

Social policy

Tony Little examines Gladstone's role in the introduction and abolition of the Contagious Diseases Acts

The Forbidden Gladstone and the Con

Despite their quiet passage, the Contagious Diseases Acts proved to be some of the most controversial of Victorian laws and the campaign against them is viewed as a pioneering feminist crusade.

AFTER A COMMONS debate on military spending in May 1864, Sir John Trelawny, the Radical MP, recorded in his diary, 'I took occasion to mention the necessity of providing measures to protect soldiers near large towns from some contagious diseases & several members confirmed my advice'.¹ Three weeks later the government chief whip² persuaded Trelawny to delay a critical motion for a week to allow the navy minister³ to introduce 2 bills he has prepared & get them read a second time.' Trelawny assured him that he 'was only concerned to see government move in the matter'.⁴ On 18 July 1864 he concluded,

A morning sitting, whereat passed in committee the Contagious Diseases Bill. Ayrton made a long & excellent speech in which he stated numerous objections to the scheme. The committee being in a singular practical state of mind & determined to abate a nuisance if its abatement were possible, went through all the clauses without a division.⁵

Two days later, the bill received the royal assent.

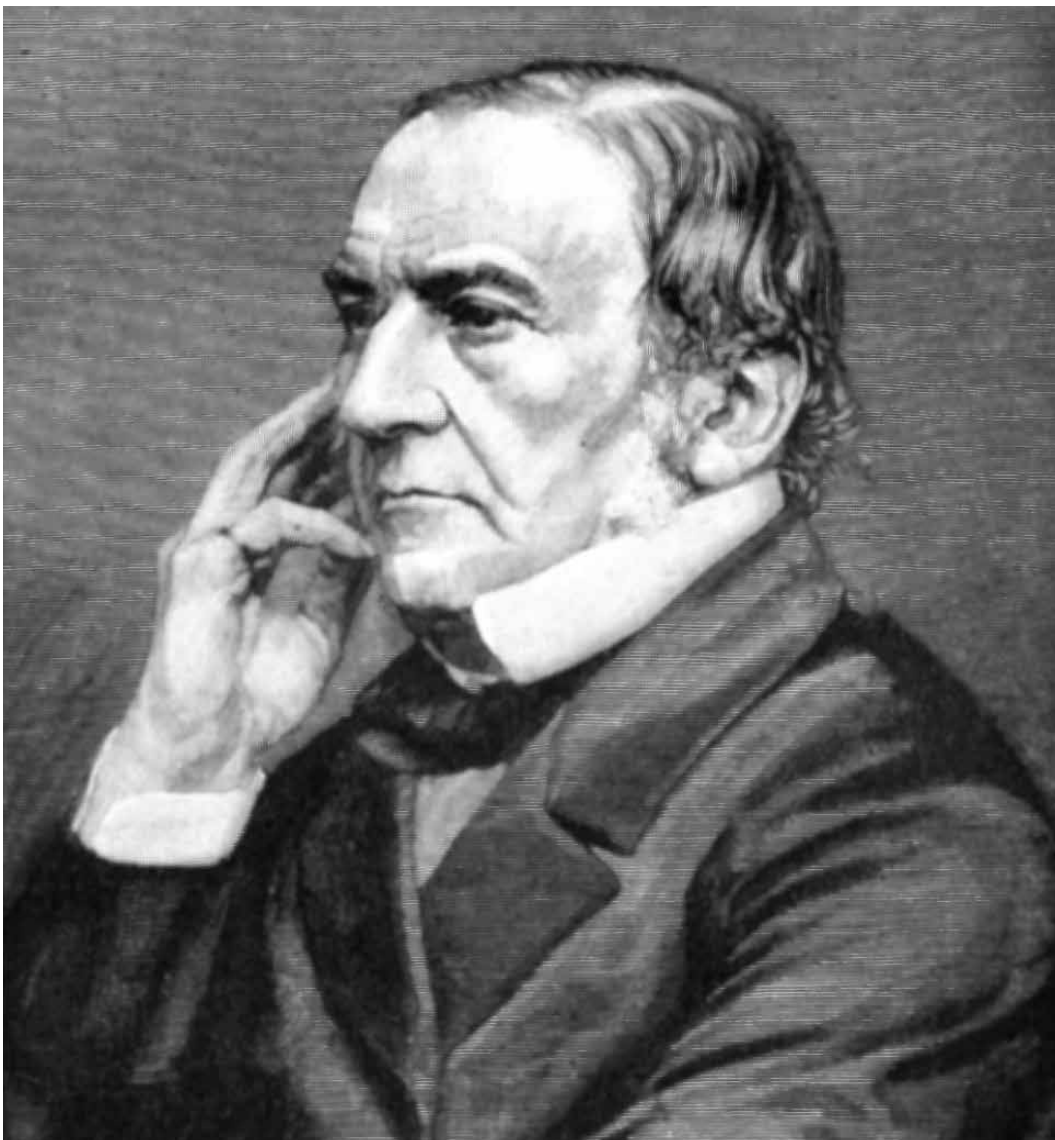
The Contagious Diseases Act applied in eight English garrison towns, mostly in the south, and three in Ireland. A police inspector could bring a woman before a magistrate as a common prostitute, obliging her to be medically examined. If she suffered from a venereal disease she could be detained in a 'lock' hospital for up to three months. The woman could avoid a court appearance by voluntarily submitting to examination. When the Act was renewed in 1866, hospital detention was increased to six months with moral and religious education provided and Windsor

was added to the specified towns. The medical examination could be repeated at regular intervals for up to year. A further Act, in 1869, added six further towns, and raised the maximum detention to nine months.⁶ A number of colonies adopted similar arrangements but Scotland had its own regime.

Despite their quiet passage, the Contagious Diseases Acts proved to be some of the most controversial of Victorian laws and the campaign against them is viewed as a pioneering feminist crusade. Gladstone is not usually associated with the Contagious Diseases Acts. But he was Chancellor of the Exchequer in Palmerston's government which passed the initial legislation. When Russell's government passed the second Act, he was Chancellor and Leader of the House. By the final Act, he was Prime Minister. Gladstone was an informed participant in policy formation. The campaign against the Acts was mainly a quarrel among Liberals, commanded, on both sides, by Liberals; the repealers better organised, their opponents better connected. No more than 10.7 per cent of Conservative MPs supported repeal in any division.⁷ Consequently, it was Gladstone's ministries that felt the impact of the campaigns primarily through the activities of their own supporters.

