of venereal disease but actually increasing it by making men feel safer about visiting prostitutes.¹⁵¹ The double standard of sexual morality inherent to the structure of the Contagious Diseases Acts was used by the repeal campaign to highlight both the inevitable failure and unconstitutionality of the laws. In 1881, Dr. John Nevins and Professor Henry Lee, both venereal disease researchers, testified that “no reduction in the number of cases could be expected under a system which examined women only.”¹⁵² Sir Harcourt Johnstone, a Liberal MP and supporter of repeal, showed the inequity of the law and gender bias of Parliament by claiming that the house “would not pass an act that would compel registration of men... an act that would arrest men coming out of brothels.”¹⁵³

The double standard of sexual morality implied by the Contagious Diseases Acts was the result of the gendered perspective of Parliament and the military. Both institutions were entirely male, many of which believed in the “casual acceptance of male sexual license [that] was traditional among British upper classes and continued to be upheld by aristocratic reprobates in parliamentary debates throughout the Victorian period.”¹⁵⁴ Prostitutes, as women, were deemed undeserving of rights to their own sexuality. An earlier attempt to control venereal disease in the military was abandoned because men objected to the periodic genital exams and “officers feared that compulsory examination would lead to the demoralization their men.”¹⁵⁵ The same demoralizing compulsory examinations could be applied to women, particularly prostitutes, because

¹⁵¹ Hamilton, “Opposition to the Contagious Diseases Acts,” 18.

¹⁵² Ibid.

¹⁵³ Hamilton, “Opposition to that Contagious Diseases Acts,” 17.

¹⁵⁴ Walkowitz, *Prostitution and Victorian Society*, 3.

¹⁵⁵ Ibid.

they were “bereft of self-respect and more powerless to protest this intrusion.”¹⁵⁶

According to Walkowitz, the double standard of sexual morality that authorized the prosecution of prostitutes but not their clients “obliterated from the start whatever effectiveness as sanitary measures the acts might have had.”¹⁵⁷ Sanitary control could not possibly work without treating the entire infected population, both men and women. More importantly, the discrimination caused by the double standard helped to further mobilize the women that would bring about repeal of the acts.

One of the strongest arguments of the repeal campaign was the claim that the Contagious Diseases Acts were unconstitutional because they violated basic liberties of women. Although moral arguments hold emotional appeal, unconstitutionality is more easily proven with facts. Butler argued that arresting and detaining women without proof of guilt violated “Articles 39 and 40 of the Magna Charta which stated that no freeman could be denied his freedom without a trial by his peers.”¹⁵⁸ The Contagious Diseases Acts provided no definition of the common prostitute, leaving judgment up to police and the courts. Although an accused woman could contest, “she had no rights of *Habeas Corpus* or trial by jury, and no right of appeal.”¹⁵⁹ Butler, along with most repeal supporters, also believed that compulsory medical examination was “an infraction of liberty, and the examination demeaning.”¹⁶⁰ The examinations were declared “instrumental rape” due to the use of the speculum, an invasive gynecological tool not

¹⁵⁶ Walkowitz, *Prostitution and Victorian Society*, 3.

¹⁵⁷ Ibid.

¹⁵⁸ Hamilton, “Opposition to the Contagious Diseases Acts,” 17.

¹⁵⁹ Summers, “The Constitution Violated,” 2.

¹⁶⁰ Hamilton, “Opposition to the Contagious Diseases Acts,” 17.

commonly used in mid-Victorian Britain.¹⁶¹ Many female patients perceived the speculum examination as “a voyeuristic and degrading act, one that inflicted mental and physical pain on the female sufferer.”¹⁶² There were reports of women being mentally “poisoned by the experience” or becoming “addicted to speculum examination.”¹⁶³ Supporters of the acts contended the use of the speculum was appropriate for prostitutes because they were “unsexed women already dead to shame.”¹⁶⁴ Most important to repeal supporters, the examinations were mandatory and any woman was potentially suspect. Without legitimate means of contestation, women no longer owned rights to their own bodies, a right which repeal supporters saw as mandated by the constitution. According to repeal advocate and Member of Parliament, Mr. Stansfeld, “there were only two principles between which Parliament must take its choice- the principle of freedom, and the principle of the acts, which was that of compulsion.”¹⁶⁵

The repeal campaign, led by charismatic women such as Josephine Butler, provided a platform from which women could publicly discuss taboo subjects such as sexuality, women’s rights and treatment of the poor. Women’s influence within the repeal campaign “astonished and perplexed the press and public officials...unused to women speaking publicly before mixed audiences on such matters as prostitution, venereal disease, and internal gynecological examinations.”¹⁶⁶ Some saw these women as social deviants referring to them as the shrieking sisterhood while others commended their efforts. *The Spectator* stated that the women of the repeal campaign “give us a new ideal

¹⁶¹ Walkowitz, *Prostitution and Victorian Society*, 57.

