

## MEDICINE AND THE CRIMINATION OF SIN: "SELF-ABUSE" IN 19th CENTURY AMERICA\*

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What this essay will attempt to show is that while, during the 19th century, the prohibition of sexual immorality played a comparatively unimportant role in American criminal law, the medical profession arrogated to itself the task of dealing with moral questions. Psychological medicine particularly, by substituting "treatment" of disease for legal punishment of moral transgression, placed itself in the position of enforcer of virtuous conduct. Medicine was so successful in assuming this function that, by the end of the century, it had enlisted the great mass of the literate public in support of its findings respecting the connection between sexual behavior and mental disease. At that point it became possible to alter the direction of American law to encompass the conclusions reached by the psychiatric and medical professions and to criminalize sexual immorality under the guise of legislating in the area of preventive medicine.

The expansion of the medical discipline into the area of private moral conduct is as old as the history of psychiatry — the branch of clinical medicine purporting to deal with the arcana of psychic life. In the United States, however, it was only in the last third of the 19th century that its influence reached significant proportions. By that time the profession was successful not only in maintaining social sanctions against immoral behavior with which the criminal law was not concerned, but of enlarging, without theoretical limit, the area of private behavior within its purview.

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The thesis of this paper assumes that legal rules are distinct from moral rules and holds that while the American legal system found it inconvenient to enforce the latter the task was taken on by medicine, and particularly by psychiatry. It is, therefore, essential to fix the area in which law, in the sense in which I mean it, can be differentiated from morality.<sup>(1)</sup> A contemporary legal theorist writing on the subject points to three cardinal features which permit the one to be distinguished from the other.<sup>(2)</sup> Firstly, the concern of law, at least in the Western tradition, is far narrower in scope than is that of morality. Law ideally attends only to those aspects of conduct indispensable to the maintenance of the basic fabric of society. Morality has no such limitation; rather, it calls for conformity with an ideal in both thought and behavior. Secondly, the law is primarily concerned not with interior attitudes but with external conduct. Responsibility in the law is assumed solely on the basis of criminal intention established by external evidence. Morality's concern rests primarily with the nature of the motive of the actor, with his interior attitudes, states of mind, and the long-run condition of his soul. Finally, the most salient difference between law and morality revolves around the nature of sanctions imposed and who imposes them. With respect to legal rules, sanctions take the form of deprivation of property or liberty — possibly even of life — and are imposed by some formalized governmental apparatus; moral sanctions, on the other hand, when not self-imposed by conscience, are generally non-violent, such as social ostracism, and are imposed by individuals acting on their own behalf or voluntarily with others.

The Protestant Reformation and a capitalist

economic system which culminated in 19th-century liberal doctrine both worked towards a more pronounced distinction between legal rules and moral rules. The earlier ideal based on the Platonic tradition of a system where the law was as comprehensive as the moral code and where its primary function was to promote virtue gave way to emphasizing individual activity wherein one's behavior, freely chosen, privately determined one's salvation or damnation, either in this world or the next.<sup>[13]</sup>

The growing distinction between law and morality is intimately connected with the history of freedom and the theory of inalienable private rights,<sup>[14]</sup> enshrined in the American legal framework, in the Declaration of Independence, and the first ten amendments to the Constitution. The movement to secure individual rights in the United States, making all government intrusion into the peaceful daily lives of citizens suspect, undermined the rationale by which the State could be regarded as having authority over private moral decisions. That the government should take onto itself the task of offering a positive function in moral affairs contravened the political philosophy inherent in a structure of law consistent with limited government.<sup>[15]</sup>

It is true that the criminal law in colonial America was active in the enforcement of public morality. In 17th-century New England especially, the penal codes of the colonies were heavily oriented towards the punishment of sin.<sup>[16]</sup> However, after the Revolution, American law significantly altered its direction. The law then, and throughout most of the 19th century, was strongly biased towards individual autonomy and the free market as against public power. This was true not only of the law of contract, as would be expected in a system based on economic individualism, but of tort and criminal law as well.<sup>[17]</sup> The singular importance of placing strict limits on governmental power led to a reduction in the importance of criminal law generally and, with it, crimes which were regarded as transgressing sexual morality.<sup>[18]</sup> With respect to sexual behavior, the common law heritage was almost invariably the guide in determining which acts were indictable. The canon of criminal law that developed

throughout most of the 19th century was an amalgam of judicial extensions based on common-law analogies and statutory enactments which themselves codified pre-existing common law.<sup>[19]</sup>

In the area of sexuality, indictable offenses were — in the main — limited to the common-law felonies of rape and sodomy and to lesser wrongs such as adultery, notorious lewdness, and frequenting or keeping a bawdy house.<sup>[10]</sup> Because of the common-law bias in the interpretation of criminal law, the determination of criminal liability in the area of sexual conduct — in the absence of an explicit statutory provision to the contrary — was customarily interpreted to rest on proof of the "open", "notorious", "public", and "scandalous" nature of the act. For example, at common law an indictment on a charge of haunting a house of ill fame had expressly to charge the open and notorious nature in which the bawdy house were frequented by the defendant.<sup>[11]</sup> Lewd and indecent conduct was indictable only when "habitual, open, and notorious".<sup>[12]</sup> "Mere private lewdness or indecency", in itself, was not an offense.<sup>[13]</sup> With respect to this requirement, a recent commentator writing on indecent exposure notes:

To be indictable at early common law this act not only had to be public, but had to actually be seen by more than one nonconsenting person. The "more than one person" rule was soon relaxed to the extent that acts were held indictable if they were committed in a place "so situated that what passes there can be seen by a considerable number of people if they happen to look". [Van Houten v. State, 5 N.J.L. 311 (Essex Quarter Sess., 1882), *aff'd*, 46 N.J.L. 16 (Sup. Ct., 1884)]. However, courts retaining this modified requirement have still refused to indict the act when committed in private before a single nonconsenting person. [E.g., Lockhart v. State, 116 Ga. 557, 42 S.E. 787 (1902); State v. Wolf, 211 Mo. App. 429, 244 S.W. 962 (1922)].<sup>[14]</sup>

The provision that a sexual act, to be regarded as criminal, required an open and public flaunting of social norms found its way into a number of statutes prohibiting adultery and fornication. Of the states that eventually enacted statutes prohibiting adultery,<sup>[15]</sup> fifteen<sup>[16]</sup> required that proof of a single act was not in itself sufficient to substantiate a charge of adultery. To be criminal the adulterous relationship had to be "open and habitual". The same was true of the fornication statutes. By 1920,

thirty-two states had prohibited fornication; of these only fifteen<sup>[17]</sup> made a single act a crime. In the other seventeen states the offense was not, properly speaking, fornication but "lewd and vicious cohabitation".<sup>[18]</sup>

With respect to rape, "carnal knowledge of a woman without her consent", it is notable that, during the 19th century, the age below which a female was presumed by law to be unable to consent was, in most jurisdictions, 10 years.<sup>[19]</sup> Thus, the current crime of statutory rape — which is not really rape at all — effectively did not exist throughout most of the century since the penal codes defining rape either stipulated 10 or 12 years as the age of consent or were silent on an age of consent, in which case the common-law age of 10 years would apply.

Sodomy, at common law, consisted solely in "sexual connection, *per anum*, by a man, with a man or woman".<sup>[20]</sup> Although almost every state prohibited the act by statute, prosecutions throughout the 19th century were exceedingly rare inasmuch as both parties to the act were regarded as accomplices, equally guilty of the crime.<sup>[21]</sup> As a result, the courts held that a conviction could not be sustained on the basis of the unsupported testimony of a party to the commission of the offense. Vern Bullough, in his history of sexuality, points out that the effect of this provision "was to exclude sexual activities between consenting adults in private from prosecution, whether homosexual or heterosexual", especially "since solicitation to commit a sex act was not an offense".<sup>[22]</sup>

The intrusion of the law into sexual behavior throughout most of the 19th century was far less extensive than the comprehensive system of legal restrictions which obtains today. Indeed, other than a few offenses such as adultery and sodomy, the criminal law was concerned more with proscribing the public flaunting of sexual activities than with prohibiting the sexual acts themselves. Morris Ploscowe has pointed out that since the ecclesiastical courts of the Church of England, traditionally responsible for a large area of sexual behavior, were not received in the United States, American law initially provided no institutionalized means for dealing with sexual conduct that had been

ignored by the common law. Lacunae, therefore, had to be filled by statute.<sup>[23]</sup> Although the statutory law underwent a general inflation over the course of the 19th century, laws relating primarily to sexual conduct began to be enacted in great numbers only in the last two decades of the century. Even as late as 1916, in the midst of a period which saw a great many statutes respecting sexual morality enacted by the various state legislatures, one prominent member of the New York Bar could still complain that

All communities and people find themselves quite in accord as to the seriousness of the crimes of murder and theft, but until recently, there was no law in the United States that made pandering a more serious crime than disorderly conduct, and in a few States pandering is still so little defined as to make the crime "merely a breach of manners and to put it in the same class of offenses as selling a street-car transfer". The treatment of commercialized prostitution not only differs in each city, but changes in the same city under each different administration. The prohibition in the Decalogue against adultery is no less definite than that against murder, and yet, while the law against murder is uniform and constant, that against adultery has been diverse and unstable. In some States adultery is a felony, in others a misdemeanor; . . . In New York, adultery did not become a criminal offense until 1907, and since then it has been practically impossible to obtain a conviction in the absence of unusually aggravating circumstances. Illicit sexual intercourse is a crime in only a very few States, and in other States only becomes such when it is attended by notorious lewdness and indecency, resulting in public scandal and nuisance. In rape, the age of consent ranges throughout the United States from the common-law age of ten years to that fixed in New York at eighteen years.<sup>[24]</sup>

With 19th-century America governed by criminal laws incorporating comparatively few restrictions on private sexual conduct and with a general laxity in enforcement of those laws which did exist, the medical profession found circumstances particularly favorable for assuming the role of arbiter of the moral behavior of the nation left vacant by the law. The rise of the science of psychiatry as a specialized branch of medicine, armed with the prestige accorded to all scientific disciplines together with the power to compel treatment, provided physicians the opportunity to employ legal sanctions to enforce moral rules. Asserting that they had uncovered the fundamental laws governing mental health and disease, physicians and psychiatrists were able to offer their moral

pronouncements as objective truths and, ultimately, to force compliance with their conclusions through liberal commitment law.<sup>[25]</sup>

Psychiatry from its inception as a distinct area of medicine at the end of the 18th century had underscored the singular importance of sexual life in the etiology of psychic disease. Although the psychiatric and medical professions — up until the last decades of the 19th century — suffered from some of the same reticence regarding uninhibited discussion of sexual matters as did the general public, doctors felt comparatively free to speak of sexual issues which they considered of immediate and common concern. This was especially true of masturbation, to which they devoted particular attention. There are several reasons for this: first, although viewed as having serious consequences, it was a common practice among the young and the mentally disturbed, groups less able to hide their activity than were prudent adults; second, if it could be shown that masturbation were harmful and linked to psychic disorders, so would it be true of excessive fornication. Thus, masturbation and “excessive venery” were commonly linked in medical discussions of sexuality. Finally, if it were scientifically demonstrated that masturbation and incontinence led to neuropathic conditions, *a fortiori* would this be true of the more *recherché* forms of sexual expression, such as homosexuality. Indeed, it has been argued by Vern Bullough and Martha Voght that many physicians, fearful of offending the sensibilities of the more squeamish, employed words such as “masturbation” and “onanism” as generic terms under which they meant to include all sexual aberrations, including homosexuality.<sup>[26]</sup> Although the Bullough-Voght thesis is somewhat problematic, it is certainly true that it was within the context of their disquisitions on masturbation that physicians and psychiatrists developed a general theory of sexuality covering all sexual conduct.

By the end of the 19th century medical science had elaborated a comprehensive doctrine relating sexual indulgence and mental disease. As a result when, largely at the urging of physicians and moral reformers, a flood of legislation restricting sexual conduct was

introduced in the period from 1880 to 1920, the theoretical foundation, scope, and direction of these new laws were provided primarily by the scientific conclusions earlier reached by physicians and psychiatrists. This paper proceeds to discuss both these movements. The next section of this essay traces the development of the theory of sexuality which emerged in 19th century medical discussions of the interrelationship between masturbation, incontinence, and mental disease. It is followed by a discussion of the efforts made by physicians to translate these findings into law through an intensive lobbying campaign aimed at the passage of legislation prohibiting a wide range of sexual behavior.