Richard Shannon titled the second volume of his Gladstone biography *Heroic Minister*⁸ and heroic leadership is the image that fairly describes Gladstone's battles for constitutional and fiscal reform. But politics is, often, more concerned with damage limitation than famous victories. This article re-examines the repeal of the Contagious Diseases Acts as an exercise in timid if not cowardly government. How did Gladstone

den Ground ntagious Diseases Acts



William Ewart
Gladstone (1809–98)
in 1868

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manage his government to meet the conflicting demands of the repealers and of the medical establishment who wished to extend the legislation?

The mischief may be reduced

With some of his university friends, Gladstone had from the mid-1840s undertaken to perform 'some regular work of charity'. Gradually this developed into rescuing of prostitutes in conjunction with the House of Mercy at Clewer. His wife was fully associated with this work but was probably unaware of his anxiety about the temptations of the work that he confided to his diaries.⁹ Private concern about a moral evil became a public responsibility after the Crimean War.

Following the poor performance of the army in Crimea, in 1857, a Royal Commission on the Health of the Army 'noted the high level of venereal disease among certain troops'.¹⁰ The commission collected statistics, discovering that roughly one-third of army sick cases were venereal, though for the navy it was only one in eleven.¹¹ At the prodding of Florence Nightingale, a departmental committee met, in 1862, and recommended the establishment of specialist hospitals, improved sanitary conditions and 'innocent' occupations to relieve the tedium of life in barracks; but Sir John Liddell, director general of the naval medical department, advocated a regulatory system to 'arrest disease at its source'.¹²

Gladstone participated from the beginning. He disclosed his concerns about prostitution during the 1857 divorce law debates, 'I am afraid, as respects the gross evils of prostitution, that there is hardly any country in the world where they prevail to a greater extent than in our own'.¹³ He was similarly realistic about military behaviour, doubting 'the possibility of making a standing army a moral institution'.¹⁴

Responding to Miss Nightingale's Committee, Gladstone wrote, in a minute of 18 February 1862:

... we in this country multiply three or four-fold a frightful evil among servants of the State whom we induce and invite to place themselves in that class, while we know that by adoption of means which are elsewhere adopted under the direct authority of the Crown, the mischief may be reduced within limits comparatively moderate.

He suggested a parliamentary committee of the 'weightiest and most sensible men' meeting 'with closed doors' to consider 'a measure providing that in the principal garrisons and arsenals of the United Kingdom these women should be examined and sent into hospital until cure'. He added that 'soldiers and seamen having the disease should be subject to a special stoppage to meet the expense of their treatment'.¹⁵

When two back benchers opposed the 1866 bill, regretting the lack of provision for

reclaiming the 'unhappy creatures', as leader of the House, Gladstone cut short the debate, proposing they leave the details for the committee stage since the measure merely renewed the existing Act.¹⁶ With the additional clauses for the moral and religious education, the bill quickly passed its remaining stages.

Not satisfied, advocates of regulation founded an Association for Promoting the Extension of the Contagious Diseases Act of 1866 to the Civil Population, backed by the *Lancet* and the Harveian Medical Society, the vice-chancellors of Oxford and Cambridge and thirty MPs.¹⁷ 'The Contagious Diseases Act should be extended to the civil population', William Acton argued, 'for by means of its machinery alone can we discover and detain till cured the women afflicted with syphilitic diseases, and in no other way that has occurred to me can the supervision necessary for enabling us to work a gradual improvement in their lives be obtained'.¹⁸

Gladstone's first government extended regulation a final time despite emerging opposition to the legislation. In 1868, Dr John Simon, the medical officer of the Privy Council advised against extension. The Rescue Society presented *A Memorandum of Objections* to the home secretary, circulating copies to members of both Houses of Parliament, though their secretary feared that 'very little effect was produced. The utmost apathy prevailed; people would not believe our words and would not stir'.¹⁹ On 25 July 1868 Gladstone read *Senior on Ireland and Tracts on Contagious Diseases*.²⁰ He did not record his reaction.

When questioned on the Acts, in February 1869, Gladstone responded cautiously 'that Government had under their consideration the course to be taken with respect to that Act'.²¹ 'Contagious Diseases Act Extension' was the eleventh item on the cabinet agenda for Saturday 24 April and, in May, they bought further time by appointing a select committee to consider the Acts.²² This produced the 1869 statute, which received the Royal Assent in August.

The path of evil made more easy

Opposition now began to mobilise. After the 1869 Social Science Congress, Dr Charles Bell Taylor and Dr Charles Worth launched the National Anti-Contagious Diseases Acts Association.²³ The movement took flight at the end of 1869 when the *Daily News* published a letter from 126 women summarising liberal, moral, feminist and utilitarian objections to the regulations. The women claimed that:

- The Acts 'remove every guarantee of personal security which the law has established and held sacred, and put their reputation, their freedom, and their persons absolutely in the power of the police.'
- By registering and inspecting prostitutes 'the path of evil is made more easy to our sons'.

With some of his university friends, Gladstone had from the mid-1840s undertaken to perform 'some regular work of charity'. Gradually this developed into rescuing of prostitutes in conjunction with the House of Mercy at Clewer.

‘Moral restraint is withdrawn the moment the State recognises and provides convenience for the practice of a vice.’

- ‘It is unjust to punish the sex who are the victims of a vice, and leave unpunished the sex who are the main cause both of the vice and its dreaded consequences.’ ‘We consider the liability to arrest, forced surgical examination, and where this is resisted, imprisonment with hard labour, to which these Acts subject women, are punishments of the most degrading kind.’
- ‘The advocates of the system have utterly failed to show, by statistics or otherwise, that these regulations have in any case, after several years’ trial, and when applied to one sex only, diminished disease, reclaimed the fallen, or improved the general morality of the country.’

