

Finding and Imprisoning Prostitutes in Victorian England: How Double Standards of Morality Led to Possible Violations of the Constitution

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***Abstract:** In the 1860s, Parliament passed three Contagious Diseases Acts to control the spread of venereal disease amongst the armed forces. The legislation focused exclusively on common prostitutes, submitting them to invasive medical inspections and possible arrest without trial. This article will examine two artefacts: The Constitution Violated: An Essay (1871), by Josephine Butler, and Found (1853-1881), an oil painting by Dante Gabriel Rossetti, as evidence of gender bias influencing legislation. The sexual double standards written into the Contagious Diseases Acts rendered them ineffective and possibly unconstitutional. Furthermore, the injustices carried out against women under these laws eventually led to a successful repeal effort and the beginnings of the women's rights movement.*

In the mid-nineteenth century, the figure of the prostitute was a symbol of the social ills of a fast-changing society. Perceived as a moral evil that threatened the sanctity of the family and the social order, she was also considered a medical threat, responsible for spreading venereal disease among almost one-third of the British armed forces. To control the outbreak threatening the stability of the military, Parliament passed three consecutive Contagious Diseases Acts in 1864, 1866, and 1869, with virtually no parliamentary or public debate. The Acts concerned certain military stations and seaport towns where police officers had the authority to arrest any women believed to be prostitutes. After seeing a magistrate, these women would either be subjected to compulsory invasive medical inspections or, if they refused, to imprisonment without the benefit of a trial. Their male clients, who were central players in spreading the epidemic, were excluded from the

legislation. The inconsistent treatment of genders built into the Acts doomed them to failure and energized campaigns for their repeal.

This article will consider two artefacts as material evidence of gender bias affecting opinion of the common prostitute and the government's response to a public health crisis. The first, *The Constitution Violated: An Essay* (1871), was published by the devout social reformer and women's rights leader Josephine Butler (1828-1906) as part of her efforts to repeal the Contagious Diseases Acts. The second, *Found* (1853-1881) (Figure 1), is an unfinished oil painting by artist and poet Dante Gabriel Rossetti (1828-1882), depicting an unexpected early morning meeting in a London street between a prostitute and her old-time betrothed. These differing interpretations of the prostitution controversy are likely explained by the genders of their creators and their distinctive experiences in their respective social spheres. The painting and the book are testimonies of a time when the inequality between men and women was coming under increasing scrutiny. This awareness is apparent in the conflicting representations of the fallen woman in Victorian political writing, literature, and the arts.

During her lengthy repeal campaign against the Contagious Diseases Acts, Josephine Butler went on numerous speaking tours around the country and published several pamphlets, open letters, and books. Butler's manuscript of *The Constitution Violated: An Essay* captures her chief arguments against these laws. First published anonymously in 1871, the text is an audacious assault on the Acts, which Butler believed violated the principles of morality, the political constitution, and natural justice. The text asserts that the Acts were immoral because they implied acceptance of prostitution and allowed its expansion. Instead of suppressing vice, the legislation stimulated debauchery: 'Striking at the root of family life by the encouragement of prostitution, it introduces a complete confusion of right and wrong'.¹

¹ Josephine Elizabeth Grey Butler, *The Constitution Violated: An Essay* (Edinburgh: Edmonston and Douglas, 1871), p. 120.

Butler believed that the legislation was ‘fraught with the most ruinous moral consequences to England, bringing, as it must, in its train moral obliquity and the spread of fornication’.² In addition to being immoral, Butler claimed the Acts were also unconstitutional. They allowed women to be arrested and committed to a hospital without the benefit of a trial, in a violation of the principles of individual English freedoms established by the *Magna Carta* (1215). Furthermore, because the laws did not define who could be considered a prostitute, any woman could, theoretically, have her civil rights violated by the legislation: ‘no one can prove to us that an innocent woman may not be accused under it; and, being so accused, if punished wrongfully, she suffers more than any other person punished wrongfully would suffer’.³ In Butler’s view, the government was denying the civil rights of all women by passing un-Christian laws that legislated the exploration of their bodies by sexually hungry males:

I can characterize these Acts as nothing other than a gross violation of the constitution of this country, whereby there is established a sort of press-gang, by which women are pressed into the ranks of vice by the shortest and easiest way possible, for the purpose of serving the lusts of men.⁴

As a final point, Butler confronts the inherent injustice of the laws by bringing attention to the double standards that allowed men to regulate women’s bodies, infringe on their privacy, and destroy their reputations while fully protecting the males who were prostitutes’ clients.