## I

During the formative period of the psychoanalytic movement in the United States, from 1910 to 1918, when Freud's theories gained prominence on this side of the Atlantic, much hostility was aroused among portions of the public because of the heavy emphasis psychoanalysis placed on sexual matters.<sup>[27]</sup> What many lay readers were unaware of was that medical men, particularly those concerned with diseases of the mind, had much earlier investigated the effects of sexual behavior on the psyche. Masturbation was of particular concern and was commonly regarded as the root of a host of medical and physical disorders. By the beginning of the 19th century the emerging field of psychiatry had concluded that sexual self-stimulation, when chronic, invariably brought insanity in its wake.<sup>[28]</sup> The earliest definitive statement of this thesis is that which appears in the work of the father of American psychiatry, Dr. Benjamin Rush.<sup>[29]</sup>

Rush, whom Thomas Szasz describes as “the first American physician to urge the medicalization of social problems and their coercive control by means of ‘therapeutic’ rather than ‘punitive’ sanctions”,<sup>[30]</sup> held that even occasional masturbation “produces seminal weakness, impotence, dysuria, tabes dorsalis, pulmonary consumption, dyspepsia, dimness of sight, vertigo, epilepsy, hypochondriasis, loss of memory, manalgia, fatuity, and death”.<sup>[31]</sup> In support of this rather startling conclusion,

Rush quotes from a letter of an agonized sufferer:

I rest badly at nights, and am much troubled with dreams. . . . The external organs of generations have a numb or dead feeling. The lower part of my back is weak; my eyes are often painful and my eye-lids swelled and red. I have an almost constant cold, and oppression at my stomach. In short, I had rather be laid in the silent tomb, and encounter that dreadful uncertainty, *hereafter*, than remain in my present unhappy and degraded situation.<sup>[32]</sup>

Indeed, as Rush points out, "the morbid effects of intemperance in a sexual intercourse with women are feeble, and of a transient nature, compared with the train of physical and moral evils which this solitary vice fixes upon the body and mind".<sup>[33]</sup>

The hypothesis that masturbation was a significant cause of insanity became a prominent tenet in international psychiatric thinking between the publication of Rush's work in 1812 and mid-century, and was echoed in the most advanced medical literature of Britain and Europe. In France the pioneer psychiatrist J. E. D. Esquirol joined Rush in claiming that masturbation was symptomatic of mania and that it reduced those who practiced it "to a state of stupidity, to phthisis, marasmus, and death".<sup>[34]</sup> He was joined by, among numerous others, Guislain of Belgium, who observed that the habit gave rise to hysterical attacks, asthma, epilepsy, melancholia, mania, suicide, and dementia — often dementia with paralysis.<sup>[35]</sup>

In the meanwhile, preoccupied with the same problem, British students of insanity had also uncovered the pernicious consequences of the vice. For example, in 1838 Sir William Ellis, then Superintendent of Harwell Asylum, concluded that "by far the most frequent cause of fatuity is debility of the brain and nervous system. . . .in consequence of the pernicious habit of masturbation". Ellis provided a physiological explanation for this; the act of masturbation, he contended, diverted needed blood from the brain to other portions of the body, thus damaging the cerebellum and bringing on dementia.<sup>[36]</sup>

An actual case of masturbation eventuating in death is reported by Dr. Alfred Hitchcock in 1842. A young man of 23 was noticed to have become timid, dilatory, languid, and lacking in perception. After the onset of jaundice,

dyspepsia, and epileptic fits, Dr. Hitchcock was sent for and gained from the man the admission that he had, for the previous 6 years, been regularly masturbating. "In view of the imbecile and delirious state of his mind", the physician recounts, "I expressed to his father my opinion of the cause of his sickness, and advised his immediate removal to the lunatic hospital. This opinion and advice was rejected by the father, although corroborated by several medical gentlemen who saw the patient, and more positively confirmed by confessions from his ruined son." The patient is reported to have died some 5 months after this interview, "the body wasted to the most extreme degree of atrophy". "For the last 2 months of his life", Dr. Hitchcock notes,

his mind seemed unceasingly fixed upon that spot [the genital area] as the seat of all his trouble. He would implore every one that he saw to cut him open and "fix something that was wrong" — and from morning to night he would toss himself upon the floor or the bed, wringing his skeleton hands in anguish, shrieking and groaning with a sepulchral voice, because no one would "operate on him". In short, a more deplorable, loathsome or ghastly specimen of human suffering could not well be imagined.<sup>[37]</sup>

That the result of sexual impurity was such an insidious disease, under which the body and mind tottered and decayed into insanity and death, was an established principle of psychiatry at mid-century. What was lacking, however, was a theory of mental disease within which masturbation could be shown to result in a discrete, identifiable symptomology.

A significant analytic breakthrough in this regard occurred in 1863 when David Skae, a Scottish psychopathologist and Physician Superintendent of the Royal Edinburgh Asylum, maintained that masturbation brought on a particular and specific variety of insanity, producing characteristic, clearly identifiable symptoms.<sup>[38]</sup> Skae's classification of the forms of mental disease, first postulated in his book on the subject,<sup>[39]</sup> was based solely on the assumed causes of insanity, of which there were three specific types: idiocy, epilepsy, and masturbation.<sup>[40]</sup> In the Morisonian Lectures of 1873<sup>[41]</sup> Skae's nosological system was expanded to 34 distinct forms of insanity; masturbation remained, but satyriasis and nymphomania, previously classified under

masturbational insanity, were made separate entities.<sup>[42]</sup> Skae's symptomology of masturbation is extensive: nervous debility, mental and physical depression, palpitation of the heart, noises in the head and ears, indecision, impaired sight and memory, indigestion, loss of energy and appetite, pains in the back, timidity, self-distrust, groundless fears, muscular relaxation, a dislike of female society, "the inability to look you straight in the face", suicidal, and sometimes homicidal, impulses, and, occasionally, religious delusions.<sup>[43]</sup> With respect to a prognosis, much depended on how early in the development of the disease the masturbator came under the care of an alienist. "If these cases are put under proper care and treatment before the mind has become too impaired to exert self-control when reasoned with", Skae notes, "they generally recover. But when dementia has begun to show itself in impaired memory, and energy, silly vanity, and self-satisfaction, the cases assume a very hopeless aspect, with a tendency to gradually increasing dementia if the vice is persevered in."<sup>[44]</sup>

Skae's analysis of masturbational insanity as a specific variety of mental disorder was taken up by the great British psychiatrist Henry Maudsley, who, in 1868, published an extensive paper on the "mental derangement brought on by self-abuse".<sup>[45]</sup> Maudsley distinguishes between the characteristic features of masturbatory insanity when the act is first engaged in by those still in their teens and in cases where the habit continues on into adult life. Among younger masturbators the psychic disorder is easily recognizable. "The miserable sinner whose mind suffers by reason of self-abuse becomes offensively egotistic. . . His manner is shy, nervous, and suspicious, his dress often untidy or slovenly; there is a want of manliness of appearance as of manliness of feeling. The pupils are often dilated, the breath bad, the face sallow, and the body somewhat emaciated."<sup>[46]</sup> Maudsley is reluctant to assign the term insanity to this stage of the disease. "When we are consulted about a case presenting these general features", he writes, "we may hardly feel justified in signing a certificate of insanity, but we have little doubt of the nature of the mental degeneration which is begin-

ning."<sup>[47]</sup> In the older masturbator, however, the symptoms of complete lunacy are unmistakable and consist in large measure of the symptomology which present-day psychiatry would diagnose as paranoid schizophrenia: violent outbursts of anger and abuse, delusions of persecution, hallucinations, deep gloom and depression, and wild frenzies of passion alternating with moody self-absorption.<sup>[48]</sup> "It is needless to say", Maudsley concludes, "that [these degenerate beings] have lost all healthy human feeling and every natural desire. The body is usually much emaciated, notwithstanding they eat well; and though they often last for a longer period than might be thought possible, they finally totter on to death through a complete prostration of the entire system, if they are not carried off by some intercurrent disease."<sup>[49]</sup>

The early work of Skae and Maudsley on the relation between masturbation and mental disease had a profound impact on the course of 19th-century psychiatry in Britain and the United States.<sup>[50]</sup> Indeed, masturbation as a proximate cause of insanity was accepted by a significant percentage of the American medical profession into the early 20th century, even while the thesis was losing currency among more observant psychological clinicians. Medical journals in the United States are filled with articles on the evils of the practice despite the obvious absence of any scientific justification for these conclusions. A strikingly heterogeneous collection of symptoms were assigned to the disease, all of which were comprehended under one causal mechanism. That this was possible reflects on the nature of the category of mental disease however used. As an historian of medicine recently pointed out:

Although vice and virtue are not equivalent to disease and health, they bear a direct relation to these concepts. Insofar as a vice is taken to be a deviation from an ideal of human perfection, or "well-being", it can be translated into disease language. In shifting to disease language, one no longer speaks in moralistic terms (e.g. "You are evil") but one speaks in terms of a deviation from a norm which implies a degree of imperfection (e.g. "You are a deviant"). The shift is from an explicitly ethical language to a language of natural teleology. To be ill is to fail to realize the perfection of an ideal type; to be sick is to be defective rather than to be evil.<sup>[51]</sup>

American psychiatry particularly seized on

the ability to shift from the language of ethics to the language of science in dealing with sexual behavior. Once "the mind who would choose to act immorally" became, in the language of psychiatry, the diseased mind, it lay open to "treatment" and "cure" and, under the guise of enforcers of mental health, psychiatrists and physicians became the enforcers of sexual morality. The direction of psychological medicine in the United States was clearly to provide this scientific basis for the prevailing moral orthodoxy. Among psychiatrists, "unchaste behavior" was transmuted into the more technical and impressive "aberrations of the sexual instinct", even where the content was identical. In one of the earlier articles on sexuality to appear in American psychiatric literature, the author affirms that

Aberrations of the sexual instinct may consist, 1st in tendencies to sensual gratification without any union of the sexes, as in the "besetting trial of our boys", &c; 2ndly, in union of the sexes without due provision for the ends for which such union was intended — viz., in casual and temporary union, of which *infanticide* is the necessary result; 3rdly, in marriages artificially barren, for which . . . America is gaining a bad preeminence; 4thly, there are aberrations of a more innocent character, because often forced upon individuals by a wrong moral or political condition of society, amongst which we may include *androgynism*, if so awkward a word may be taken to mean the intrusion of either sex, voluntarily or not, into the province of the other; to wit, when a woman dissects a dead body, or a man measures a young woman for a pair of stays. To which may be added the many strange and fantastic modes of relations of the sexes — Free Love, Pantagamy, &c, &c, and the Manichean notion that the union of the sexes is itself sinful.<sup>[52]</sup>

The author goes to the point of maintaining that nondiseased sexual behavior consists solely in the following: "(1) the procreation and due education of children; (2) the avoidance of incontinence; (3) the mutual society, help and comfort of the married pair. Any union of the sexes in which provision is not made for fulfilling every one of these purposes, may be proved contrary to natural law, using the word in its widest sense."<sup>[53]</sup> It is indeed marvelous that these sentiments appear, not in a theological work, but in a journal purporting to offer scientific insights into the nature of the mind.<sup>[54]</sup>

Masturbation, "the besetting trials of our boys", was a singularly appealing subject of study for American medicine because, once

shown to be pathogenic, it laid open the possibility that all sexual behavior differing from orthodox morality was also disease-causing and strongly suggested that all deviations from acceptable sexual practice were psychic perversions of the natural sexual function.

In diagnosing the causes of mental and physical disorders, the same clinical acumen shown by Skae and Maudsley was displayed by American psychiatrists and doctors, the great bulk of whom, by the 1870s, accepted the theory that masturbation brought on dementia. In 1876 Dr. A. Jacobi, Clinical Professor of Diseases of Children at the College of Physicians and Surgeons in New York, observed that children who masturbated were given to headaches, convulsive attacks, trigeminal neuralgia, and, generally, to severe irritation of the whole nervous system.<sup>[55]</sup> Masturbation could result in lowering the status of sensitive nerves of skin, muscle, spinous processes, or spinal meninges, resulting in permanent hyperaesthesia or local neuralgia. Dr. Jacobi notes that "where the presence of other causes of exhaustion in the child can be excluded, the suspicion that the incompetency and faulty function of the sensitive nerves are due to masturbation will frequently be well founded".<sup>[56]</sup> Continued over-excitation of the genital nerve centers in the young could eventuate only in hysteria and dementia.