Florence Nightingale, Harriet Martineau, Elisabeth Wolstenholme and Josephine Butler were the most prominent signatories. Quakers such as Priscilla McLaren, Ursula Bright and Mary Priestman, all related to John Bright, were well represented. Many signatories had previously petitioned for the women’s right to vote. The letter announced the formation of a Ladies’ National Association for the Repeal of the Contagious Diseases Act (LNA) with Josephine Butler as secretary and Ursula Bright as treasurer.²⁴

We must move in the matter

Josephine Butler, charismatic, resolute, though physically frail, was the 41-year-old daughter of John Grey, Earl Grey’s cousin and an anti-slavery campaigner. In 1852 she married George Butler (1819–1890) an Anglican clergyman and Oxford examiner. Reacting against the sexual double standards of the university’s masculine culture, Josephine began to rescue ‘fallen women’.²⁵ Josephine’s health forced the Butlers to move, initially to Cheltenham and, then, after her daughter’s tragic accidental death, to Liverpool where Josephine intensified her rescue work, establishing a small factory to provide alternative employment. Josephine’s feminism was aroused by the inadequate economic opportunities for poorer women and the gender barriers to university education. She signed the 1866 women’s suffrage petition and was president of the North of England Council for Promoting Higher Education for Women.

Mrs Butler hesitated to act as secretary to the new committee. Afraid of damaging her husband’s career, she wrote for his permission. She reported: ‘we agreed together that we must move in the matter, and that an appeal must be made to the people’.²⁶

In her first year Mrs Butler addressed ninety-nine public meetings and published ‘*An Appeal to The People of England*’, the first of many pamphlets. Repeal groups were quickly formed in most cities. The campaigners, a coalition of ‘trade

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unionists, parliamentary and intellectual radicals and outraged Nonconformists’,²⁷ promoted mass meetings, signed petitions, lobbied parliament and subverted the Acts in naval towns.²⁸ Friendly MPs orchestrated deputations to ministers, repeal bills and motions to deny funding for the Acts.

Gladstone, inadvertently, contributed to the repealers’ first triumph. On 18 August 1869, he explained to Granville his plans for a ministerial reshuffle including the ‘War Department’ which Cardwell felt ‘ought to be more fully represented in the House of Commons ... The way to do this would be I believe to make Storks a political officer.’²⁹ Cardwell was about to introduce a series of major reforms to the army in response to Prussian victories in 1866 and reinforced by the defeat of France in 1870. Major General Sir Henry Storks, Gladstone’s successor as high commissioner of the Ionian Islands, had been governor of Malta³⁰ where he enforced contagious diseases regulations with ‘severe efficiency’.³¹ Storks was proposed for a spring 1870 by-election at Newark. At the nomination, ‘about 3,000 persons were present’, according to *The Times*, ‘and with the exception of a little fighting the crowd was generally good-tempered. Sir Henry Storks retired from the contest, his support of the Contagious Diseases Act having damaged his popularity, and rendered his success impossible.’³²

Capitalising on their victory, William Fowler, Quaker and Liberal MP for Cambridge tabled a bill to rescind the Acts. Before the debate, repealers bombarded parliament with petitions totalling 270,000 signatures and one MP yearned for an end of ‘that stream of offensive literature which has flooded our houses for several months past.’³³ Worried, the government bought time. At cabinet on 21 May, Gladstone noted ‘Commission in lieu of Mr Fowler’s Bill’.³⁴ Fowler introduced his bill, on 24 May, beneath prudishly cleared public galleries.³⁵ But after just two more speakers, the adjournment was moved, almost preventing the government announcing its royal commission. This sparked further debate requiring Gladstone to reassure MPs that the commission would consider the ‘the moral aspect of the question’.³⁶

Due allowances for executive difficulties are refused

Although the royal commission provided respite, the government remained under pressure. In November, Josephine Butler sabotaged an attempt to elect Storks at Colchester; a campaign made infamous by the mob which attacked her hotel. ‘Forming the Commission of right materials’, caused delay and in December Gladstone complained to Bruce ‘But when popular feeling is excited, due allowances for executive difficulties are refused & I am fearful lest attempts should be made, if the tide continues to rise, to discredit the Commission altogether.’³⁷

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Although the LNA regarded the commission as a trap, opponents of the legislation were encouraged to suggest questions and witnesses. It finally began taking evidence in January 1871. The eighty-three witnesses included the police, doctors and military men who implemented the Acts, representatives from rescue missions, John Stuart Mill and Josephine Butler, pitching administrative expertise against moral outrage. Despite feeling like 'Paul before Nero, very weak and lonely',³⁸ Mrs Butler stated her position unequivocally: 'We know that to protect vice in men is not according to the Word of God ... We shall never rest until this system is banished from our shores'.³⁹ Mill treated the commission to a philosophical discussion.

The royal commission disappointed any hopes of creating consensus. In May, Gladstone refused to meet a deputation before it reported but, finally, on 17 July 1871, announcing the imminent publication, Bruce revealed that:

Two-thirds of the Members were in favour of qualified compulsory application of the Acts, one-third – or rather, seven – were in favour of strengthening rather than weakening the Acts; six were in favour of repealing all compulsory legislation, and all were in favour of further legislation, with a view of modifying the law to make it applicable to the whole country.⁴⁰

It was too late in the session, he concluded, for the government to introduce a bill. The report had been on the cabinet agenda for 1 and 5 July 1871 but postponed. When it was finally considered on 8 July, Gladstone noted 'Contagious Diseases Act report: signed by 23. Allowances(?) of dissent. In the cabinet – for now repealing the later acts & revising the Act of (18)64 – no one.'⁴¹ The cabinet were unconvinced by the commission's main recommendation.