It is amazing to see in this unequal war waged against the weaker sex only, how men who legislate for their own interests have, as it were, talked themselves into the notion, if it were possible to do so, that these poor women are sinners in this

² Butler, p. 120.

³ Ibid., p. 66.4

⁴ Ibid., p. 68.

respect in their own single persons, and that male persons have no part whatever in the offence.⁵

Josephine Butler's efforts to repeal the Contagious Diseases Acts were influenced by her visits to workhouses in Liverpool, where she worked with 'fallen women' in oakum sheds to befriend and save them from a life of prostitution. Butler and her husband George, a scholar, and Church of England clergyman, often provided temporary shelter in their home for destitute women, many of whom were prostitutes suffering from venereal diseases. These women's stories convinced Butler of the deep connections between prostitution and poverty, as 'starvation wages', and limited opportunities available to unmarried females often pushed them into a life of sin and disease.

Butler was deeply religious, and while she believed that prostitution was a great evil that could only be eradicated by the 'national purification' of a male-dominated system, she considered prostitutes to be victims of a social disease and ripe for salvation. Her understanding that male profligacy was the main culprit for the nation's moral degeneration was a central tenet of her challenge against the Acts: 'It is the buyers who have the first interest in prostitution. It is *this* stronghold which must first be attacked if we are ever to hope to stem the torrent of evil which, from this source, threatens to overflow us'.⁶ Butler likened contemporary efforts to solve the problem of prostitution, without recognising men's responsibility, to an attempt 'to do away with the slave trade by making it penal to be a slave'.⁷

While she denounced the unequal treatment of men and women within the legislation, likening it to sexual slavery: 'These Acts secure the enslavement of women and the increased immorality of men', Butler believed that the repeal of laws that assumed that 'the interests of women, as a class, can be neglected,' depended on greater female engagement in the political arena. Consequently,

⁵ Ibid., p. 91.

⁶ Butler, *Address delivered at Croydon, July 3rd, 1871* (London: Office of the National Association, 1871), p. 11 <<https://hdl.handle.net/2027/iau.31858024932141>> [accessed 20 January 2022].

⁷ Butler, *Address*, p. 11.

she used many of her speeches and writings against the Acts as a platform to further the cause of women's suffrage: 'The possession of the franchise by women is not only the pledge of security for women [...] but it is also the pledge of security for the nation'.⁸

Present-day historians now view Josephine Butler's movement against the Acts as a major chapter in the history of feminism. Judith Walkowitz argues that by framing the repeal campaign as a defense of the values established by the *Magna Carta*, Butler included all women, even prostitutes, into the body politic and paved the way for advances in women's health issues and greater political representation.⁹

While Butler characterised the Victorian prostitute as an innocent victim of poverty and male oppression who was 'ripe for salvation', Walkowitz challenges this assumption, offering a more nuanced picture of a survivor who had a voluntary and gradual entry into prostitution. Walkowitz's research shows that many women sold their bodies as a temporary solution to pressing difficulties, or occasionally to supplement their meagre earnings. Other prostitutes saw it as a full-time occupation that served them better than the unattractive and miserly alternatives available to them, one that promised an 'easier life' of more money and less debasing work.¹⁰ Rossetti's painting *Found* echoes Walkowitz's reassessment of Victorian prostitution and offers the image of a financially thriving prostitute who seems ambivalent about being 'saved'.

Rossetti was fascinated by the theme of the fallen woman and explored it extensively in his written and pictorial works. In 'Jenny' (1848-1869), which he considered one of his most important poems, Rossetti scrutinizes the patron-prostitute relationship and raises questions concerning female agency and male responsibility for the sexual oppression of women. In *Found*, his only oil

⁸ Butler, *The Constitution Violated*, pp. 153-155.