Three years after the appearance of Jacobi's article, Dr. Allen Hagenbach, one of the senior physicians at the Cook County Hospital for the Insane, wrote that of the 800 male inmates admitted to the hospital since its opening in 1860 the exciting cause of insanity was masturbation in 49 of these.<sup>[57]</sup> The author describes symptoms similar to those observed previously by Skae and Maudsley, with the disease passing through two stages, the first, or conscious, stage terminating in a second, or unconscious, stage, "when owing to impaired mental and especially weakened volitional powers" reform is impossible and dementia and death result.<sup>[58]</sup>

More importantly, Dr. Hagenbach touches upon a theme which became of significant interest to other alienists over the succeeding 30 years, that part of the clinical character of masturbatory insanity in some cases included

an increased morbidity of the sexual sense before the onset of complete dementia which resulted in further perversion of the sexual instinct. He notes the case of a masturbator who began forming morbid attachments for another male, presumably because of his inability to control his passions and driven to frenzy by habitual practice of the vice.<sup>[59]</sup> The theory that masturbation lay at the root of other sexual perversions was taken up by a number of subsequent medical writers and instilled new life into the notion that masturbation would cause severe harm to those who indulged in it, at the same time offering a causal mechanism for all sexual degeneracy.<sup>[60]</sup>

It proved a simple matter for psychiatry to show a connection between masturbation among females and nymphomania. Since the normal, non-aberrant sexual state of women was one in which no gratification was found, almost any indication of sexual pleasure exhibited by women could be taken as a perversion of their natural sexual condition. That women had no natural sexual drive was an accepted tenet of 19th-century medicine. For example, this is what a Professor of Physiology and Pathological Histology of some eminence had to say on the subject of impotence in women:

The ideal young woman is almost necessarily impotent. From time immemorial the prerequisites in her moral and social qualifications have been modesty and chastity. Those lapses from absolutely virtuous living that in the male are condoned as charming little irregularities, when indulged in on her part, invariably call down upon her luckless personality a damnation worse than death, at the same time often barring her from her highest mission — maternity. That a universal law, acting through the ages, calling for unquestioned chastity in the maid and mother, should have had its effect in a large proportion of the sex in modifying the sexual organs and desires is not surprising; that it has not absolutely extirpated sensuality is perhaps more surprising.<sup>[61]</sup>

And, from the pen of a Professor of Obstetrics and Diseases of Women and Children in an article on nymphomania:

It is not natural for women to have a desire for sexual intercourse; it is submitted to as a duty. This exceedingly latent sense may be corrupted by some occurrence in childhood [the author refers to masturbation] till the immoral thought grows by brooding and ultimately becomes so vast as to swallow up the whole being, but of course it is rare for such to be the case.<sup>[62]</sup>

Sexual norms have become scientific truths, and

deviations from propriety diseases. Nowhere is this translation from vice to disease more palpable than in the observed effects of masturbation on the two sexes. The consequences masturbation had for males and females were, clinicians found, significantly different; but what they had in common was the socially unacceptable — hence “diseased” — nature of the resultant behavior. “The boy masturbator”, writes a prominent American psychiatrist,

usually becomes shy, and above all when in presence of female company. The girl masturbator, while shy in general society, seeks out persons of the opposite sex, makes advances to boys, and may even seduce them. To some extent this difference between the two sexes is maintained throughout later life. The adolescent and adult male masturbator, with a few exceptions, . . . has in the earlier period of his vice a shyness before, and in later ones an aversion to women. The adolescent and adult female onanist usually entertains ideas of an erotic character, develops foolish marriage notions, and may throw away all reserve before males.<sup>[63]</sup>

A firm theoretical foundation supplying the causal link between masturbation, sexual excess, and the more spectacular sexual perversions such as nymphomania was offered by the American neurologist George M. Beard, who, in 1869, published his first paper on a neurological disorder to which he supplied the term “neurasthenia”.<sup>[64]</sup> Beard’s first essay was supplemented by a more extensive one which appeared 10 years later<sup>[65]</sup> and finally was expanded to book length in 1880.<sup>[66]</sup> Neurasthenia, or nervous exhaustion, Beard defined as being a chronic functional disease of the nervous system marked by abnormal susceptibility to internal and external irritants, liability to quick exhaustion, deficiency of reserve, and the lack of controlling powers, both physical and mental. The disorder he regards as increasingly frequent “among the in-door class of civilized countries”, and particularly common to the United States.<sup>[67]</sup> The symptomology is extensive and includes headache, irritability, lack of concentration, morbid fears, insomnia, nervous chills, palpitations of the heart, sweating hands and feet, tremulous pulse, and heaviness of the loins and limbs.<sup>[68]</sup> Untreated, neurasthenia could result in, among other things, melancholic insanity.

The peculiar susceptibility of Americans to neurasthenia Beard adduced from a variety of



factors among which were increasing demands for stimulants and narcotics, the peculiar sensitiveness shown by Americans to cold and heat, the premature decay of the teeth, and the particular delicacy of digestive systems manifested by urban dwellers. The frailty of the reproductive systems of Americans, Beard felt, required extreme sexual restraint lest the sexual sense be over-excited and the delicate balance of the nervous system be disturbed and debilitated.

"One of the many evils of our time", he writes,

is, that the habit of self-abuse is on the increase, and that men are more indulgent than formerly. Hence the increase of nervous diseases that are connected with the genital functions; and hence the terrific results that sometimes follow early begun and long-continued masturbation. But so far as can be learned from all sources of information on these difficult themes, it would appear that among savages and the semi-civilized, sexual abuse, both in a natural and unnatural way, is carried to a far higher degree, on the average, than among the civilized; we cannot, indeed, bear these abuses as our fathers could. The observation . . . that it requires a strong constitution to be dissipated, is a just and sound one. The modern young man is not strong enough to abuse himself as perhaps he would be willing to do, or as his ancestor did. Both natural and unnatural methods of sexual indulgence react with fearful and almost immediate power on the nervous system, . . .<sup>[69]</sup>

Masturbation and sexual indulgence — both "natural" and "unnatural" — might have proved physiologically manageable for those who lived a hundred years earlier, but its results on the constitutions of 19th-century Americans were nothing less than disastrous.

In 1884 Beard's work on sexual neurasthenia was posthumously published and it is here that he presents a fuller version of his theory of nervous disease relating specifically to sexual behavior. Of masturbation he writes that "when long kept up it is the cause of insanity, usually of the form classed under melancholia, in quite a proportion of the cases that enter our asylums".<sup>[70]</sup> With respect to nymphomania, erotomania (lustful thoughts), and satyriasis, "these desires, though not necessarily, usually depend on sexual neurasthenia, although they may be in some degree and in some cases complicated with it".<sup>[71]</sup> Beard's causal theory of homosexuality is of particular interest because of its impact on contemporaneous American psychiatry. Homosexuality, he claimed, was occasioned by debilitation and

irritation of the nervous system, either through masturbation or excessive venery, leading to a species of nervous disease in which the system seeks relief in the condition opposite to that which brings on the disorder. "Exhaustion of the sexual organs, through excess or masturbation", he theorizes,

brings on at first indifference to the opposite sex, then positive fear or dread of normal intercourse; confirmed, long-standing masturbators of either sex care little or not at all for the opposite sex; are more likely to fear than to enjoy their presence, and are especially terrified by the thought of sexual connection; similarly, excess in a normal way tends to make us hate the partners in our excess; the unhappiest marriages are those where there is the greatest indulgence; irritability, aversion, positive hatred and disgust toward the object of our former love, follow protracted debauches. The subjects of these excesses go through the stages of indifference and of fear, and complete the circle; the sex is perverted; they hate the opposite sex, and love their own; men become women, and women men, in their tastes, conduct, character, feelings, and behavior. Such, as appears to me, is the psychology of sexual perversion, whenever and wherever found.<sup>[72]</sup>

The notion of sexual excess and masturbation proliferating into a broader spectrum of perversions, morally less acceptable and hence more clearly pathological, was quickly adopted by Beard's contemporaries in the last two decades of the century.<sup>[73]</sup> At the same time, the earlier theory of masturbatory insanity as propounded by Skae and Maudsley was losing ground. The work of Edward Spitzka seems to indicate a turning point in the treatment of masturbation by American psychiatry. Although Spitzka, one of the founders of the New York Neurological Society and a highly respected neuropathologist, rejected Beard's concept of neurasthenia as nonsensical and continued to adhere to the Skae-Maudsley thesis, he too observed that masturbation could, in certain instances, eventuate in sexual perversion. Of the 28 cases of masturbatory insanity he discusses in an extensive monograph on the subject,<sup>[74]</sup> two showed sexual perversion as part of their clinical character and two more manifested what he calls "moral perversion" with sexual overtones.<sup>[75]</sup> Indeed, as Spitzka elsewhere observes, "unlimited indulgence and absence of responsibility are competent to make sexual monsters out of mere voluptuaries".<sup>[76]</sup> Following the publication of Spitzka's paper in 1887-88, few psychiatrists continued to accept

the older form of the doctrine of masturbatory insanity. Henceforth most psychiatrists in the United States adopted some variation of Beard's theory that masturbation was causally associated with severe aberrations of the sexual instinct through perturbations and over-excitations of the genital nerve center, leading to derangement of the sexual sense.

For example, one of the most prominent American clinicians of sexual perversion, J. G. Kiernan, Superintendent of the Cook County Hospital for the Insane and Professor of Forensic Medicine in Chicago, adopted Beard's hypothesis of sexual exhaustion as the link between masturbation, sexual excess, and perversion. In classifying the sexual aberrations, Kiernan held that there is a category of vices — such as pederasty, necrophilia, and oral-genital contacts — which sprang from "conditions in which sated libertines seek abnormal stimuli for exhausted sexual appetite".<sup>177</sup>

In the same year in which Kiernan offered his classification, 1884, an editorial in the *Medical Record* of New York suggested that, even in cases of congenital perversion, aberrant feelings could be cultivated and intensified by excessive sexual indulgence. "We may question", the editorial continues, "whether in a few cases the condition would have ever developed, were it not for an early abuse and misdirection of the sexual powers, [for] in conditions of nervous exhaustion and weakness, the symptoms are exaggerated."<sup>178</sup>

It is illustrative of the success of Beard's hypothesis that in 1889 G. F. Lydston, possibly the foremost American sexual pathologist, accommodated the neurasthenic theory in his etiological classification of perversion. Lydston's nosology was divided into two principal classes, "congenital, and perhaps hereditary, sexual perversion", and "acquired sexual perversion" of which one sub-group was clearly Beardian: "sexual perversion from over-stimulation of the nerves of sexual sensibility and the receptive sexual centers, incidental to sexual excesses and masturbation".<sup>179</sup> To this category could be charged instances of homosexuality, bestiality, the desire for "abnormal methods of gratification", satyriasis, and

nymphomania.<sup>180</sup>

A significant proportion of the American medical profession were strong adherents of the theory linking masturbation and sexual deviance after the work of specialists in the area confirmed Beard's thesis. It is therefore not surprising that "over-stimulation of the sexual centers brought on by masturbation" was observed to be the cause of a case of lesbianism reported in an editorial in a prominent medical journal in 1892;<sup>181</sup> it was found to be responsible for the sadism, pederasty, and bestiality which physicians claimed were common among southern Negroes;<sup>182</sup> and, in 1896, it was offered as one of the contributing causes of the rampant pederasty practiced among inmates at the New York State Reformatory at Elmira, in an article penned by its chief physician.<sup>183</sup>

In 1905 the noted psychiatrist William Lee Howard offered a further example of "the insidious and baneful effects of masturbation" on a girl who, in later life, became bi-sexual. When 14 years old, Howard recounts, the girl was sent to a boarding school some distance from her home. While on the journey the train became snowbound and the passengers took shelter in a nearby town. There a woman passenger "took a motherly interest in the child". "The rest of the story is soon told", notes Howard.

That night, the weak, undeveloped sexual cells of the cortex were awakened — directed in the wrong channel, and a child masturbator with psychic imaginings and fancies of women constantly arising, was the result. These inverted pictures kept up until the woman reached the age of about thirty, when the condition now present gradually made its appearance.<sup>184</sup>

"In this case", the psychiatrist concludes, "we have an undoubted case of inversion through acquirement."

It should be noted that Howard is not suggesting anything untoward in the behavior of the older woman toward his patient; the proximity of her interest in the young girl to the child's masturbatory act alone seems to have been sufficient to direct her desires into a perverse channel. Clearly, awakening the weak, undeveloped sexual cells of the cortex was fraught with danger.

A somewhat different physiological theory of the effects of masturbation was put forward by

the great American psychologist G. Stanley Hall, Professor of Philosophy at Johns Hopkins University. While at Johns Hopkins, Hall founded both the first experimental psychology laboratory in the United States and the *American Journal of Psychology*; he later became President of Clark University, where he also held a chair in psychology. In his classic study of adolescence, Hall contended that masturbation drained the body of "spermin", necessary to removing the products of decomposition from the cells, and thus prevented the proper respiration of tissue.<sup>[65]</sup> The effects of the habit are such that

growth, especially in the moral and intellectual regions, is dwarfed and stunted. There are early physical signs of decrepitude and senescence. Gray hairs, and especially baldness, a stooping and enfeebled gait, the impulsive and narrow egoism which always goes with overindulgence, . . . all the troubles ascribed to this cause are distinctly senescent in their nature. Life has been lived out with abandon; its energies have been overdrawn, and its wheels have run down like the mainspring of a clock the regulator of which has been lost, so that the term "fast" has a profound biological significance.<sup>[66]</sup>

Its connection with acquired perversion is clear. "All agree that the early years of puberty", the years in which spermin is most essential to the body, "are those in which [masturbation] is most common."

Sometimes an epidemic of mutualism or some other form of it, devastates an entire school, . . . During the teens the intensity of it in individual cases, particularly in those of sanguine and choleric temperament, is no less difficult to believe. It sometimes reaches a satysiasic and nymphomaniac degree, and many, if not most, of the perversions originate in these years.<sup>[67]</sup>

Howard and Hall were by no means atypical of psychiatric opinion in the first decade of the new century. Almost 100 years after the birth of the profession in the United States, masturbation was as firmly condemned by medical opinion as it had been when Rush penned his immortal words in 1812. Sexual behavior differing from the Protestant orthodoxy, narrowly conceived, was entrenched in the medical and psychiatric schema as products of diseased minds desparately in need of the physical and mental therapy which the medical profession alone could offer.