While at Hatfield the following weekend, Gladstone wrote a memorandum exploring alternative measures such as strengthening the current 'repressive' but effective law on brothels in preference to the Contagious Diseases Act or, ever the economical chancellor, deducting pay from soldiers or sailors suffering venereal disease or even adopting 'what I understand to be the French system, namely that the vice shall be self-supporting: that the cost of dealing with those who have ill fortune in its practice shall be borne by the mass of those who practice it.'⁴²

Importantly, in the same memo, he conceded the moral case: 'The Acts do not merely fail to corroborate or enforce the existing law: they operate against it; as they tend to establish a class of approved brothels, subsisting under a kind of concordat with public authority, hardly open to any possibility of being put down, and likely to grow, as the French brothels tend to grow, into a vested interest.'⁴³ Over the summer he continued to reflect on the Acts, reading



It appears from the Handbills issued by MR. CHILDERS
this morning, that
HE IS AFRAID TO MEET US,
And answer our questions on the Contagious Diseases Acts.

THEREFORE

MRS. BUTLER

REQUESTS THE

WOMEN OF PONTEFRAC
TO MEET HER AT THE
LARGE ROOM, IN SOUTHGATE,
(USED BY MR. JOHNSON AS A SPINNING ROOM),
THIS EVENING AT SEVEN O'CLOCK.

MRS. BUTLER will shew that the Bill of which MR. CHILDERS says he is now a supporter, while pretending to Repeal the "Contagious Diseases Acts" is an extension of their principle to the whole country.

MRS. BUTLER will shew that MR. CHILDERS belongs to a Government which has extended these Acts not only to this Country but to the Colonies and Dependencies of the British Empire.

JOSEPHINE E. BUTLER, Hon. Sec. of the Ladies' National Association.

From top:
‘Voluntary’ inspection
under the Contagious
Disease Acts
Josephine Butler
(1828–1906)
Poster advertising
a meeting to be
addressed by
Josephine Butler,
Pontefract, 1872

Josephine Butler’s address to the LNA, *Sursum Corda*.⁴⁴

Towards the end of September, Gladstone received a letter from Henry Manning, the Catholic Archbishop of Westminster, seeking a discussion on ‘two social not political subjects’ – education and the Contagious Diseases Act where Manning was ‘on broad social, and ethical grounds very decidedly against the Act’. In his response from Balmoral, Gladstone concedes the feminist case against the acts:

... with regard to the Cont[agious] Di[seases] Act, you will certainly have no adverse prejudices on my part. They exist, & the exact mode & time of dealing with them are matters of considerat[io]n. But I cannot say I regard them with much favour at any point. In part, I hate and nothing less, this new and flagrant use of unequal dealing as between men and women. Let this be very private. I write to you as an old friend.⁴⁵

A most signal example of bigotry

The cabinet contemplated the ‘exact mode & time of dealing’ with the commission report the following month. On 27 October, Bruce was asked to propose a plan. At this stage ‘Cabinet nearly all prepared to give up all compulsory exam[inatio]n’. A week later they considered ‘provisions to be made if and when Compulsory Examination given up. Proposed and discussed.’ Just before Christmas, a decision was reached: ‘Ripon [Lord President of the Council] proposed to maintain the Acts. Determined: to repeal the Acts. New provisions considered.’

Following the cabinet meeting of 30 January 1872, Gladstone advised the chief whip that Bruce would introduce a bill on 13 February, four days after the secret ballot bill, but it was not until the beginning of February ‘that Provision as to detention (was) considered’ and ‘Disposed of.’⁴⁶

The bill contained Gladstone’s ‘repressive’ elements but not his plan to make sin pay its costs. It strengthened the law against solicitation, provided penalties for keeping ‘bawdy houses’, raised the age of consent to 14 and toughened the law on procuring and assault. It proposed ending compulsory examination, but extending enforced hospital detention across the country.⁴⁷

Bruce argued the choice lay between repealers, ‘who, however unreasonable their opposition might have been, were backed by many persons of calm and serious habits of thought’ or ‘by far the largest part of the medical, naval, and military profession’. Destroying any possibility of consensus he then characterised repeal campaigners as ‘persons entitled to little belief’, who were ‘impugning the conduct of those’ administering the Acts, making ‘wild and random charges’, adding ‘that the agitation was due

mainly to a monstrous system of perversion and exaggeration’.⁴⁸

MPs among the repealers argued that ‘the good that was in the bill must be secured’ and used as a ‘lever for obtaining still more’.⁴⁹ However, Bruce’s outburst and the residual detention powers led Mrs Butler to the opposite conclusion. ‘Satan might sometimes deceive us, but not when he hid his cloven hoof so clumsily’,⁵⁰ ‘I and my ladies will not in any way countenance Bruce’s Bill’.⁵¹ Although initially in the minority, Mrs Butler’s intransigence eventually held sway. On the opposing side, ‘over 2000 doctors ... signed a memorial in favour of the acts now in force’.⁵² A deputation of three peers and 147 MPs of both parties, led by Trelawny, encouraged Bruce to preserve the Acts.⁵³

When, in July, Gladstone abandoned the bill, there was little surprise but he had lost the best chance of a quick solution. Gladstone gave his verdict when he sought Bright’s help for Charles Lyttleton in the 1874 general election: ‘I do not believe him to be an Advocate of the Act: but the party opposed to them refused our Bill of 1871 (or 2) which gave them nearly all they asked but which withheld a little *modicum*. It was a most signal example of bigotry on their part’.⁵⁴

She must win her way

When approached by yet another deputation in the late autumn of 1872, the baffled cabinet considered reintroducing their bill but as Gladstone noted ‘Sub(ject) postponed – we are not ready to decide the matter yet – Mr Bruce to give a dilatory answer to his deputation on Thursday’.⁵⁵ Just before Christmas, Gladstone headed north for the prize-giving at Liverpool College, where George Butler was Head, and where he met Mrs Butler, possibly, for the first time.⁵⁶

At the time, Gladstone recorded ‘At 12.15 I delivered my Address which lasted an hour as I meant. The prizes, divers speeches and the luncheon afterwards. 2,700 persons present.’⁵⁷ Since the Tory governors of the school would not provide lunch for the Gladstones, the Butlers obliged. Josephine sought value for their money. As Gladstone later recalled, ‘she through Mr Stansfeld, then my colleague, asked leave to converse with me on the Acts. I begged to be excused. But at the entertainment which followed the function, I sat by her for the best part of two hours, and passed the bulk of the time in conversation with her. She never came near the forbidden ground’.⁵⁸ Afterwards he noted in his diary: ‘But I am not sure that ever during my life I was so impressed, in a single conversation, with the fine mind, and the noble, pure, and lofty character of a woman. She seemed to me one who wherever she goes, must win her way and carry all before her.’⁵⁹