¹⁶² Ibid.

¹⁶³ Ibid.

¹⁶⁴ Walkowitz, *Prostitution and Victorian Society*, 56.

¹⁶⁵ Hamilton, “Opposition to the Contagious Diseases Acts,” 26.

¹⁶⁶ Walkowitz, *Prostitution and Victorian Society*, 93.

of women's intellectual courage and capacity of political life.”¹⁶⁷ Women were in the public sphere fighting for the rights of their fallen sisters, but were taking ownership of their own rights at the same time. Butler argued that the current injustice could not be amended, and future injustices avoided, without amendments to the political system, including universal suffrage. In her political manifesto, *The Constitution Violated*, Butler argued that “until women possess the franchise the system of our government will be unstable and not self-corrective ... Legislation can never in these days, and at the stage of civilization which we have reached, be just and pure until women are represented.”¹⁶⁸ The success of the repeal campaign in 1886, with the abolishment of the Contagious Diseases Acts in their entirety, solidified women's political and social influence and moved them closer to equality because it “signified that attitudes towards women were changing.”¹⁶⁹

¹⁶⁷ Walkowitz, *Prostitution and Victorian Society*, 93.

¹⁶⁸ Summers, “The Constitution Violated,” 6.

¹⁶⁹ Hamilton, “Opposition to the Contagious Diseases Acts,” 27.

IV. CONCLUSION: AFTER THE ACTS

The Contagious Diseases Acts failed to accomplish the intended aim of Parliament and the British military, a reduction in venereal disease and prostitution, due to three structural flaws. The acts were based on gendered misconceptions about the common prostitute as a person and prostitution as a business. These misconceptions were the basis for an inaccurate foundation upon which the acts were formulated, tainting statistical data meant to support the acts and angering both the prostitutes and their sympathizers. The acts were also reliant upon a complex network of bureaucracy and medicine that was not yet sufficient in its funding, knowledge, or organization to implement such broad sanitary control measures effectively. As demonstrated by the successful repeal campaign, the acts were also found to be immoral and unconstitutional in their support of the double standard, state sanctioning of vice, and violation of the civil rights of women. A landmark legislative failure of nineteenth-century public health policy, the Contagious Diseases Acts represent a turning point for the British women's movement and for future venereal disease control initiatives.

The repeal of the Contagious Diseases Acts was a victory for the British women's movement, increasing confidence in and support of women's political and social initiatives. However, the repeal of the acts marked a shift in the movement's agenda that was significantly different than that of the repeal campaign. The repeal campaign and its

connection to the women's movement was largely based upon a belief that all individuals are entitled to basic civil liberties regardless of gender or social status. Under the Contagious Diseases Acts, the forced examination and detainment of prostitutes was a violation of their civil liberties and was therefore immoral, unconstitutional, and an excessive intrusion of the state into the personal affairs of the people. They argued that the women who entered into prostitution did so because of difficult personal circumstances and a lack of viable employment rather than an inherently deviant nature. The women should be helped but not treated as lesser individuals lacking rights and a voice.

After the acts were effectively suspended in 1883 by a Parliamentary vote to remove the clause sanctioning periodical examinations of prostitutes, repeal supporters such as Josephine Butler shifted their attention to another issue, child prostitution.¹⁷⁰ With the help of Butler, W. T. Stead published his shocking account of child prostitution, *The Maiden Tribute of Modern Babylon*, in 1885. Stead's somewhat fictional tale of purchasing a thirteen-year old girl from an older prostitute whom Butler had located for him would lead to the arrests of both Stead and the older prostitute, as well as aid in the passing of the Criminal Law Amendment Act of 1885.¹⁷¹ The Criminal Law Amendment Act granted the wish of Butler and her supporters, increasing the age of consent for girls from thirteen to sixteen, but also gave police increased powers of summary judgment when dealing with solicitation and brothel-keeping, as well as made homosexual relations between men illegal.¹⁷² Prostitutes were forced from their neighborhoods by police

¹⁷⁰ Roberts, "Feminism and the State in Later Victorian England," 99.

¹⁷¹ Roberts, "Feminism and the State in Later Victorian England," 101.