Since masturbation was conceived of as seriously harmful to the body and mind and as the exciting cause of a series of far more severe

psychological disorders, it is understandable that psychological and medical practitioners were prepared to employ radical methods of treatment if they were found necessary to avoid such dire consequences. The history of the treatment of masturbation is testament to the atrocities which men, otherwise of good will, are prepared to perpetrate in the name of saving damned souls. Those who are familiar with Alex Comfort's account of the methods employed to deal with masturbators<sup>[68]</sup> will have already been apprised of how commonly surgical interventions and physical restraints were resorted to during the 19th century. It is in their treatment of sexual offenders that the professions whose putative purpose was to heal the sick most clearly showed the punitive aspect of their role. Under the guise of therapy, psychiatrists and physicians — convinced of the necessity of stamping out sexual deviance in general and masturbation in particular and faced with habitual offenders for whom moral exhortation did no good — turned to forcible restraint and, if need be, to genital mutilation to prevent the further degeneration of their patients.

Advocacy of these extreme measures was not confined to only a few of the particularly zealous. Throughout a good part of the 19th century, a substantial number of physicians supported radical therapeutic techniques in dealing with masturbation. Indeed, there seems to have been an escalation in the severity of treatment over time. While up to 1850 it was still common to prescribe bland diets, vigorous exercise, and a host of drugs, many of which were patented as "cures" for chronic onanism, by mid-century surgical interventions and the use of physical restraints were supported by fully three-quarters of the medical profession in the United States.<sup>[69]</sup>

Surgery as a repressive measure for masturbation is apparently the invention of the British physician Isaac Baker Brown who, in 1858, introduced the operation of clitoridectomy.<sup>[70]</sup> Baker Brown, Fellow of the Obstetrical Society and later President of the prestigious Medical Society of London, observed that masturbation in women often led to hysteria, epilepsy and a host of convulsive diseases. He therefore

decided that the most efficacious method of dealing with the habit was to simply remove the organ on which it was performed. For this purpose he established a "Surgical Home" in London, where, he reported in 1866, he performed the operation on large numbers of women, adults and children. His over-enthusiastic support for this procedure led to his being expelled from the Obstetrical Society in 1867, after a series of contentious debates.<sup>[91]</sup> The operation subsequently fell into some disrepute in England as a standard method of treating female masturbators except in the more "severe" cases.

Even after the operation lost favor with the British medical profession, it seems to have remained a viable therapeutic tool in America. Thus, in 1877 one American physician notes that he would not hesitate to resort to clitoridectomy to save a patient from the pernicious consequences of the habit "should all else prove unavailing", although the preferred method of treatment involved the administration of camphor, chloral, the bromides, belladonna, and digitalis.<sup>[92]</sup> Six years later, in 1883, Dr. Joseph Howe recommended the operation in instances of chronic masturbation complicated by symptoms of nymphomania.<sup>[93]</sup>

A renewed interest in clitoridectomy seems to have been sparked by the connection made between masturbation and the more serious sexual perversions in the 1880s and '90s. In 1894, for example, Dr. A. J. Bloch, visiting surgeon at the Charity Hospital in New Orleans, published a paper on sexual perversion in women in which he characterized masturbation as a "moral leprosy" of late reaching epidemic proportions. "Its taint", he remarks,

is entering into the homes of our most elegant and refined; this contagion exists in our schools, seminaries and asylums; its handiwork is shown by our many obscure and unrecognized nervous disorders. It is not only necessary that we pursue a curative course, but prophylactic measures should be used, and to us belongs this responsibility.<sup>[94]</sup>

Clitoridectomy had the advantage, we assume, of serving both curatively and prophylactically, for Bloch clearly admired the operation. He describes an instance of masturbation in a girl of 2½ years which he successfully treated by excision of the clitoris. After first having

satisfied himself that this, indeed, was the offending organ, the physician recounts that he "dissected up the clitoris and amputated it almost to its attachment to the pubes". The result was a complete cure. "The nervous condition has entirely disappeared, the child eats and sleeps well, the eyes are rarely crossed. She has grown stouter, more playful, and has ceased masturbating entirely." Lest Dr. Bloch be thought precipitate in resorting to such drastic therapy on a patient so young, he points out that "milder methods of treatment would ordinarily be the selective one, but when this proves inadequate, it becomes imperative to resort to the more heroic procedure".<sup>[95]</sup>

A somewhat similar case of recourse to "the more heroic procedure" is reported several months later by Dr. Alvin Eyer, surgeon at St. John's Hospital in Cleveland. A girl of 7 was found engaged in habitual masturbation despite "thorough and complete" medical treatment which included blistering and severe cauterization of the clitoris and vagina. The physician decided that a clitoridectomy was indicated, whereupon "the operation was performed, care being taken that the entire organ, with a considerable portion of its two crura, was removed". Both mother and doctor were delighted with the results. "She has shown no signs of returning to her former habits", we are told, "save once."

About six weeks after the operation the mother reported her as having had a very restless night, and that she confessed in the morning having attempted her old habit, but added, "You know there is nothing there now, so, of course, I could do nothing".<sup>[96]</sup>

Physicians who were loathe to surgically intervene had at their disposal a host of other methods by which they could cope with female masturbators. These ran the gamut from simply tying the hands at night to more medieval contraptions such as the "girdle of chastity", developed by Dr. John Moodie of Edinburgh in 1848. Dr. Moodie's girdle was devised mainly as a preventative to masturbation among girls, a habit he found shockingly prevalent in mid-century Scotland. The instrument is described in Dingwall's excellent history of the chastity belt:

The Moodie girdle of chastity consisted of a cushion made out of rubber or some other soft material and

suitably covered with silk, linen or soft leather. This cushion or pad formed the base into which was fixed a kind of grating, and this part of the apparatus rested upon the vulva, the pad being large enough to press upon the mons veneris. The lower part of the pad rested upon the perineum, being curved so as to fit the parts enclosed. The bars of the grating were to be made of ivory or bone and were so arranged in the pad that when in position they pressed up against the labia majora opposite the vagina. The whole apparatus was affixed by means of belts to a pair of tight-fitting drawers and secured by a padlock, a secret flap being made so as to close over the key hole.<sup>107</sup>

The device, Moodie contended, was a most effectual remedy against the vice of masturbation and had the further benefit of preventing seduction.<sup>108</sup>

In the United States, girdles of this sort, albeit less elaborate, were easily available from medical supply houses into the 20th century and, for a time, could be found for sale in the Sears-Roebuck catalogues.

Other physicians preferred restraints of their own design, such as that reported by Dr. C. W. Colby in the *Medical Record* in 1897. The patient, a girl of 7, had defied all previous measures aimed at stopping her from masturbating. Dr. Colby recounts:

She had been made to sleep in sheepskin pants and jacket made into one garment, with her hands tied to a collar about her neck; her feet were tied to the footboard and by a strap about her waist she was fastened to the headboard, so that she couldn't slide down in bed and use her heels; she had been reasoned with, scolded, and whipped, and in spite of it all she managed to keep up the habit.<sup>109</sup>

Finally, the parents refusing to lend their consent to a clitoridectomy, Dr. Colby engineered a harness designed to cover the child from neck to knees. He describes it as being "built of copper wire, the legs and armpits are protected with sheep's wool, and over the whole thing is fitted a stout canvas jacket". When worn, "the child is slide into the 'harness' from the top and the canvas jacket is laced up the back and strapped over the shoulders". The device proved effective in stopping the practice and, we are told, a new and larger one was built a year later to accommodate the girl's growth.

For the older female masturbator and nymphomaniac, suppositories of cocaine were commonly employed to anaesthetize the genital area. One prominent obstetrician, observing the symptoms of advanced nymphomania in a

woman who writhed with pleasure when her clitoris was stimulated, found the use of cocaine totally successful in dealing with the disorder. "We applied muriate of cocaine to the clitoris", he noted, "and I can assure you the effect was wonderful; the vagina at once behaved as well as the most virtuous vagina in the United States."<sup>100</sup>

Given 19th-century attitudes towards women, it should be noted, the problem which was of paramount concern to the medical profession in the United States was not that of masturbation in the female — who, after all, was only in the most unusual instances capable of any but the barest sexuality — but of the vice when practiced among males. Here a variety of measures were applied to discourage the habitual offender.

Infibulation seems to have been one of the more popular methods of treatment in the United States and Britain in the 1870s. It was a leading topic of discussion at one of the quarterly meetings of the British Medico-Psychological Association in 1876, where the Superintendent of the Glasgow Royal Asylum reported satisfactory results in a dozen instances where the operation was performed.<sup>101</sup> The operation was suggested by the fact that the prepuce was anatomically necessary for erection of the penis. Infibulation, as described by the Superintendent, consisted of piercing the prepuce at the root of the glans with a silver needle, the ends of which were then tied together. The result, we are informed, was erections so painful as to be practically impossible, and an almost certain end to masturbation among the patients upon whom he had operated.

He felt certain [the report notes] they were for the present, and while the wire remained, absolutely debarred from the habit of masturbation. The sensation amongst the patients themselves was extraordinary. He was struck with the conscience-stricken way in which they submitted to the operation upon their penises. He meant to try it upon a large scale, and go on wiring all masturbators. The moral effect of it in the house was excellent, and one man was seen weeping over his in anticipation of its disablement.<sup>102</sup>

In 1878, Dr. James Hyde of Chicago joined Dr. Yellowlees of the Glasgow Asylum in championing the procedure. He reported a case of chronic masturbation treated in a similar

### manner and its successful issue:

I perforated each side of the upper limb of [the patient's] prepuce with a large triangular perineum needle and inserted a ring made especially for the purpose, of pure silver, leaving it *in situ*. . . . In this instance the ring was made with a peculiar lock, so that it could not only be fastened after its insertion but removed at pleasure afterward. . . . I permitted him to remove it in fifteen days, when these troubles naturally ceased. . . . He wrote that his habit had been broken up, and that he was, in accordance with my suggestions, contemplating matrimony.<sup>[103]</sup>

Despite its success, Dr. Hyde was not wedded to infibulation as the only therapeutic technique worthy of consideration. In the same article he makes mention of an instance of habitual onanism in a young man which was effectively treated by leeching. As each attack of masturbation was about to recur, he recounts, leeches, about 15 in number, were applied to the nape of the patient's neck. Repetition of this therapy over the course of 2 months proved successful and the patient is reported to have quit his habit.<sup>[104]</sup>

For physicians who found it difficult to acquire silver wire or who did not have ready access to leeches, a large number of mechanical devices were employed to restrain patients from continued self-abuse. One of the more notorious authors of cautionary literature which flooded the United States during the second half of the century mentions a few, by way of warning to the chronic onanist of what can be expected should he persist in his habit; these include being placed in a strait-jacket, having the hands fastened behind one's back, tying the hands to the posts of the bed, or fastening them by ropes or chains to rings in the wall.<sup>[105]</sup>

The more inventive physician designed his own appliance; such a one was described in the *Boston Medical and Surgical Journal* of 1888, for use on a 17-year old who had acquired epilepsy from constant masturbation while asleep. The restraint employed to assist the patient is reported by his physician:

The mechanical appliance was a plaster bandage applied as follows: A sheath of oil-silk was first made, to cover the penis and project an inch beyond, the limp organ hanging down straight between the thighs; then a layer of cotton wadding covered in the scrotum and buttocks, leaving a triangular opening, three inches on each side, for defecation. The plaster bandage then covered all, and went down around the penis and up about the waist, making, when hard, a complete casing, so that

the boy's genitals might have been in the next county for all the sensation his hands could communicate.<sup>[106]</sup>

We are assured that, encased as he was from waist to thigh in plaster, the patient "surely did not masturbate". After several weeks in the contrivance, during which time urination was accomplished "while standing and holding the vessel under the projecting oil-silk", the boy abandoned the habit and the device was removed.

One of the leading psychiatrists of the period, Dr. Charles Dana, Professor of Nervous and Mental Diseases at the New York Post-Graduate School, reported success using a variety of different measures; including a splint of his own contrivance "by which the legs were kept apart and immovable".<sup>[107]</sup> In a more intractable case of a young man suffering from adolescent neurasthenia brought on by nocturnal masturbation, several methods were tried with negative results, including first tying the hands behind him at bed-time and, when this failed, tying the hands to the bed-posts above his head; in both instances the patient managed to untie the knots and free himself. "Finally", Professor Dana continues,

I put him in the masturbation drawers, devised by my colleague, Professor Graeme M. Hammond. These consist of strong canvas drawers, fastened about the waist with steel bands, the sides of which are padlocked. The patient locked himself in the drawers every night, hid the key, and his pollutions ceased.<sup>[108]</sup>

Dana also recommends that large doses of camphor, tincture, of opium, and lupulin be administered internally at bedtime. "I once gave this mixture to a sailor", he happily reports,

who like most sailors masturbated and suffered from pollutions. It cured him, and he gave some to the captain who prescribed it to the mates, and before the voyage was over, the whole crew were rejoicing in the efficacy of the combination.<sup>[109]</sup>

Each physician seems to have had his own favorite method of dealing with the practice. Dr. Joseph Howe, Professor of Medicine at New York University and author of a widely-read work on masturbation, regarded the use of electricity as the most efficacious remedial agent for combatting the vice. "I have used it invariably in every case which has come under my care", he writes, "and have rarely found it to fail in accomplishing all that is claimed for

it." A typical treatment is described:

The applications of electricity are best made when the patient is in a recumbent posture, though they can readily be given while the patient is sitting or standing. When the battery is ready for use and the patient's hips, back and genitals exposed, the *urethral electrode* insulated to within an inch of its point is attached to the negative pole of the battery. The other electrode with a moistened sponge on its extremity is attached to the positive pole. The urethral electrode well oiled and warmed is slowly introduced through the urethral canal to the neck of the bladder, while the sponge covered electrode is placed over the genito-spinal center at the junction of the dorsal with the lumbar vertebrae, and moved up and down over the vertebral column as far as the tip of the coccyx. While the sponge is being moved over these parts the urethral electrode is slowly withdrawn until its point reaches the bulbous portion of the urethra. There it is allowed to remain until the termination of the *séance*.<sup>[110]</sup>

"Séances" were to last some 7 or 8 minutes, enough time to totally desensitize the urethral passage. The reader is assured that these treatments, when applied regularly for about 2 months, invariably produce the desired results. Masturbation ceases, virile power is increased, and the patient's health restored.