⁹ Judith Walkowitz, 'Butler [née Grey], Josephine Elizabeth (1828-1906), social reformer and women's activist', *Oxford Dictionary of National Biography* (25 May 2006) <<https://www.oxforddnb.com/view/10.1093/ref:odnb/9780198614128.001.0001/odnb-9780198614128-e-32214>> [accessed 16 January 2022].

¹⁰ Judith Walkowitz, *Prostitution and Victorian Society: Women, Class, and the State* (Cambridge: Cambridge University Press, 1980), p. 31.

painting referring to a contemporary social problem, Rossetti works within the general context of the Victorian narrative painting with an ethical message. He employs similar visual imagery to contemporary painters and uses symbols like the countryside to represent innocence and purity, and a city background to characterize corruption and decay.¹¹

Found's history is complicated, and the exact date of its inception is confused by frequent Pre-Raphaelite disputes over precedence.¹² In an 1855 letter to William Holman Hunt, the year after Hunt's successful exhibition of *The Awakening Conscience* (1854),¹³ Rossetti reminds him that he (Rossetti) 'had long had in view subjects taking the same direction' as *Found*, and then proceeds to describe his intentions for the painting:

A drover has left his cart standing in the middle of the road, (in which, i.e., the cart, stands baa-ing a calf tied on its way to market) ... and has run a little way after a girl who has passed him, wandering in the streets. He has just come up with her and she, recognising him, has sunk under her shame upon her knees, against the wall of a raised churchyard in the foreground, while he stands holding her hands as he seized them, half in bewilderment and half guarding her from doing herself a hurt... The calf, a white one, will be a beautiful and suggestive part of the thing.¹⁴

¹¹ Linda Nochlin, 'Lost and Found: Once More the Fallen Woman', *The Art Bulletin* 60.1 (1978), 139-153 (p.139).

¹² Hilary Morgan, 'Found', *Victorian Web* <<https://victorianweb.org/painting/dgr/paintings/11.html>> [accessed 5 January 2022].

¹³ William Holman Hunt, *The Awakening Conscience*, 1853, oil on canvas, 76.2 × 55.9 cm, Tate, London <<https://www.tate.org.uk/art/artworks/hunt-the-awakening-conscience-t02075>> [accessed 28 January 2022].

¹⁴ Alastair Grieve, *The Art of Dante Gabriel Rossetti: The Pre-Raphaelite Period, 1848-50* (Hingham: Real World Publications, 1973), p. 2.



Figure 1. *Found*, Designed 1853; begun 1859; unfinished
Dante Gabriel Rossetti (1828–1882) Oil on canvas 36 1/4 × 31 15/16 in.
(92.1 × 81.1 cm) frame: 50 × 46 × 3 in. (127 × 116.8 × 7.6 cm)
Delaware Art Museum, Samuel and Mary R. Bancroft Memorial, 1935.

By setting *Found*'s background in a dirty London Street and placing the woman in a 'fallen' position against a church graveyard's wall, Rossetti identifies the woman's occupation and hints at a future of sickness and death. Against these symbols of decadence Rossetti presents a rustic drover, who is portrayed as a possible saviour of the woman and is not a participant in her degradation. The man is dressed in simple country clothes, emblematic of his honesty and virtue, while the streetwalker, who was once an innocent country girl, is now dressed in a prostitute's gaudy attire, an easily identifiable sartorial marker of her descent into immorality. In addition to these opposites, and as mentioned in the letter to Hunt, Rossetti places a white calf trapped in a net as a device suggestive of the woman's innocence destroyed. The calf's powerlessness in avoiding its fate also points to the prostitute's future doom, already apparent in her pale, almost greenish visage.

On the surface, *Found* fits nicely within the genre of a moralistic painting with a lesson. However, a closer look reveals Rossetti's conflicting feelings with the theme, and, unlike Hunt's didactic *Awakening Conscience*, which simultaneously illustrates lost innocence and possible redemption, Rossetti does not pass judgement or offer a clear lesson. Instead, as suggested by J.B. Bullen, the picture seems to be about a woman's choices and 'the issue of sexuality and its place in the modern world'.¹⁵

Rossetti worked on *Found* for almost three decades, abandoning it for long periods and then making minor adjustments to the composition as he returned to it. Hence, it is tempting to look at these changes as a possible sign of his shifting views on prostitution. In an early drawing for *Found* (1853) (Figure 2)¹⁶, a young woman is shown fallen on a pavement, compressed between a graveyard wall and the gutter. She is slim and modestly dressed, a sign of the hunger and poverty that pushed her into sex work, and her shame at being found by her betrothed is palpable. The white calf is large and prominently placed behind the drover, while the city landscape is detailed. The phrase 'I remember Thee; the kindness of thy youth, the Love of thy betrothal', taken from Jeremiah 2.2, and included at the bottom of the drawing, is a reminder of the couple's once innocent love and offers a glimmer of hope.