¹⁷² Walkowitz, "Politics of Prostitution," 128.

crackdowns on solicitation and the arrests of their landlords for brothel-keeping. Cut off from the support of their friends and neighbors, prostitutes became reliant on pimps for protection and companionship, causing the profession to shift from female dominance to a male dominance with an economic interest in keeping the women in prostitution.¹⁷³ The Criminal Law Amendment Act was called “the very worst measure ever presented to Parliament except the Contagious Diseases Act.”¹⁷⁴

The same individuals that fought for the repeal of the Contagious Diseases Acts inadvertently reinstated some of the very same class and gender biases, yet now on a truly nationwide level, by supporting the passing of the Criminal Law Amendment Act.¹⁷⁵ Josephine Butler was distraught by both the outcome of her cooperation with Stead and the final version of the Criminal Law Amendment Act. Other activists were supportive of increased police power as an aid to the newly popular purity crusade’s focus on “women’s unique moral capacities as mothers in contrast to previous demands that the criteria of citizenship be blind to sexual difference.”¹⁷⁶ For example, the Moral Reform Union, a derivative of the campaign against the Contagious Diseases Acts, sought to defend the “purity of family life” rather than gender equality.¹⁷⁷ Butler withdrew from active participation in the movement due her disagreement with the shift in goals. She wrote in her memoirs the following:

The cause for which I have worked is *not* ‘Purity Crusade’ nor a morality crusade...It was and is a revolt against and an aggressive opposition to a gross political and illegal tyranny.¹⁷⁸

¹⁷³ Walkowitz, “Politics of Prostitution,” 128.

¹⁷⁴ Roberts, “Feminism and the State in Later Victorian England,” 99.

¹⁷⁵ Roberts, “Feminism and the State in Later Victorian England,” 102.

¹⁷⁶ Roberts, “Feminism and the State in Later Victorian England,” 106.

¹⁷⁷ Ibid.

¹⁷⁸ Roberts, “Feminism and the State in Later Victorian England,” 105.

What “began as a libertarian struggle against the state sanction of male vice, the repeal campaign helped to spawn a hydra-headed assault against sexual deviation of all kinds.”¹⁷⁹ The movement against the unjust state repression of women had gradually become a repressive movement itself.

While the women’s movement was evolving, British efforts to control venereal disease were also evolving, into a more efficient and knowledgeable program that maintained the involuntary nature of the Contagious Diseases Acts under the guise of a voluntary system. The lock hospitals that detained prostitutes during the acts were gradually converted into a network of voluntary clinics. For most individuals, treatment at the clinics was indeed voluntary. However, for certain groups that were considered to be high-risk, treatment was sometimes forced upon the individual through coercive methods such threatening to reveal the person’s status as an infected individual or by detaining the person for an alternative reason.¹⁸⁰ High-risk individuals included prostitutes and military men but also “pregnant women, mothers, babies, children, merchant seaman, delinquent girls, and the mentally defective.”¹⁸¹ These individuals were thought to be at a higher risk for both contracting and spreading infections and were less likely to seek and follow through with a voluntary treatment regimen.¹⁸² However, nothing regarding the exclusion of certain classes of people from the so-called voluntary

¹⁷⁹ Walkowitz, “Politics of Prostitution,” 130.

¹⁸⁰ Cox, “Compulsion, Voluntarism, and Venereal Disease,” 92.

¹⁸¹ Ibid.

¹⁸² Ibid.

system was placed in the statute books. Possibly a lesson learned from the failure of the Contagious Diseases Acts, the methods of coercion were much more covert.¹⁸³

Coercion aside, venereal disease treatment methods improved dramatically in the decades following the repeal of the acts, making any system of disease control, voluntary or not, much more viable. During the first decade of the twentieth-century doctors were able to identify the microorganism that caused syphilis, devise a diagnostic test for it, and develop a working treatment.¹⁸⁴ Although the arsenic-based treatment called Salvarsan was still dangerous due to its poison content, it provided a cure rather than increased suffering as prior treatments using mercury had done. In 1916 all local authorities in Britain were ordered to establish a voluntary, confidential, and free venereal disease clinic for the public.¹⁸⁵ Free treatment, along with public education initiatives, helped to reduce the rate of syphilis infection by half by the 1920s, effectively extinguishing the fear of a venereal disease epidemic that had led to the enactment of the Contagious Diseases Acts.¹⁸⁶

¹⁸³ Cox, "Compulsion, Voluntarism, and Venereal Disease," 94.

¹⁸⁴ Cox, "Compulsion, Voluntarism, and Venereal Disease," 97.

¹⁸⁵ Cox, "Compulsion, Voluntarism, and Venereal Disease," 98

¹⁸⁶ Ibid.

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