In instances where it was found necessary to administer temporary relief for nocturnal emissions, less elaborate measures could sometimes prove effective. Dr. Howe recommends use of an "electric ring", invented by one Dr. Johnson of New York.

The electric ring is an ingenious contrivance for awakening the patient before emission occurs. The ring is placed around the penis at night and connected with an electric belt which is placed around the abdomen, the latter being attached to the poles of a battery. When there is a determination of blood to the genital organs during sleep, the whole tissue of the penis becomes distended, the ring expands and separates the wires which prevent the patient from feeling the electric current while the organ is quiescent. As soon as the separation takes place a violent shock is experienced which awakens the sleeper in time to prevent emission.<sup>[111]</sup>

Not all physicians were as confident as was Dr. Howe in the efficacy of electric devices in halting the habit. Silver wires through the foreskin, ropes, splints, plaster casts, canvas drawers, even egg-shaped pessaries inserted into the rectum which pressed on the ejaculatory ducts, all had the overwhelming disadvantage that they could be removed and the habit renewed. There was only one certain road to a masturbation-free, sexually pure life and that was through direct genital mutilation which

physiologically prevented emission. Toward this end, several different approaches were employed, including sectioning the dorsal nerves of the penis,<sup>[112]</sup> cauterizing the genitalia,<sup>[113]</sup> and tying the spermatic ducts.<sup>[114]</sup>

Even these mutilations were not sufficiently severe for some members of the medical profession. In 1894, Dr. F. Hoyt Pilcher, Superintendent of the Kansas State Institution for Feeble-Minded Children at Winfield, instituted the ultimate treatment for the vice by castrating 11 boys consigned to his charge on the ground that they were confirmed masturbators. A howl was raised in several of the Kansas newspapers at the barbarity of the treatment; one unfriendly newspaper account went so far as to carry the story under the banner, "Diabolism at the Imbecile Asylum", and claimed that Dr. Pilcher had treated his patients no better than "the farmer treats his hogs in the Spring of the year".<sup>[115]</sup>

The medical and psychiatric professions, however, were quick to rush to the Superintendent's defense. The *Kansas Medical Journal* immediately launched an attack on the lay press for making far too much of the incident. "The political wail", it editorialized, "is amusing when the facts in the case are seen through plain glasses."

Viewed from a humanitarian standpoint, what do these newspaper accounts tell us? That a number of imbecile youth were castrated. They were confirmed masturbators — unless the attendant was with them, and even if his back was turned to them while in his presence they would commit the act. This abuse weakened the already imbecile mind, and destroyed the body. The practice is loathsome, disgusting, humiliating and destructive of all self-respect and decency, and had a bad moral effect on the whole school.<sup>[116]</sup>

To the objection raised by another newspaper that Dr. Pilcher's predecessor as Superintendent had employed nothing harsher than moral suasion and the strait-jacket in similar cases,<sup>[117]</sup> the *Journal* replied:

Dr. Pilcher, like a brave and capable man, sought something better. There could be much saved from such wrecks. He could give back a restored mind and robust health, a bestial function destroyed, and he did it. He called around him a council of competent medical men; they determined on the operations, for here was cure, and the operations were performed, and for which he should have the profound respect and acknowledgement of the State, humanity, and kindred.<sup>[118]</sup>

The prestigious *American Journal of Insanity* added its influential voice and editorially commented that "from a medical point of view the achievements of [Dr. Pilcher] are highly interesting". It added,

We shall hope to hear further from Doctor Pilcher, and we trust the benefits observed in nine of the eleven boys may be permanent: . . . We believe these are appropriate cases for study and operation, and are in sympathy with every effort in which science and humanity combine for discovery of new ways of benefit to the race.<sup>[119]</sup>

Even physicians writing in the lay press rushed to support the actions of the Superintendent. Dr. Henry Roby of Topeka, who edited a department titled "The Family Doctor" for the *Kansas Farmer*, held that "the presumption of both law and science is in favor of the doctor. . . . Emasculation is not a crime when done to save a life, or to cure an insanity or an imbecility, as it often is. It is no crime when it is done to restrain a diseased boy from an otherwise incurable tendency to self-destruction, either of suicide or the sure damnation of an unchecked vice."<sup>[120]</sup> So vocal and so overwhelming was the support tendered Pilcher by his brethren that by the spring of the following year, an article in the *Pacific Medical Journal* could report that "as was expected the political press raised a great howl . . . but the medical profession sustained him and he has been further supported by his board of trustees."<sup>[121]</sup>

Dr. Pilcher's was not the first such surgical intervention employed as a cure for masturbation, but its sensational nature occasioned much professional interest in the operation. The *Texas Medical Journal*, for example, noted that the publicity attending the events at Winfield clearly indicated that there was a growing sentiment among physicians and psychiatrists in favor of castration, "not only for disease, but as a prophylactic against a long train of evils, and particularly against the hereditary transmission of vice, disease, and the propensity to crime." Unfortunately, the *Journal* pointed out, the public was not yet in full agreement with the profession and would have to be educated in this respect.<sup>[122]</sup>

Therapeutic castration for masturbation had been employed previously, but with indifferent results.<sup>[123]</sup> An instance is reported by Dr.

Robert Preston, Superintendent of the Southwestern Virginia Asylum, where "a young man, at his earnest request, had been castrated in 1885 by his physicians in Bland County, Va., for the cure of masturbation". The patient subsequently came under Dr. Preston's observation at the Southwestern Asylum. At that time, the doctor reports, "he experienced no relief and no diminution in sexual power or desire."<sup>[124]</sup> This finding was sustained by Dr. A. E. Osborne, Superintendent of the California Home for Feeble-Minded Children, who recounts a similar instance where a chronic masturbator was castrated. "The operation as a cure", concludes Dr. Osborne, "had been a total failure."<sup>[125]</sup>

Why, then, this renewed interest in the procedure in the 1890s? The answer, or a significant part of it, can, I think, be found in a paper delivered before the International Medico-Legal Congress in August, 1893, by Dr. F. E. Daniel. The paper received enormous publicity; it was offered before the American Medico-Legal Society in New York in October of that year, and, in December, was published in no fewer than three medical journals, the *Medico-Legal Journal*, the *Psychological Bulletin*, and the *Texas Medical Journal*, of which Dr. Daniel was editor.<sup>[126]</sup> In it, Dr. Daniel was injudicious enough to drop the pretense of employing castration as a therapeutic measure for masturbation. Rather, he suggested the procedure be used primarily as a *punishment* for *all* sexual perverts, including habitual masturbators. "It is not alone in asylums", he holds, "that castration should be done."

Rape, sodomy, bestiality, pederasty and habitual masturbation should be made crimes or misdemeanors, punishable by forfeiture of all rights, including that of procreation; in short by castration, or castration *plus* other penalties, according to the gravity of the offense.<sup>[127]</sup>

When Daniel's paper appeared in 1893, American psychiatry was in the midst of undergoing a shift in emphasis away from the view that sexual disorders were occasioned by environmentally determined perversions of the will which were open to successful treatment. The inability of the profession to actually cure masturbators and other sexual deviants, together with the growing proportion of



seemingly hopeless cases filling the asylums, encouraged the conviction that mental diseases, especially those manifested in the form of crime and sexual vice, were in fact hereditary and inherently incurable.<sup>[128]</sup> Daniel's paper captured this change in emphasis by suggesting that individual therapeutic procedures and efforts to cure were, for the most part, fruitless,<sup>[129]</sup> and that what was needed for the eradication of sexually pathological behavior was an extensive eugenics program. In ringing testimony to the glory of eugenics and the role of medicine in bringing about a world made free of unCalvinist sexual longings, Dr. Daniel writes:

While we can not hope ever to institute a Sanitary Utopia in our day and generation, it would seem within the legitimate scope and sphere of Preventive Medicine, aided by the enactment and enforcement of suitable laws, to eliminate much that is defective in human genesis, and to improve our race mentally, morally and physically; to bring to bear in the breeding of peoples the principles recognized and utilized by every intelligent stock-raiser in the improvement of his cattle; . . . I predict that in twenty years the beneficial results of castration for crimes committed in obedience to a perverted (diseased) sexual impulse will be established and appreciated.<sup>[130]</sup>

Although not all physicians and psychiatrists shared the growing skepticism regarding individual treatment in dealing with sexual deviants, most were prepared to support the sentiments put forward by Dr. Daniel. Even before the publication of his essay, Dr. William Hammond had read a paper before the New York Society for Medical Jurisprudence supporting the substitution of castration for capital punishment;<sup>[131]</sup> and, in May, 1893, Dr. G. Frank Lydston had called for the castration of sexual perverts — particularly of Negro rapists — "if the operation be supplemented by penile mutilation according to the Oriental method".<sup>[132]</sup> The proposal to castrate those guilty of sexual sin caught the imagination of the medical profession. Within two years of the publication of Daniel's article, no fewer than four major papers appeared in the more prominent medical periodicals supporting and enlarging Daniel's recommendations.<sup>[133]</sup> By 1900, the eugenics movement had raised asexualization to the first rank among the solutions to mental disorder espoused by the medical profession.<sup>[134]</sup>

One of the noblest moments in the history of psychiatry is captured by the painter Robert Fleury, in which he shows Dr. Philippe Pinel ordering the chains removed from the patients at the Salpêtière in 1795. The Enlightenment spirit from which issued the great humanitarian principle which moved Dr. Pinel and the few other early physicians of the mind to liberate the insane from their fetters is tribute to the highest ideals of the profession — to soothe the perturbations of tortured souls and to resolve the conflicts which made of the lives of the mentally ill an unceasing torment. Yet so perverted had this original ideal become when in the hands of lesser men that a century later the profession in the United States was calling for violent physical mutilation of the unfit in the name of ending defect and degeneracy in society.

By the 20th century, American psychiatry had so altered its nature that it no longer defined its primary role as servitor to the patient in need of help. Instead, it saw itself in the basically anti-individualistic role of protector of a reified social body, to which it was prepared to sacrifice its sick and ailing members. One eminent psychiatrist, calling for the castration of the morally, mentally, and physically unfit, invoked this new alliance between psychiatry and the repressive arm of the State when he wrote:

Is it asking too much, is it requiring more than is due, when the state . . . seeks to protect itself against the degrading influences of the continually flowing stream of transmitted pollution, which saps the mental, moral and physical vitality of its citizens, by asking the parents and guardians of the irresponsible defectives to yield their consent to the performance of an operation which in some instances may prove to be curative and in many to be palliative, by abrogating sexual perversions and thus establishing conditions favorable to mental and moral cultivation, and in all, through its far-reaching result, is able to render them impotent to do harm? Failing to obtain this consent, has not the state the right to adopt such measures in the interest and in the protection of its citizens?

The members of our noble profession are not only the conservators of the public health, but are, or should be, in every sense the promoters of the public good. Equipped through training for the effective performance of their professional duties, with cultured mentality, with courageous convictions, to do the right, they stand at the gateway of civilized conditions, ever able, ever ready, to lend a helping hand in promoting that which is for the public weal. May we

not ask that the study of investigation of this subject [the castration of the unfit] shall be approached with the "open mind", with the judgment unwarped by an emotional sentimentality. May we not feel assured that, when so studied, there can be but one verdict — that of enlightened approval.<sup>[135]</sup>

Sex, throughout the whole of the 19th and on into the 20th centuries, had been the great blind spot of psychiatry. In this area of psychic life the profession had refused to accept its original therapeutic role of helping the sick and, instead, had taken upon itself the theological task of punishing those guilty of moral wrongs. It had, in fact, armed itself with the theological tools of damnation. But, cloaked in the mantle of science, its method was not excommunication from God but rather the use of the strait-jacket, the lunatic asylum, and the scalpel.

Nineteenth-century American psychiatry seems to have blinded itself to one of the more usual aspects of mental disease; that it is within its nature that when an etiologic factor is once accepted by the great mass of people, this alone may make it a cause of mental imbalance irrespective of the original justification for its place in the lexicon of mental ailments. The very fact that masturbation, nymphomania, homosexuality, and so on, as specific forms of psychoneuroses, were given ontological existence in the medical vocabulary and accepted as such by the public, led to their becoming the cause of the disease — for the nature of mental disturbances is that the imaginary, as easily as the real, may bring about mental disorders.