Her recollection was that ‘she led him as close as she possibly could’, ‘but got no encouragement from Gladstone to go further’ and so she ‘seized

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With what must have been considerable restraint, Gladstone recorded in his diary for 10 May 1874, 'Read Mrs Butler's remarkable pamphlet.' *Some Thoughts on the Present Aspect of the Crusade Against the State Regulation of Vice* powerfully urged Christians to organise against the Acts in every constituency.

upon related subjects, such as marriage, domestic life ... Christ's law of purity as binding on all.' 'He seemed struck, and took fire, as it were when I spoke. Indeed he would have become so absorbed, that the guests, I saw, were wondering, and for decency's sake I twice turned the other way and talked to the Tory mayor on my other side.' At the end of the meal, Gladstone proposed a toast thanking the Butlers. Grabbing the opportunity, George Butler responded 'that it was not merely as his wife but as his companion in efforts for social reform that he felt thankful & proud to be thus publicly mentioned together with' Josephine by the premier. The stunned silence of the governors was broken by Gladstone's shouted 'hear, hear'.⁶⁰

A silent vote

The failure of Bruce's bill spurred on the repeal campaign. In 1873 over 250 public meetings were held.⁶¹ Growing Liberal divisions were exposed when, in May, Fowler tabled another bill to overturn the Acts. On 17 May, Gladstone recorded that the cabinet would treat repeal as an open question. More Liberal MPs voted for repeal than against,⁶² but Fowler lost 130 to 253 overall.⁶³ Three cabinet ministers voted for repeal, five voted to retain the acts, including Bruce, Cardwell, at the War Office, and Goschen, at the Admiralty, three abstained including Gladstone.⁶⁴

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A retrospect of the last four years' work, and its effect upon the late general election, cannot fail to be encouraging. In spite of the suddenness of the dissolution, which took us all by surprise, and gave us no time to increase or organize our agencies, our question played a much more prominent part in that general election than most of us had anticipated or dared to hope.⁶⁶

The election had produced the first Conservative majority since 1846, put Disraeli into power and Gladstone onto the backbenches. Mrs Butler's later *Reminiscences* were more downbeat: 'The year 1874 was a period of great depression and discouragement for our cause ... Our faithful parliamentary leader, Mr W Fowler, lost his seat in the General election ... Several of our best friends in the House also failed to secure their return to Parliament.'⁶⁷ With repeal indefinitely postponed, Mrs Butler took her campaign to the continent, the heart of state regulated prostitution.

Opinion in the new House was tested in 1875 when Harcourt Johnstone, an undistinguished

Liberal, divided the House on a repeal bill. The number of opponents had increased to 310 but repealers had dropped only two to 128. Disraeli's opposition confirmed that little could be expected from the Conservatives. The Liberal ex-Service ministers Hartington and Goschen continued to support regulation, but Childers joined former ministerial colleagues Stansfeld, Bright and Forster in opposition. In voting against the acts, Gladstone and his eldest son signalled their public conversion, boosting repeal morale.⁶⁸

Malsano

Gladstone's next, inadvertent, contribution to abolition came when he replaced Stansfeld, as a representative Radical in his 1880 government, with Chamberlain. That omission freed Stansfeld to apply his ministerial skills to leading the parliamentary repeal campaign, a role labelled by the *Sheffield Independent* as 'a hobby too nasty to be touched'.⁶⁹

Although the new Liberal government avoided fresh initiatives, its supporters would not permit the debate to remain unresolved. Consequently, in May 1880, Gladstone reappointed a Contagious Diseases select committee, whose government nominee stalled its report until the summer of 1882, giving the administration the pretext not to debate Stansfeld's private member's bill or to produce its own measure that session. Nevertheless, Stansfeld took the opportunity to remind Gladstone and Childers of their support in 1875: 'I interpret the votes given by the Prime Minister and my right hon. Friend the Secretary of State for War as nothing else than an admission that "we cannot stand where we are".' Responding for the government, Childers preserved their flexibility 'to decide as we may think fit, after considering that Report and the evidence'.⁷⁰ Though when Gladstone considered the issue in January 1883, he cryptically noted 'Conclave on Contagious Diseases Act: Malsano' – 'in an unhealthy state'.⁷¹

Stansfeld concluded that the select committee had undermined the medical case for the Acts and thus 'the neck of this iniquity is broken' and that 'it is comparatively child's play to deal with the moral and religious evidence, because they cannot possibly fight us upon that ground'. Simultaneously, Hartington was writing to Lord Ripon that the report 'evidently points to a future extension in the United Kingdom of the Acts in the direction of increased protection of the civil population ...'.⁷²

A resolution that 'this House disapproves of the compulsory examination of women under the Contagious Diseases Acts', was crowded out in February 1883 by the Kilmainham Treaty but was submitted again by Stansfeld in April. Lord Derby captured the flavour of the cabinet's reaction:

Talk of the C.D. Acts, which are to be an open question: Chamberlain violent against them,

Gladstone doubtful, Harcourt strongly for. Comic confusion caused by Carlingford being suddenly appealed to: he had not been listening, thought the C.D. Acts relating to animals were concerned, & began to talk about slaughtering at the port of landing, & importation being forbidden. A general laugh followed, which I noticed left the Premier very grave.⁷³

Gladstone's own diary was rather more laconic: '2 pm Cabinet: 1. Contagious Diseases – Open Question? Yes. R. Grosvenor to make this known. Wait issue of debate for further consideration. Minimise over intervention in the debate.'⁷⁴

The repealers stepped up their lobbying. On 17 April, Derby noted that:

At 3.00 Stansfeld brought with him a deputation on the Contagious Diseases Acts, which swelled from a small number to more than 100: Sir W Lawson, Smith, the new member for Liverpool, Dean Butler, & other known names being among them ... Stansfeld told me privately that he knew he would be beaten in the House, but he thought a strong agitation would spring up in the country.⁷⁵

On 20 April, as Josephine Butler reported to her sister:

It was a long debate, the tone of the speeches both for and against, was remarkably purified and with one exception they were altogether on a higher plane than in former debates. Many of us ladies sat through the whole evening till after midnight; then came the division ... When Mr. Cavendish Bentinck was speaking against us I noticed an expression of pain on Mr. Gladstone's face. He seemed to be pretending to read a letter, but at last passed his hand over his eyes and left the House. He returned before Mr. Stansfeld made his noble speech, to which he listened attentively.⁷⁶

Gladstone attended parts of the debate but left at half past eleven, having 'paired for Mr Stansfeld'.⁷⁷ Stansfeld's prediction proved wrong. His resolution was carried by 184 to 112.