However, in the final version of the painting the gutter is gone, and the woman is voluptuous and well-fed. Her dress looks more detailed and opulent, suggesting greater prosperity and affluence in her chosen occupation. The contrast of her lavish clothing with the rude garments of her lover is also intensified, implying that a return to a virtuous rural life of hard work would not be a tempting alternative for her. As she turns away from the drover, the prostitute in the painting seems more emotionally detached than the one in the 1853 study and almost dismayed at being found.

¹⁵ J.B. Bullen, *Rossetti: Painter and Poet* (London: Frances Lincoln Ltd, 2011), p. 77.

¹⁶ Rossetti, Dante Gabriel, 'Study for *Found*', 1853, drawing on paper, 20.5 cm × 18.1 cm, British Museum. Museum <<https://www.britishmuseum.org/collection/image/143600001>> [accessed 3 January 2022].

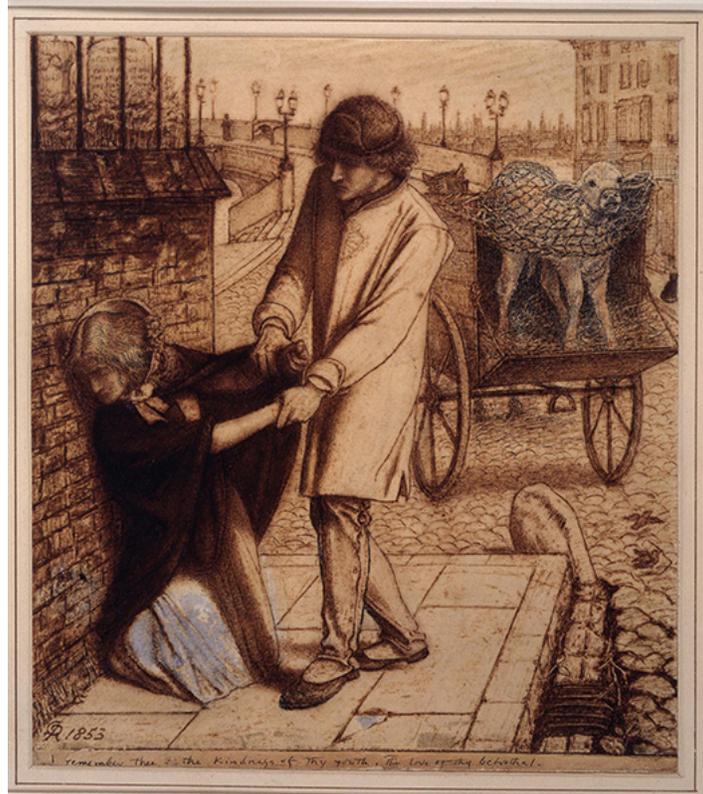


Figure 2. *Study for Found* (1853) © The Trustees of the British Museum
Dante Gabriel Rossetti (1828–1882) Drawing on Paper 20.5 cm x 18.1 cm.

Rossetti reveals the prostitute's perspective in his explanatory sonnet '*Found*' (For A Picture), which he wrote in 1881 as a complement to the painting:

'There is a budding morrow in midnight:' —
So sang our Keats, our English nightingale.
And here, as lamps across the bridge turn pale
In London's smokeless resurrection-light,
Dark breaks to dawn. But o'er the deadly blight
Of love deflowered and sorrow of none avail
Which makes this man gasp and this woman quail,
Can day from darkness ever again take flight?