The hypothesis that masturbation as a cause of insanity was ultimately iatrogenic was not examined with any thoroughness until 1932, when a paper by Drs. William Malamud and G. Palmer of the Iowa State Psychopathic Hospital appeared in the *Journal of Nervous and Mental Disease*.<sup>[136]</sup> After examining 50 cases of insanity where masturbation was singled out as a significant causative factor, Drs. Malamud and Palmer concluded that "the mental deviations in these cases were due not to the effects of masturbation as such, nor to an organic injury brought about by it, but to a conflict introduced by the erroneous belief of the effects of the practice and its ethical and moral implications . . . The characteristic feelings expressed by most of these patients

[are] that they have 'wasted away' their lives."<sup>[137]</sup> There is little doubt that these "wasted lives" would have been saved were it not for the psychiatric and medical professions whose putative functions were to tender such people aid and solace.

Although belief in the notion that masturbation would eventuate in severe psychological disorder was still espoused by a few medical authorities on into the 1930s and after, it had, for all practical purposes, been abandoned by most of the medical profession. True, it lingered in the cautionary literature published for the laity by religionists and moral purifiers, but among the psychiatric profession the theory that masturbation was psychologically harmful continued on only in the much adulterated form that its excessive practice contributed to or was symptomatic of certain sexual neuroses. Yet, as the historian Ronald Walters points out, old myths die hard; a survey taken in 1959 of future doctors graduating from medical schools in the Philadelphia area revealed that almost half of those questioned still held that masturbation was a common cause of insanity.<sup>[138]</sup>

A far more significant and enduring legacy left by the medical profession's theory of sexuality was its effect on the content of American criminal law respecting sexual conduct. Beginning in the 1880s, psychiatrists and physicians in ever increasing numbers seized upon the criminal prohibitions of the law as one method of circumscribing vice and immorality. In their campaign against untrained licentiousness, doctors increasingly viewed individual treatment as only secondary in importance to "that wholesome and definite dread of legal punishment which is at present the chief protection of society".<sup>[139]</sup> Even where the causes of crime and immorality were discovered to be the product of hereditary predisposition, the fear of criminal sanctions was thought to be an effective deterrent. Thus Dr. Frank Lydston, writing on the hereditary aspects of vice, and particularly of prostitution, notes that even in such cases punishment could still prove efficacious in deterring open manifestations of these morbid physical conditions, "for even insane persons . . . may restrain their morbid impulses where they have such a powerful

incentive as the dread of commitment to an asylum".<sup>[140]</sup> By the end of the 19th century, these sentiments were shared by the bulk of the medical profession; and, by 1920, in part instigated by the propagandizing efforts of physicians and psychiatrists, American criminal law had become an active force in determining the limits of permissible sexual behavior.

## II

The contributions of the medical profession to the crimination of sin, particularly in the areas of sexual perversion, prostitution, and sexual contacts with adolescents, is attested to by the prominent role psychiatrists and physicians played in the social hygiene movement which emerged in the Progressive Era.<sup>[141]</sup> Medical opinion, taking, as it had, the view that the eradication of vice was an essential ingredient to a healthy society, had quickly championed the reforms espoused by the moral education societies — themselves dominated by female physicians<sup>[142]</sup> — which had come into existence in the 1880s and '90s. Calling for the suppression of prostitution and other untoward forms of sexual expression, the banning of obscene and pornographic materials, and the punishment of sexual offenders with castration, positions either implicitly or explicitly suggested by the scientific findings of preventive medicine, these reformist elements developed a close working relationship with physicians. So closely associated did preventive medicine and purity reform become that the reformist elements began to employ the very language of medicine in their campaigns, frequently employing the metaphors of moral contagion in their literature and looking upon themselves as "physicians to society".<sup>[143]</sup>

With respect to prostitution, the medical profession had openly allied itself with the suppressive aims of the reform movement as early as 1882, as its journals reflected.<sup>[144]</sup> Physicians, noting the grave danger of venereal disease, argued that this could best be brought under control by first eliminating prostitution and, eventually, by eradicating all promiscuity. In the same vein, it was observed that obscene literature was an important factor in encouraging

licentiousness and commercialized vice. The medical profession, influenced, among others, by the work of Dr. William Sanger on prostitution, held that an intimate connection existed between pornography and sexual lust; the result of reading books and seeing pictures suggestive of sexuality drove the victim to seek sexual thrills either through frequenting brothels or in some more violent and perverted manner.<sup>[145]</sup>

The social purity movement, which physicians had enthusiastically endorsed, quickly became a mass movement with a national organization. In 1895, at the National Purity Congress in Baltimore, the American Purity Alliance was formed. It listed a number of prominent reformers from the major national reform groups on its executive board, including representatives of temperance unions, societies for the suppression of impure literature, anti-vice organizations, law and order societies, and women's suffrage groups.<sup>[146]</sup> Its New York Congress, held soon after, won the unreserved support of the New York medical profession. As David Pivar reports, signatures were there collected for a Medical Declaration of Chastity.

This 1895 Declaration was a milestone for purity reformers in social medicine. They had convinced the medical profession of New York that regulation was inadequate for combatting social diseases and conserving morality, and had further proved to the satisfaction of physicians the efficacy of purity reform for social medicine.<sup>[147]</sup>

Indeed the physicians in New York did not need much convincing. So firmly were they wedded to the aims of the reform movement as a result of their own investigations that in 1905 they formed their own organization, the American Society for Sanitary and Moral Prophylaxis.

The object of the Society, as announced by its first president, Dr. Prince A. Morrow, comprised "the study of the means of every order — sanitary, moral, and legislative — (the legalization of prostitution excepted) — which promise to be the most effective in preventing or diminishing the spread of diseases which have their origin in the Social Evil".<sup>[148]</sup> Dr. Morrow recognized the broader implications of this mandate and its relation to social reform generally. "In their essential nature", he

remarks of venereal diseases,

they are not merely diseases of human body, but diseases of the social organism. The problem of their prevention or control involves not only questions of hygiene, but questions of morality — questions affecting the most intimate relations of our social life . . . . To correct these evil conditions there should be a union of all the social forces which work for the good in the community.<sup>[149]</sup>

The intimate connection between preventive medicine as dictated by science and advances in sexual morality — enforced advances, if need be — are spelled out in a paper Dr. Morrow delivered before the Society 2 years after its founding.

Recognizing that the irregular exercise of the sex function, whether it is termed "incontinence" or "immorality", is the most prolific cause of venereal diseases, we recommend pre-marital continence as the safest and only sure preservative against infection. Recognizing that the most powerful predisposing cause of licentiousness in men is the physiological fallacy of the "sexual necessity", we repudiate this counterfeit presentment of physiological truth. . . . The teaching of continence does not imply a Pharaical assumption of superior virtue, but is simply an impersonal interpretation of the physiological laws of man's nature as developed by science and confirmed by human experience. If the hygienic precepts formulated by this Society conduce to moral living, if the moral grows out of the scientific, so much the better for the interests of morality.<sup>[150]</sup>

In keeping with the position outlined by Dr. Morrow, the Society joined its sister organizations in the reform movement in calling for an extensive system of sexual instruction for the young and for legislation making all aspects of sexuality outside the marriage bond illegal. In addition, it supported the suppression of obscene materials and the raising of the female age of consent, i.e. raising the age below which a male could be indicted on a charge of rape.<sup>[151]</sup>

So successful was the Society in expanding its membership beyond the New York area that, by 1910, it had established branches and sister societies among physicians in Philadelphia, Milwaukee, Baltimore, Chicago, Indiana, St. Louis, Denver, Portland, Spokane, California, West Virginia, Jacksonville, and Mexico City; in addition, locals were in the process of formation in Georgia, Connecticut, Texas, and New Jersey.<sup>[152]</sup> The Chicago society — established by the respected urologist Dr. William T. Belfield in October, 1906 —

brought forth the terms "social hygiene" and "sex hygiene" to describe their work.<sup>[153]</sup> These terms served the dual purpose of relieving the more timid from having to employ words like "venereal" or "prostitution", while at the same time underscoring the medical orientation of the organization's interests. So popular did the terms become that both old and new societies commonly adopted them in their titles. In June, 1910, the central organization changed its name from the cumbersome American Society for Sanitary and Moral Prophylaxis to the American Federation for Sex Hygiene.<sup>[154]</sup>

Finally, in December, 1913, the physicians' groups, organized into the American Federation for Sex Hygiene, and the National Vigilance Association, successor to the American Purity Alliance and comprised mainly of social workers and clergymen, joined into one massive association for the promotion of their common ends. At a meeting in Buffalo attended by the leaders of the two federations, the American Social Hygiene Association was founded, with Charles Eliot, President of Harvard University, as its first president, and Dr. William Snow of the California Board of Health as its first general secretary.<sup>[155]</sup>

The merger originally led to some internal bickering. Charles W. Clarke, at one time Medical Director of the newly formed association, recounts the mutual suspicion that early emerged between, on the one hand, those primarily interested in the medical aspects of sex and, on the other, those who were particularly concerned with its moral implications.

The clergy and social workers in the abolitionist organizations suspected that the medical men were "materialists" who cared nothing for spiritual values and social justice. The physicians and sanitarians were often impatient at the preoccupation of the abolitionists with the protection of the civil rights of prostitutes. As one doctor remarked, "They don't give a damn how many babies die of syphilis so long as streetwalkers are not molested by policemen."<sup>[156]</sup>

In this struggle, the more repressive policy prevailed when the membership was convinced that "there is no fundamental conflict between the highest moral and social concepts of what sex conduct ought to be and the most scientific medical and sanitary plans for eradicating the venereal diseases."<sup>[157]</sup> Thus, in the controversies over whether to support

medical inspection of prostitutes and whether to make chemical prophylaxis available to the public, the Association ultimately agreed that both policies were of questionable medical benefit and would only encourage illicit sexual relations.<sup>[158]</sup>

Perhaps the best statement of the goals of the new organization is that put forward by its first president, Charles W. Eliot, in an address to the first annual meeting of the Association.

An . . . important object of the Association is to devise and advocate effective police procedure and effective legislation with regard to vice. In some American communities improved laws, courts, or police administration have already been secured. The Association should try to make the best experience of any state, city, or town available, as lesson or example, to all other cities or towns. . . .

Part of the work of the Association should be contributory to the work of other organizations — such as those that advocate the suppression of disorderly houses and disreputable hotels, . . . the substitution of weak alcoholic drinks for strong, the promotion of total abstinence, and the provision of wholesome pleasures, both out-of-doors and indoors. The Association should always be ready to take part in the prosecution of men or women who make a profit out of obscene publications, indecent shows, immoral plays, and prostitution.

The Association ought to advocate actively the common use of the recognized safeguards against sexual perversions — such as bodily exercises, moderation in eating, abstinence in youth from alcohol, tobacco, hot spices, and all other drugs which impair self-control, even momentarily. Social hygiene would be effectively promoted by reduction or rejection of the drinking and smoking habits in American communities. In the white race the connection between drinking alcohol and prostitution is intimate.<sup>[159]</sup>

The reforms advocated by the American Social Hygiene Association and by its predecessor organizations in the social purity movement had as their aim nothing short of a fundamental transformation in the value system manifested by American law. The comparatively limited intrusions into private sexual matters which had characterized the criminal law throughout most of the 19th century were, between 1880 and 1920, augmented by statutes regulating every aspect of sexual conduct, both public and private, and this inflation of the statutory law in this area came about largely through the propagandizing efforts of the sex hygiene societies. The theoretical foundation for the attacks levelled by these groups on vice, sexual perversion, and obscene literature were laid by the medical profession's earlier investi-

gations into sexuality and particularly by the profession's conclusions respecting the pernicious effects of masturbation, incontinence, and the other perversions which stemmed from them. Not one reform in the area of sexuality advocated by these groups was at odds with accepted medical canon; no piece of legislation regulating sexual conduct could not be supported by substantial medical and psychiatric evidence.

Backed by the weight of scientific testimony, reformist elements in the United States were successful in convincing the state legislatures that stamping out vice was a primary desideratum of law. Criminal codes in each of the states, already in the process of undergoing a marked expansion,<sup>[160]</sup> were further swollen to encompass a host of new laws dealing with sexual behavior. As an example, in 1915 alone — not an atypical year with respect to this kind of legislation — over 80 bills concerning the regulation of sexual behavior were introduced into the state legislatures, of which over half were passed into law.<sup>[161]</sup> These included statutes dealing with the age of consent, indecent exposure, obscene publications, sexual perversion, adultery, fornication, and various aspects of prostitution — including pandering, pimping, keeping a house of prostitution, soliciting, and transporting for the purpose of prostitution. The rationale, eagerly adopted by the state legislatures, which excused such wholesale incursions into the private lives of citizens was that provided by medical science, namely that these new laws did not issue from any attempt to enforce a particular value system but were scientifically grounded in the conclusions reached by preventive medicine and sexual hygiene. Their aim was not to make Americans moral, but to prevent them from becoming sick.

It is beyond the scope of this essay to attempt anything like a complete catalogue of the successes which the sex hygiene associations had in their lobbying efforts. Between 1880 and 1920 many hundreds of statutes were either passed into law or amended, to bring the states' penal codes into line with the reforms advocated by physicians and other moral reformers. The following categories are,

however, indicative of the scope and direction of statutory enactments during the period and are briefly discussed: (1) changes in age of consent legislation; (2) the expansion of the sodomy statutes to include perversions other than *coitus per anum*; and (3) legislation aimed at stamping out prostitution.