The resolution created rather than solved problems because, as Hartington confirmed in the debate, its passing did not change the law. The cabinet needed to find a fix. On Saturday 21 April, Gladstone noted, 'Agreed we must move. H[artington]n to ans[wer] on Monday that we have taken res[olution] into imm[ediate] cons[ideration] & will in due time announce result'. A week later the cabinet met again. 'Hartington mentioned the conclusions as to Contagious Diseases Act. They were approved: Metropol[itan] Police withdrawn.'⁷⁸ The Acts were no longer enforced but the hospitals continued treatment.

Inevitably, the statutes' defenders reacted strongly, obliging Gladstone to explain that

the government considered the Acts discretionary and that, following Stansfeld's resolution, it believed the Commons would refuse to pay for enforcement.⁷⁹ Hartington introduced a bill abolishing compulsory inspection but preserving powers for detaining infected prostitutes. Once again this aroused suspicions among repealers and like Bruce's bill it was withdrawn. Gladstone's second government fell in 1885 with the Acts still in limbo but with the climate irrevocably changed by Stansfeld's resolution and W. T. Stead's sensational exposure of trafficking in children headlined 'The Maiden Tribute of Modern Babylon'.⁸⁰

The Contagious Diseases Acts died as quietly as they were born, a by-product of the 1886 home rule crisis. On 12 March 1886, the new Secretary of State for War, Campbell Bannerman, urged colleagues that 'In the interests of the Health of the Army and the moral conditions of the garrison towns, it is most desirable that the Acts should be repealed.'⁸¹ On 16 March, Stansfeld introduced a repeal resolution. Gladstone fended off a Conservative amendment obliging the government to provide hospitals by defending the existing permissive regime.⁸² His majority of 114 cleared the way for a new bill which received the Royal Assent on 16 April. In Britain, the Acts were no more.

Throughout the debates, the two sides kept up a contradictory barrage of statistics on the effectiveness of the Acts and neither conceded the case. Infection rates declined in both regulated and non-regulated areas but wider improvements in hygiene, changing conditions of military service and alternative employment opportunities for women complicate any explanation. More importantly, the medical profession was overconfident about the effectiveness of available treatments. The primary focus was on syphilis but the infectiousness of its secondary stage was not fully recognised. The severity of gonorrhoea was underestimated. The bacterium causing syphilis was not identified until 1905 and the first proven cure, the arsenic-based Salvarsan, was discovered in 1910. Penicillin, an effective antibiotic discovered by Fleming in 1928, was not widely utilised until the Second World War.

Kicked into it?

When Stansfeld spoke to his resolution on 16 March, he complained, '17 weary years had passed, in which many hundreds of persons, both men and women, had spent their time, some their lives, and some had broken their hearts, in the endeavour to get these Acts repealed'.⁸³ An alternative perspective is that under assault from well-organised campaigners, from a substantial minority within their own party and with their own ranks divided, Gladstone and his governments had delayed for seventeen years the overthrow of a policy which, their experts believed,

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In his memoir of his grandmother, A. S. G. Butler suggests that Josephine believed 'that Gladstone could never see a question rightly until he was *kicked* into it.' This tells more about Mrs Butler's uncompromising persistence than Gladstone.

preserved the health of the country's defence forces.

The weapons ministers used then would still be recognised by politicians today. Postponement is so common that the cliché used to describe it has been shortened to a verb – awkward issues are 'long-grassed'. Gladstone had no such inelegant jargon but inertia and prevarication through royal commissions and select committees served the purpose. Then as now, time created opportunities to build consensus or, where that failed, to provide evidence to defend the status quo. Delay also purchased the opportunity for compromise. Bruce's and Hartington's bills were realistic offers of worthwhile concession. These techniques are not heroic but they are frequently effective and were used in Gladstonian governments more often than historians notice.

Then as now it helps to brand activists as extremists, as when Bruce characterised repeal propaganda as a 'monstrous system of perversion and exaggeration'. The prominence and leadership of women in the repeal movement was itself shocking but the shock was doubled when combined with the 'nauseous', 'noisome' nature of the legislation⁸⁴ and the fanaticism of the social purists attracted by the campaign.

In his memoir of his grandmother, A. S. G. Butler suggests that Josephine believed 'that Gladstone could never see a question rightly until he was *kicked* into it.'⁸⁵ This tells more about Mrs Butler's uncompromising persistence than Gladstone. Gladstone started as a convinced proponent of regulation but one who reassessed his position in reaction to new evidence. After his 1872 visit to Liverpool, Gladstone explained to Stansfeld why he had made the Acts forbidden ground: 'There is no use in an arrangement by which a leader of any movement warmly presses his views on any member of the government, who is already well disposed towards that movement, unless he can, which I cannot, become a propagandist of it in the Cabinet.'⁸⁶ Gladstone remained 'well disposed' despite the kicking given to Bruce's bill rather than because of it. When he publicly revealed his support for repealing the Acts, in 1875, Gladstone was out office, not expecting future office and certainly not under pressure.

After the royal commission was announced, Stansfeld wrote to *The Times* that:

Mr. Gladstone authorizes me to add the expression of his own personal opinion that it is by the ascertained moral tendency of this exceptional legislation that it ought ultimately to be judged. If the Acts can be shown to be in the words of your resolution, 'immoral in their principles and tendency,' no supposed physical advantages consequent upon their operation can justify their continuance, and they must be repealed.⁸⁷

Gladstone and Mrs Butler shared a moral and feminist understanding of the legislation, but

tempered, for Gladstone, by the necessity of compromising a 'little *modicum*' for practical reasons. When Mrs Butler acknowledged the need to compromise a little modicum – accepting that:

In a matter of Parliamentary policy I should prefer to be guided by our leader, Mr. Stansfeld, who certainly proved himself worthy of all confidence; and I should prefer to act so as not to discourage by any needless hostility, those members of the Government who may be coming to our side, although slowly it may ...'