Ah! gave not these two hearts their mutual pledge,
Under one mantle sheltered 'neath the hedge
In gloaming courtship? And O God! to-day
He only knows he holds her; —but what part
Can life now take? She cries in her locked heart, —
'Leave me—I do not know you—go away!'¹⁷

The last two lines of the sonnet challenge Victorian representations of the prostitute as a helpless victim and introduce the idea of a woman who has agency. Her locked heart implies a conscious choice, and her rejection of her betrothed makes her rescue from a life of prostitution impossible, regardless of his good intentions. In a comment reminiscent of Josephine Butler, Linda Nochlin notes that this interpretation is morally convenient for Rossetti, just as it was 'for many men of his time, in that it exempts actual human beings, mere sensual men, from any responsibility in the situation'.¹⁸

Rossetti's views on prostitution were likely influenced by his intimate relationship with Fanny Cornforth, a dollymop whom he met in a pleasure garden in 1856, and who became the model for the prostitute in *Found*, as well as his sexual partner and companion. Like the figure in the picture, Fanny had rural origins. Her open sexuality, her love of money, and her instinct for hoarding things, well-documented in their private correspondence, allowed him a unique perspective on the question of 'the prostitute'.¹⁹ While it is impossible to establish the extent of Fanny's influence on *Found*, it is undeniable that the picture's image evolved over time. These changes are a record of Rossetti's shifting interpretations of the subject.

¹⁷ Dante Gabriel Rossetti, 'Found (For A Picture)', <<http://www.rossettiarchive.org/img/2-1881.1ed.327.jpg>> [accessed 28 December 2021].

¹⁸ Nochlin, p. 152.

¹⁹ Kathryn Hughes, *Victorians Undone: Tales of the Flesh in the Age of Decorum* (London: 4th Estate, 2017) pp. 267-275.

Rossetti struggled with *Found* for many years. He had difficulties with the perspective and the use of space in the painting, and the moralistic theme and display of female degradation made him uncomfortable. As Bullen points out, the subject did not suit him because it was ‘too obvious, too binary, and ignored the psychological complexities’ Rossetti was fond of exploring.²⁰ In the 1860s, he moved away from complex narrative paintings towards commercially successful aesthetic pictures of beautiful women. Over time, it is understandable that he would resist going back to *Found*, its technical challenges, and its increasingly outdated theme. After one last effort to finish the painting in 1881, Rossetti’s health failed, and he died the following year, leaving the picture incomplete.

Dante Gabriel Rossetti lived most of his life on the edge of Victorian respectability. His convoluted romantic relationships, unorthodox sexual arrangements, and drug addiction set him apart from reputable men of his age. Nevertheless, Rossetti was accepted in polite social circles. Similar life choices would have been unthinkable for a woman of that time, as Victorian gender ideology divided males and females into distinct social spheres with sharply different norms and notions of proper behaviour. While men’s sexual indulgences were tolerated, a woman’s sexuality was strictly controlled, and any sexual activity outside of marriage labelled her a ‘fallen woman’, likely dooming her to social ostracism. The prostitute was considered the worst of all fallen women because her motives were commercial. She was a victim of the double standards of sexual morality that turned her into a figure who was simultaneously scorned and needed by society.

Josephine Butler’s and Rossetti’s contrasting experiences with prostitutes affected their perspectives and attitudes on the subject. While Butler met these women as a female social worker trying to rescue them from a life of sin, Rossetti knew them as a male ‘buyer’, hiring them as models or as sexual partners. Butler’s work with prostitutes energized her crusade against the Acts, while Rossetti’s encounters inspired his representations of fallen women in his poetry and art.

²⁰ Bullen, p. 78.

The Constitution Violated: An Essay is evidence of Josephine Butler's passionate opinions about prostitution, its causes, and its consequences. Her strong views were guided by deep-seated religious and moral beliefs central to her life. Rossetti, however, had fewer ethical certainties. The contradictions and inconsistencies apparent in the development of works like 'Jenny' and *Found* are testimony of his conflicting feelings on the subject. They are likely manifestations of the prejudices and double standards he observed in Victorian society.