### (1) *Age of consent legislation*

"Age of consent" in the sense in which I here employ the term, refers to that age below which a female is held by law to be incapable of agreeing to sexual intercourse, so that any male who has sexual relations with a girl below the stipulated age is indictable on a charge of rape. It might also be taken to refer to the maximum age at which a female may be seduced or abducted, since in most jurisdictions a male is deemed innocent of these offenses unless the female was under a certain age. Although the age of consent in both these instances was often the same, it is specifically to the former that the reformist groups turned their attention.

At the beginning of 1886 the age of consent to sexual intercourse remained at 10 years throughout most of the country. Several states had statutorily increased the age to 12 years, but the great majority continued to adhere to the traditional age of 10 — either via statute or by relying on the common law. Under intense pressure from the social hygiene movement this situation was substantially altered over the succeeding three decades. By the time of America's entry into World War I, only Georgia remained with an age of consent of 10, and it raised the age to 14 in the following year. All the other jurisdictions, by 1917, had statutorily raised the age to 14 or above. Twenty-two states had set 16 as the age of consent; seventeen states had raised the age to 18; and two states, Tennessee and Wisconsin, had raised the age to 21.<sup>[162]</sup>

### (2) *Sexual perversion*

Throughout most of the 19th century, the law against sodomy stood alone as the only legal prohibition against sexual deviance. The common law had limited the crime of sodomy solely to sexual intercourse *per anum* by a man, with a man or woman, and when the state

initially enacted sodomy statutes no other sexual behavior was interpreted as being proscribed — excepting bestiality or necrophilia in those states explicitly including such conduct in their statutes. However, beginning in 1879, the various state legislatures were encouraged to expand their statutory prohibitions to cover fellatio, cunnilingus, and other "unnatural" acts, which medical science had shown to be the product of diseased and perverted minds. The intervention of the law was necessary, it was argued, both to discourage the spread of these vices and to bring to the attention of the legal authorities sexual perverts in need of psychiatric treatment. In addition, in 1907 Indiana became the first of a number of states to pass a compulsory sterilization law.<sup>[163]</sup> It thus became legally possible to include sex perverts in the far-reaching asexualization plans which physicians so strongly supported.<sup>[164]</sup> A comprehensive eugenics program, however, would first require that sex perverts be identified and committed to state institutions. As a result, a number of states which expanded their criminal codes to include perversions other than *coitus per anum* also made statutory provision for the hospitalization, treatment, and — in some cases — castration of perverts.

Not all the states found it necessary to amend their sodomy laws in order to prohibit acts not covered by the common law. The original statutes — all of which prohibited "sodomy", "buggery", "the crime against nature", or a combination of these terms — did not explicitly specify which acts were included within the meaning of the law. Traditionally the common-law interpretation prevailed, thus limiting the prohibition to anal intercourse. However, because of the vagueness of the language, when a particular "unnatural" act was charged as being in violation of the statute, the courts had the option of extending the sense of the statute by construing it as covering the particular act before it. Between 1904 and 1925 the courts in eleven states adopted this approach and broadened the area covered by the sodomy laws sufficiently to make unnecessary legislative action.

From 1879, when Pennsylvania added a

section to its sodomy statute covering fellatio and cunnilingus, until 1925, thirty-six states had either expanded their prohibitions against sexual aberrance by statute or through the state courts.<sup>[165]</sup> Doubtless physicians viewed with particular pride the Indiana and Wyoming statutes, passed in 1881 and 1890. In both states the legislatures included the following language in their criminal codes:

Whoever entices, allures, instigates or aids any person under the age of twenty-one years to commit masturbation or self-pollution shall be deemed guilty of sodomy.

### (3) *Legislation aimed at prostitution*

Undoubtedly the major thrust of the social purity groups and their successor organizations was directed at stamping out prostitution. Throughout the 19th century almost no laws dealt with the practice and those that did were only nominally enforced. Prostitution was not an offense at common law and, prior to World War I, to be a prostitute was in itself not a crime.<sup>[166]</sup> No laws existed prohibited pandering, pimping, procuring, soliciting, or transporting, nor was patronizing a prostitute an offense.<sup>[167]</sup> This absence of legal restraint, combined with a general sentiment among Americans that the repression of commercialized vice was not particularly desirable, permitted the practice to flourish.<sup>[168]</sup> During the 19th century, prostitution appears to have been so acceptable a part of American life that several attempts were made to license the profession in the 1870s and '80s. These efforts were ultimately defeated, largely through the agency of the purity groups and a substantial proportion of the medical profession.<sup>[169]</sup> Yet so rampant was prostitution up to World War I that it was conservatively estimated that the number of prostitutes residing in brothels in the United States in 1912 was no less than 200,000.<sup>[170]</sup>

In no other area of sexuality did the social hygiene movement eventually prove as effective in its legislative lobbying efforts as in the area of commercialized vice. Beginning in the 1880s and reaching a peak during the war years, each state passed more than a dozen pieces of legislation, prohibiting every aspect of the practice. World War I was of enormous help to the social hygiene crusade against immorality;

the suppression of vice became associated in the public mind with the campaign against venereal disease and, hence, with the war effort. Discussing developments in social hygiene legislation during the war years, George Worthington notes that

when the government was suddenly confronted with the necessity of mobilizing for war, it realized at once that to be efficient, its armed forces must be clean. The government's program was based on the realization that the venereal diseases are the greatest scourge to the military forces and that prostitution is the greatest source for their spread.<sup>[171]</sup>

The government was, of course, confronted with two alternate approaches in its battle against venereal infection. It could choose either to medically inspect prostitutes and the men with whom they came in contact or it could prohibit commercialized vice. Under prodding from the medical profession, it opted for suppression.

The result of identifying prostitution with aiding the enemy concluded a process already begun to legislate against almost every element of the prostitute's trade. The publicity attending the reports of the numerous vice commissions established after 1910<sup>[172]</sup> had already resulted in the passage of the so-called White Slavery Laws, prohibiting enticing females into prostitution, pandering, and pimping. Perhaps the most famous of these was the Mann Act, a federal statute enacted in 1910, which makes it a crime for any person to transport in interstate or foreign commerce any female for immoral purposes.<sup>[173]</sup> The individual states quickly followed the lead of the federal government. Between 1910 and 1915, practically every state in the Union had passed laws against these classes of offenses. Forty-four states made enticing, soliciting, forcing, or transporting a woman into prostitution a crime; forty-five states had forbidden pandering; and thirty-six states had made pimping and living off the earning of a prostitute unlawful. Only Georgia, Mississippi, and South Carolina had prohibited none of these acts by 1920.<sup>[174]</sup>

Keeping a disorderly house — or a house of ill-fame, as some laws stated — had been indictable as a misdemeanor under common law.<sup>[175]</sup> During the course of the 19th century, however, the concept of the common-law crime

had weakened considerably and the criminal law in the various states had become almost exclusively a matter of statute.<sup>[176]</sup> Yet, before 1890, only twenty-four states had included the offense of keeping a house of ill-fame in their criminal codes.<sup>[177]</sup> Because of the promotional work of the reform movement, however, an additional twenty-two states and the District of Columbia added the crime to their penal codes between 1891 and 1913.<sup>[178]</sup>

A far more effective weapon for closing houses of ill-fame was the Red Light Injunction and Abatement Law, first passed by Iowa in 1909. The law did not involve a criminal action and therefore did not suffer from the restrictions imposed on a prosecution under the criminal code. The Injunction and Abatement Law declared houses of prostitution to be common nuisances and permitted a civil action in a court of equity to be brought in the name of the state by any private citizen to abate the nuisance. A civil action, as opposed to a criminal proceeding, had the advantage of allowing the court to issue an injunction, including a temporary injunction during the period of the trial, thus closing the house. Further, relief was secured much more rapidly than in a criminal action and the trial was before a single judge rather than a jury.<sup>[179]</sup> The Law proved so successful in reducing the number of brothels in Iowa that, by 1921, thirty-nine states and the District of Columbia had enacted similar statutes.<sup>[180]</sup> It is largely through exploiting the Injunction and Abatement Laws that prostitution as a functioning commercial enterprise was eventually abolished in the major American cities.<sup>[181]</sup>

In addition to the White Slavery Laws, Injunction and Abatement Acts, and prohibitions against keeping a house of ill-fame, a number of states passed statutes prohibiting soliciting for purposes of prostitution or lewdness. The prohibitions against soliciting not only made criminal an important aspect of the business of prostitution but, in time, also served the purpose of criminalizing casual homosexual encounters. A large percentage of homosexual offenses have not fallen under the statutes for sodomy but under the more prosecutable one of soliciting — originally a

prostitution offense.<sup>[182]</sup> By 1920 twenty-seven states had added soliciting to their criminal codes.<sup>[183]</sup>

Finally, the various states and municipalities passed into law a variety of laws and ordinances touching on other aspects of commercialized vice; permitting one's place or conveyance to be used for immoral purposes; receiving or offering to receive another into a place or conveyance for purposes of prostitution; knowingly transporting another to a place of prostitution; acting as a go-between between a prostitute and her patrons; frequenting, residing in, or occupying a disorderly house; and so on. Perhaps the most far-reaching law enacted by the states was that drafted by the law enforcement division of the Commission on Training Camp Activities of the federal government, for submission to the various state legislatures. Known as the Vice Repressive Law, it prohibited both "giving or receiving of the body for sexual intercourse for hire", and "giving or receiving of the body for indiscriminate sexual intercourse without hire". In addition, solicitation on the part of either party was proscribed by its provisions. The law was so extensive in its coverage that it penalized all commercialized aspects of prostitution, including the activities of the go-between, the disorderly house-keeper, and so on. The Vice Repressive Law, effectively classifying all sexual intercourse as a species of prostitution, was enacted by ten states by 1920.<sup>[184]</sup>

If one were to examine the status of the legal regulation of sexual conduct which obtained in the United States in 1948 — the year of the publication of Alfred Kinsey's first monumental study of American sexual behavior — he would be confronted with laws prohibiting almost all sexual conduct other than normal sexual intercourse between husband and wife and solitary acts of masturbation. These laws, Morris Ploscowe observed, "make potential criminals of most of the adolescent and adult population".<sup>[185]</sup> So sweeping are the restrictions on sexual activity contained in the various criminal codes and so out of keeping are they with the realities of actual behavior that Dr. Kinsey estimated that "the persons involved in these activities [which contravene the law], taken as



a whole, constitute more than 95 per cent of the total male population".<sup>[186]</sup>

Although it is true that some of these sexual offenses have their roots in the English common law and in the early American Puritan tradition, it is significant that the majority of these prohibitions date from a period no earlier than the last two decades of the 19th century. Only a fraction of the sexual behavior which in 1948 was proscribed by law had been prohibited in the United States 70 years earlier. Thus, mutual masturbation, fellatio, cunnilingus — all manner of "lewd and indecent" acts when committed in private — single acts of fornication (in all but a handful of states), relations with prostitutes, consensual intercourse with females over the age of 10 or 12, soliciting another for a sexual act, all were beyond the reach of the law as late as 1880.

The shift in American criminal law at the end of the 19th century which subjected so much sexual conduct to legal restraint was occasioned not by a reawakening of religious zeal but by the intrusion of medicine and psychiatry into the legislative process. When, during the 19th century, doctors and psychiatrists had scientifically established the medical necessity of a life of sexual restraint, they had confined the implementation of their findings to their patients and to the unfortunates committed to their care in hospitals and asylums. By the 1880s, however, the profession was prepared to forcibly remold the entire society in the interests of mental health. In this respect physicians, and particularly psychiatrists, exhibited the same presumptuousness in meddling in the private affairs of people as was shown by others active in the reform movements of the period. Their meddlesomeness came comparatively easily, however. As John Burnham observes, since "as doctors they dealt with matters of life and death, and as psychotherapists in daily practice they undertook to interfere in and change the attitudes and ways of life of their patients, . . . they were accustomed to the responsibilities of leadership".<sup>[187]</sup> Moreover, the role of leadership for the morals of the nation had been a traditional one for physicians.

When, in 1917, the General Medical Board of the Council of National Defense declared that

"continence is not incompatible with health" and the House of Delegates of the American Medical Association unanimously approved the sentiment,<sup>[188]</sup> doctors in the United States were only affirming a principle that lay at the root of their investigations into sexuality begun a century earlier by Benjamin Rush. Incontinence — and its solitary manifestation, masturbation — were found to be the spring from which issued a spectacular array of diseases, both of the mind and of the body. With respect to the social organism, a wanton and lascivious population, given to unbridled sexuality, undermined the moral fiber of a nation, perverted its character, and destroyed its sense of manliness, womanliness, purity, love, honor, marriage, the home, the family, and the state. Physicians, throughout the whole of the 19th century, had been alone in asserting the scientific truth of these observations. Psychiatrists, experts in the area of mental disorder, had proven with cold and detached objectivity that unrestrained sexuality would bring in its wake the decay, first of the mind, and finally of the body. On a national scale, it would, if unchecked, lead to nothing less than the collapse of organized society. The medical profession saw with pristine clarity the necessity of keeping licentiousness in check if mental disease were not to become rampant.