– repeal became possible.⁸⁸

Gladstone never became 'a propagandist' of repeal in the cabinet but, just as he had fostered and facilitated the birth of the Contagious Diseases Acts, his known sympathies and cautious, patient management facilitated their painless demise.

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- 1 T. A. Jenkins (ed.), *The Parliamentary Diaries of Sir John Trelawny, 1858–1865*, Camden Fourth Series vol. 40 (Royal Historical Society, 1990), p. 276. Abbreviations have been expanded.
- 2 Henry Brand.
- 3 Clarence Paget, First Secretary of the Admiralty.
- 4 Jenkins, *Diaries of Sir John Trelawny*, p. 280.
- 5 *Ibid.*, p. 302.
- 6 Derived from William Acton, *Prostitution* (Macgibbon & Kee, 1968, originally published 1857), p. 232, and J. L. Hammond and Barbara Hammond, *James Stansfeld: A Victorian Champion of Sex Equality* (Longmans Green & Co., 1932), pp. 121–2. The designated towns were: 1864: Aldershot, Chatham, Colchester, Plymouth, Portsmouth, Sheerness, Shorncliffe, Woolwich Cork, The Curragh, Queenstown
1866: Windsor
1869: Canterbury, Dover, Gravesend, Maidstone, Southampton, Winchester
- 7 Paul McHugh, *Prostitution and Victorian Social Reform* (Croom Helm, 1980), p. 235; table 9.1 refers to the division on 24 May 1870.
- 8 Richard Shannon, *Gladstone Heroic Minister 1865–1898* (Allen Lane, 1999). Given Shannon's often critical and exasperated assessment of Gladstone, I wonder whether his intention was ironic.
- 9 See H. C. G. Matthew, *Gladstone 1809–1874* (OUP, 1986) p. 89ff.
- 10 Cited in Judith Walkowitz, *Prostitution and Victorian Society: Women Class and the State* (CUP, 1980), p. 74.
- 11 *Ibid.*, pp. 49, 75.
- 12 *Ibid.*, pp. 75–6. Only approximately 7% of soldiers were allowed to marry (see Acton, *Prostitution*, p. 125).
- 13 Hansard, Parl. Debs. (series 3), vol. 147, c. 854 (31 Jul. 1857).
- 14 Cecil Woodham Smith, *Florence Nightingale* (Reprint