The differing moral standards applied to men and women during the second half of the nineteenth century created an environment that allowed for the passage of the Contagious Diseases Acts. These laws were symptomatic of a society that accepted men's sexual desires as natural but rejected sexualized women as deviant and immoral. From this biased perspective, the imprisonment and the infliction of invasive medical examinations on prostitutes was a logical and appropriate practice, and a medically sound measure against an epidemic of venereal disease threatening the nation's security. Society saw these streetwalkers as social pariahs, and lawmakers believed that they had no rights, dignity, or reputation to protect since they sold their bodies for money. In contrast, their clients, whom legislators understood were satiating a natural biological urge, deserved to have their reputations safeguarded and were excluded from the legislation.

The Contagious Diseases Acts were fully repealed in 1886, fifteen years after the publication of Butler's *The Constitution Violated: An Essay*. Despite Butler's extensive efforts to overturn the Acts on moral, constitutional, and justice grounds, the legislation was only rescinded because members of Parliament siding against the Acts were able to prove, using the government's own figures, that the Contagious Diseases Acts had failed in their goal of reducing venereal disease in the military. Nevertheless, Josephine Butler's efforts to repeal the Acts are now considered a milestone in the woman's rights movement. They are evidence of a period when attitudes towards women began to shift, and the constitutional rights of even the lowest of women became part of civil discourse.

Bibliography

Primary Sources

Butler, Josephine Elizabeth Grey, *The Constitution Violated: An Essay* (Edinburgh: Edmonston and Douglas, 1871) <<https://babel.hathitrust.org/cgi/pt?id=mdp.39015010370172&view=1up&seq=38&skin=2021>>

Butler, Josephine Elizabeth Grey, *Address delivered at Croydon, July 3rd, 1871* (London: National Association, 1871) <<https://hdl.handle.net/2027/iau.31858024932141>>

Hunt, William Holman, *The Awakening Conscience*, 1853, oil on canvas, 76.2 × 55.9 cm, Tate, London <<https://www.tate.org.uk/art/artworks/hunt-the-awakening-conscience-t02075>>

Rossetti, Dante Gabriel, *Found*, Designed 1853, begun 1859, unfinished, oil on canvas, 92.1 × 81.1 cm frame, Delaware Art Museum

Rossetti, Dante Gabriel, 'Study for *Found*', 1853, drawing on paper, 20.5 cm × 18.1cm, British Museum

Rossetti, Dante Gabriel, 'Found (For A Picture)', 1881, <<http://www.rossettiarchive.org/docs/2-1881.1stedn.rad.html#p327>>

Secondary Sources

Bullen, J. B. *The Pre-Raphaelite Body: Fear and Desire in Painting, Poetry, and Criticism* (Oxford: Clarendon Press, 1998)

Bullen, J.B., *Rossetti, Painter & Poet* (London: Frances Lincoln Ltd, 2011)

Donnelly, Brian, 'Sonnet—Image—Intertext: Reading Rossetti's *The Girlhood of Mary Virgin* and *Found*', *Victorian Poetry* 48, no. 4 (2010), 475–88 <<http://www.jstor.org/stable/41105672>>

Grieve, Alastair, *The Art of Dante Gabriel Rossetti: The Pre-Raphaelite Period, 1848-50*. (Hingham: Real World Publications, 1973)

Hughes, Kathryn, *Victorians Undone: Tales of the Flesh in the Age of Decorum* (London: 4th Estate, 2017)

Morgan, Hilary, 'Found', *Victorian Web* <<https://victorianweb.org/painting/dgr/paintings/11.html>>

Nochlin, Linda, 'Lost and Found: Once More the Fallen Woman', *The Art Bulletin* 60.1 (1978), 139–53 <<https://doi.org/10.2307/3049751>>

Summers, Anne, *The Constitution Violated: The Female Body and the Female Subject in the Campaigns of Josephine Butler*, *History Workshop Journal*, 48.1 (Autumn 1999), 1–15 <<https://doi.org/10.1093/hwj/1999.48.1>>

Walkowitz, Judith R., *Prostitution and Victorian Society: Women, Class, and the State* (Cambridge: Cambridge University Press, 1980)

Walkowitz, Judith R., 'Butler [née Grey], Josephine Elizabeth (1828–1906), social reformer and women's activist', *Oxford Dictionary of National Biography* (25 May 2006) <<https://doi.org/10.1093/ref:odnb/32214>>