- Society, 1952), p. 315.
- 15 Add Ms 44752, f263. Printed in H. C. G. Matthew (ed.), *The Gladstone Diaries*, vol. 6, 1861–1868 (OUP, 1978), p. 183. Henceforth diary references are given as date of entry.
- 16 Hansard, Parl. Debs. (series 3), vol. 182, cc. 814–6 (22 Mar. 1866).
- 17 Trevor Fisher, *Scandal: The Sexual Politics of Late Victorian Britain* (Alan Sutton Publishing, 1995), p. 21.
- 18 Acton, *Prostitution*, p. 27.
- 19 Josephine E. Butler, *Personal Reminiscences of a Great Campaign* (Horace Marshall & Son, 1910), p. 5, accessed on 11/6/2013 at <http://archive.org/stream/personalreminiscobutliala#page/n3/mode/2up>.
- 20 *Gladstone Diaries*, 25 Jul. 1868
- 21 Hansard, Parl. Debs. (series 3), vol. 194, c. 303 (25 Feb. 1869).
- 22 Matthew, *Gladstone Diaries*, 24 Apr. 1869; Hansard, Parl. Debs. (series 3), vol. 196, cc. 808–9 (13 May 1869).
- 23 Walkowitz, *Prostitution and Victorian Society*, pp. 86, 92.
- 24 *Daily News*, 31 Dec. 1869.
- 25 See Keith Thomas, ‘The Double Standard’, *Journal of the History of Ideas*, vol. 20, no. 2, April 1959, pp. 195–216.
- 26 Jane Jordan, *Josephine Butler* (John Murray, 2001), p. 109; Josephine E. Butler, *An Autobiographical Memoir* (J. Arrowsmith Ltd., 3rd edn, 1928), p. 69.
- 27 Eugenio Biagini, *Liberty Retrenchment and Reform* (CUP, 1992), p. 160.
- 28 Fisher, *Scandal*, pp. 25–7; Butler, *Personal Reminiscences*, p. 262; Walkowitz, *Prostitution and Victorian Society*, p. 151ff.
- 29 Agatha Ram (ed.), *The Political Correspondence of Mr Gladstone and Lord Granville 1868–1876*, Camden Third Series vol. 1 (Royal Historical Society, 1952), p. 45.
- 30 He also succeeded Eyre as governor of Jamaica following Eyre’s brutal suppression of the Morant Bay rebellion, before returning to the War Office.
- 31 Fisher, *Scandal*, p. 23.
- 32 *The Times*, 1 Apr. 1870, p. 12.
- 33 Anthony Mundella in the debate on 24 May.
- 34 Matthew, *Gladstone Diaries*, 21 May 1870.
- 35 *The Times*, 27 May 1870, p. 9.
- 36 Hansard, Parl. Debs. (series 3), vol. 201, cc. 1304–48 (24 May 1870).
- 37 Letter to H. A. Bruce dated 3 Dec. 1870 from the Aberdare MSS printed in Matthew, *Gladstone Diaries*, 3 Dec. 1870.
- 38 Josephine E. Butler, *Recollections of George Butler* (J. W. Arrowsmith, 1892), p. 234, accessed on 14/6/2013 at <http://archive.org/stream/recollectionsogooobutluoft#page/n5/mode/2up>.
- 39 Parliamentary Papers 1871 XIX, answer to Q. 12,932. Mrs Butler’s evidence was from Q. 12,841 to Q. 13,115 on 18 Mar. 1871.
- 40 Matthew, *Gladstone Diaries*, 2 May 1871; Hansard, Parl. Debs. (series 3), vol. 207, cc. 1886–7 (17 Jul. 1871).
- 41 Matthew, *Gladstone Diaries*, 1 Jul. 1871, 5 Jul. 1871, 8 Jul. 1871.
- 42 *Ibid.*, 15 Jul. 1871.
- 43 *Ibid.*
- 44 *Ibid.*, 12 Aug. 1871.
- 45 Peter C. Erb (ed.), *The Correspondence of Henry Edward Manning and William Ewart Gladstone 1861–1875*, vol. iii (OUP, 2013), pp. 276, 277. Manning to Gladstone, 25 Sep. 1871; Gladstone’s response, 27 Sep. 1871.
- 46 Matthew, *Gladstone Diaries*, 27 Oct. 1871, 3 Nov. 1871, 19 Dec. 1871, 30 Jan. 1872; Memo to Glyn, Add MS 44541, f. 61, 3 Feb. 1872.
- 47 Hammond and Hammond, *James Stansfeld*, pp. 167–8.
- 48 Hansard, Parl. Debs. (series 3), vol. 209, cc. 330–46 (13 Feb. 1872).
- 49 C. Hopwood, as quoted in Hammond and Hammond, *James Stansfeld*, p. 173.
- 50 Hammond and Hammond, *James Stansfeld*, p. 171.
- 51 Josephine Butler to Mrs Wilson, Women’s Library 3JBL/04/05, c.1 Mar. 1872.
- 52 T. A. Jenkins (ed.), *The Parliamentary Diaries of Sir John Trelawny, 1868–73*, Camden Fifth Series vol. 3 (Royal Historical Society, 1994), p. 455, diary entry for 23 Mar. 1872.
- 53 *The Times*, 13 May 1872.
- 54 Letter to J. Bright, 8 Feb. 1874; Matthew, *Gladstone Diaries*, 5 Feb. 1874. Lyttleton lost in Worcestershire East.
- 55 Matthew, *Gladstone Diaries*, 26 Nov. 1872.
- 56 In George Butler’s *Dictionary of National Biography* entry, H. C. G. Gladstone claimed ‘The Butlers met W. E. Gladstone at Exeter College in 1853, and played some part in the movement to reform the university’ (accessed at <http://www.oxforddnb.com/view/article/4184?docPos=31> on 17/6/2013) but writing to Dean Wellesley, Gladstone claimed ‘I never saw her before or since’ (Matthew, *Gladstone Diaries*, 26 Jun. 1882).
- 57 Matthew, *Gladstone Diaries*, 21 Dec. 1872.
- 58 Letter to Dean Wellesley, Matthew, *Gladstone Diaries*, 26 Jun. 1882.
- 59 Matthew, *Gladstone Diaries*, 26 Jun. 1882.
- 60 Jordan, *Josephine Butler*, pp. 142–3, using a letter from Mrs Butler to Henry Wilson of 23 Dec. 1872.
- 61 Butler, *Autobiographical Memoir*, p. 93.
- 62 McHugh, *Prostitution and Victorian Social Reform*, Table 9.1, p. 235.
- 63 Including tellers.
- 64 *The Times*, 23 May 1873.
- 65 Matthew, *Gladstone Diaries*, 10 May 1872.
- 66 Josephine E. Butler, *Some Thoughts on the Present Aspect of the Crusade Against the State Regulation of Vice* (T. Brakell, 1874), accessed on 18/6/2013 at <http://webapp1.dlib.indiana.edu/vwwp/view?docId=VAB7174&doc.view=print>.
- 67 Butler, *Personal Reminiscences*, p. 55. Jacob Bright, another leading repealer, also lost his seat.
- 68 *The Times*, 25 Jun. 1875, p. 8.
- 69 Hammond and Hammond, *James Stansfeld*, p. 189.
- 70 Hansard, Parl. Debs. (series 3), vol. 272, cc. 1027–30 (19 Jul. 1882).
- 71 Matthew, *Gladstone Diaries*, 9 Jan. 1883.
- 72 Hammond and Hammond, *James Stansfeld*, pp. 225, 228.
- 73 John Vincent (ed.), *The Diaries of Edward Henry Stanley, 15th Earl of Derby (1826–93) between 1878 and 1893* (Leopard’s Head Press, 2003), p. 532.
- 74 Matthew, *Gladstone Diaries*, 14 Apr. 1883. Contagious diseases (animals) were item seven on the agenda. The cabinet decided against prohibiting the importation of live animals.
- 75 John Vincent, *Derby Diaries*, p. 533. Dean Butler was Josephine’s husband.
- 76 Butler, *Autobiographical Memoir*, pp. 134–6. Hansard records Stansfeld speaking before Cavendish Bentinck.
- 77 Butler, *Autobiographical Memoir*, p. 135; Matthew, *Gladstone Diaries*, 20 Apr. 1883.
- 78 Matthew, *Gladstone Diaries*, 21 Apr. 1883, 28 Apr. 1883.
- 79 Hansard, Parl. Debs. (series 3), vol. 279, cc. 52–75 (7 May 1883).
- 80 See, for example, Fisher, *Scandal*, ch. 3–4.
- 81 J. A. Spender, *The Life of the Right Honourable Sir Henry Campbell Bannerman GCB*, vol. i (Hodder & Stoughton, 2 vols., 1923), p. 105.
- 82 Hansard, Parl. Debs. (series 3), vol. 303, cc. 981–98 (16 Mar. 1886).
- 83 *Ibid.*
- 84 C. Newdegate MP, Hansard, Parl. Debs. (series 3), vol. 201, cc. 1343–5 (24 May 1870).
- 85 A. S. G. Butler, *Portrait of Josephine Butler* (Faber & Faber, 1953), p. 99.
- 86 Hammond and Hammond, *James Stansfeld*, p. 179.
- 87 *The Times*, 25 Jul. 1871, p. 11; Letter to Edward Crossley concerning resolutions passed in the Mechanics Hall.
- 88 Hammond and Hammond, *James Stansfeld*, pp. 238–9.