By the end of the century, physicians and psychiatrists had proved their sexual theories to a receptive public. It was no longer necessary to rely on the unverifiable conclusions of moralists and theologians respecting the propriety of inhibiting one's sexual appetite. Science had proven beyond all shadow of doubt that masturbation, incontinence, oral-genital contacts, homosexual encounters, even prostitution, were mental perversities, brought about through disobedience to nature's inexorable laws as uncovered by medical science. "The laws of society and physical hygiene are immutable", wrote one psychiatrist,

and any infringement of them is followed by penalties that must be paid for. The person that does aught to improve the morals of our race and inculcate and secure obedience to nature's immutable laws adds a bulwark to the nation's safety and the nation's greatness; but he that does aught to degrade the morals of our generation and breaks nature's laws commits a

crime against the whole nation, because he throws poison into a stream from which we all must drink.

Greece, exalted with her matchless learning and art, and Rome — imperial Rome — with the wealth and power of empires within her grasp, crumbled and went down in ruin when the morality of those nations was eclipsed by sensuality and vice.<sup>1199</sup>

The task of sparing America the fate of Greece and Rome belonged to men of vision and dedication such as comprised the medical profession, men who saw that American society, for too long, had disregarded nature's laws and had permitted sensuality and vice to flourish. Armed with new laws to protect the sexual purity of the nation, they joined hands with an emerging bureaucracy<sup>1191</sup> to build that bulwark against iniquity and lust of which physicians and psychiatrists wrote. They had discovered that the penitentiary was as viable a therapeutic weapon for sexual disorder as was the asylum.<sup>1191</sup>

### NOTES

1. The argument that law and morality are, in most significant respects, co-extensive impresses me as the result more of a confusion in terminology than of analytic insight. In any case, the sense in which I mean to distinguish the two is, I trust, made clear by Mr. St. John-Stevas.
2. Norman St. John-Stevas, *Life, Death and the Law* (London: Eyre & Spottiswoode, 1961), pp. 14–15.
3. *Ibid.*, pp. 18–25. Historical discussions are also contained in H. L. A. Hart, *Law, Liberty and Morality* (Stanford, Cal.: Stanford University Press, 1963), *passim*; *idem.*, *The Morality of the Criminal Law* (Jerusalem: The Magnes Press, Hebrew University, 1964), pp. 31–54; and Patrick Devlin, *The Enforcement of Morals* (London: Oxford University Press, 1965), *passim*.
4. See, for example, F. A. Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), pp. 145–147.
5. In discussing the relation between government and the legal enforcement of virtue in the United States, Walter Berns remarks that "in a real sense it is against the American tradition to suggest that political conflicts do not always lie between government and the citizen, and more specifically, that the basic political conflict is not one of man versus the state — or freedom versus authority, as it is frequently referred to. Both the Declaration of Independence and the Bill of Rights share this view. The very notion that the citizen possesses rights against the government, rights that he enjoys from some non-governmental source, is not only a modern idea, but is one that makes no sense unless government is viewed as some hostile force, or at least some necessary evil, which constantly threatens to prey on its subjects." Walter Berns, *Freedom, Virtue, and the First Amendment* (Baton Rouge, La.: Louisiana State University Press, 1957), p. 67. Even Massachusetts law reflected a shift in emphasis from "enforcer and guardian of Christian society" to "preserver of individual liberty" after the Revolution. This change in direction is ably discussed by William E. Nelson, *Americanization of the Common Law: The Impact of Legal Change on Massachusetts Society, 1760–1830* (Cambridge, Mass.: Harvard University Press, 1975), *passim*, esp. pp. 89–110.
6. Lawrence M. Friedman, *A History of American Law* (New York: Simon & Schuster, 1973), pp. 62–63. Professor Friedman notes that "in colonial times, laws of morality were taken quite seriously". For example, "fornication and drunkenness were the most commonly punished crimes in 17th-century Massachusetts". *Ibid.* Nelson notes that of the 2784 prosecutions in the Superior and General Sessions courts of Massachusetts between 1770 and 1774, 38% of these prosecutions were for sexual crimes. Yet the punishment of immoral conduct during these few years immediately prior to the Revolution cannot have been the sole, perhaps not even the primary motive behind the enforcement of statutes concerned with sexual behavior since, as Nelson points out, 95% of these sexual offenses were for fornication and, with but one exception, only mothers of illegitimate children were prosecuted. (*Ibid.*, p. 37.) Figures offered by Michael S. Hindus confirm Nelson's findings. Of all criminal prosecutions in Middlesex County, Massachusetts, between 1760 and 1774, those relating to bastardy and fornication accounted for 63% and all but ten of the 210 fornication prosecutions during this period involved illegitimate births. ("The Contours of Crime and Justice in Massachusetts and South Carolina, 1767–1878", unpublished manuscript, 1977; forthcoming in the *American Journal of Legal History*, July, 1977), pp. 9, 14.) See also Daniel Scott Smith and Michael S. Hindus, "Premarital Pregnancy in America, 1640–1971: An Overview and Interpretation", *Journal of Interdisciplinary History*, V (1975): 537–570.
7. James Willard Hurst, *Law and the Conditions of Freedom in the Nineteenth-Century United States* (Madison, Wis.: University of Wisconsin Press, 1956), p. 18.
8. Friedman, *op. cit.*, pp. 256–257. This was true even of Massachusetts, consistently the state most repressive in its laws governing sexual behavior. Nelson notes that, beginning in the 1780s, there was a "virtual cessation of criminal prosecutions for various sorts of immorality". By 1800, only 7% of all prosecutions were for conduct offensive to morality as compared with 38% 30 years earlier. (*op. cit.*, pp. 110, 118.) Hindus, although agreeing in the main with Nelson's conclusions, argues that the shift from "crime as sin" to "crime as theft" in Massachusetts took, not several decades, but 200 years! Hindus maintains that "crimes against morality" never ceased to be a major concern of Massachusetts law; rather, the 19th century witnessed a shift in what constituted immoral behavior away from sexual offenses to liquor-related crimes such as drunkenness and violations of the licensing laws. His inclusion of violations of the liquor-license laws under the broader category of "crimes against morality, order and chastity," however, serves only to obscure a highly significant downward trend in prosecutions and correctional commitments for sexual offenses and, indeed, for all real offenses against morality which took place throughout the first 70 years of the 19th century. Figures which Hindus presents elsewhere in

his monograph indicate that during the period 1833–1858 no less than 35% of all criminal prosecutions in Massachusetts were for license law violations, and that of the category “drunkenness and license law violations,” prosecutions for drunkenness accounted for only 4.37% of the total during this period, violations of the licensing laws accounting for the remaining 95.63%. During this same period, prosecutions for sexual offenses represented only 5.7% of the total of all prosecutions.

With respect specifically to sexual offenses, Hindus’ data clearly confirm a secular decline in correctional commitments for sexual crimes as a proportion of commitments for all crimes throughout the period he covers. In Suffolk County (the cities of Boston and Chelsea), where the commitment rate was significantly higher for sexual offenses than was the rate for Massachusetts as a whole, commitments for sexual offenses accounted for 6.96% of all commitments during the period 1839–1841; 3.98% during the period 1848–1851; 2.39% during the period 1859–1861; and 2.31% during the period 1869–1870.

Additionally, Hindus’ graphic summary of the commitment rate for “crimes against morality, order and chastity”, showing a peak in 1855, is deceptive. This category — consisting of breaches of the licensing laws and drunkenness as well as sexual offenses — does not speak to the particular question of commitments for sexual crimes, nor, because of the inclusion of license law violations, can it offer much insight into the trend with respect to commitments for true moral offenses. Employing the tabulated data for Suffolk County, however, specifically sexual offenses represent a decreasing proportion of the larger category: 18.46% of the commitments for “crimes against morality, order and chastity”, were for sexual offenses in the period 1839–1841; this drops to 11.73% in the period 1849–1851, 5.31% in the period 1859–1861, and 4.48% in the period 1869–1870. Moreover, the absolute rate decreased markedly between 1851 and 1859 by these same data, from 137.5 to 39.3 commitments per 100,000 population. (M. S. Hindus, “The Contours of Crime and Justice in Massachusetts and South Carolina, 1767–1878”, *op. cit.*, *passim*).

9. With respect to a judicial criminal code, Francis Wharton had this to say in the 1846 edition of his classic treatise: “The colonies, leaving behind them the penal code of the country whose common law they adopted, found themselves obliged, as the passage of statutes under the colonial establishment was no easy matter, to establish, each by itself, a system of criminal jurisprudence, which depended much more on the adjudication of the courts than the enactments of the legislature. . . A judicial criminal code has been thus created, which, though in many cases modified by the several legislatures, constitutes, in part, the law of the land.” Francis Wharton, *A Treatise on the Criminal Law of the United States* (Philadelphia: Kay, J., 1846), p. 3.
10. *Ibid.*, pp. 1, 5.
11. *Ibid.*, p. 507. See also Wharton’s *Criminal Law*, 12th edition (3 vols. Rochester, N.Y.: Lawyers Co-operative Publishing Co., 1932), II: 2004 (section 1719).
12. Wharton, *op. cit.* (12th edition), II: 1988 (section 1703); Joel Prentiss Bishop, *Commentaries on the Law of Statutory Crimes*, 2nd edition (Boston: Little-Brown, 1883), p. 438 (section 714); Sir William Blackstone,

*Commentaries on the Laws of England*, William G. Hammond, ed. (4 vols.; San Francisco: Bancroft-Whitney, 1890), IV: 85.

13. Wharton, *op. cit.* (12th edition), II: 1990 (section 1703).
  14. “Note: Private Consensual Homosexual Behavior: The Crime and its Enforcement”, *Yale Law Journal*, LXX (1961): 624n.
  15. By 1920, forty-three states had legislated against adultery, the exceptions being Arkansas, Louisiana, Nevada, New Mexico, and Tennessee. Although most adultery statutes date back to the earliest criminal codes enacted by the state, several state legislatures waited quite some time before prohibiting the act. For example, Florida did not proscribe adultery until 1874. South Carolina enacted its first adultery statute in 1880; California, in 1901; and New York, in 1907.
  16. Alabama, California, Colorado, Florida, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Ohio, South Carolina, North Carolina, Texas, and Wyoming.
  17. Connecticut, Florida, Georgia, Kentucky, Maine, Massachusetts, Minnesota, New Hampshire, New Jersey, North Dakota, Pennsylvania, Rhode Island, Utah, Virginia, and West Virginia. Even in those states prohibiting single acts of fornication, enforcement was often feeble. For example, the Massachusetts statute, forcefully administered in the period before the Revolution, underwent revision in 1786. As William E. Nelson points out in his excellent survey of Massachusetts law, “in 1786 the General Court enacted a new statute for the punishment of fornication, permitting a woman guilty of the crime to confess her guilt before a justice of the peace, pay an appropriate fine, and thereby avoid prosecution by way of indictment in the court of sessions. The number of prosecutions for sexual offenses immediately declined to an average of 11 per year during 1786–1790 and to less than five per year during the four decades thereafter. It appears that after 1790 women simply stopped confessing their guilt of fornication, apparently aware that even though they did not confess it was most unlikely that they would be indicted. Indeed, only four indictments for fornication were returned in the entire Commonwealth after 1790.” (*op. cit.*, p. 110).
  18. Alabama, Arkansas, Colorado, Idaho, Illinois, Indiana, Iowa, Michigan, Mississippi, Montana, Nebraska, Nevada, New Mexico, Oregon, South Carolina, Washington, and Wyoming.
  19. Wharton, *op. cit.* (12th edition), I: 910 (section 682); Bishop, *op. cit.*, pp. 357–358 (section 482); Blackstone, *op. cit.*, IV: 270.
  20. Francis Wharton, *A Treatise on Criminal Law*, 8th edition (2 vols; Philadelphia: Kay, 1880), I: 512 (section 579).
  21. *Ibid.* (section 580).
  22. Vern L. Bullough, *Sexual Variance in Society and History* (New York: John Wiley, 1976), p. 578.
- The case of Horatio Alger is testament to the limitations of 19th century sodomy statutes. When Alger was found to have engaged in homosexual relations with a number of his young charges while Minister of the Unitarian Church at Brewster, Mass. during 1864 and 1865, the strongest action taken against him was his dismissal from the parish. His sexual proclivities — which Alger did little to hide — did nothing to diminish his growing reputation as a man of letters and defender of working-class boys. See Edwin P. Hoyt, *Horatio’s*

- Boys: The Life and Works of Horatio Alger, Jr.* (Radnor, Pa.: Chilton, 1974), esp. pp. 3-6.
23. Morris Ploscowe, "Sex Offenses: The American Legal Context", *Law and Contemporary Problems*, XXV (1960): 218.
  24. Arthur B. Spingarn, *Laws Relating to Sex Morality in New York City* (New York: Century, 1916), pp. x-xi.  
One historian has offered the following analysis of why the Puritan tradition had not permeated the laws governing voluntary sexual conduct to any greater degree than it had during the 19th century. "In an integrated Puritan community", he writes, "the legal control of sex expression was merely evidence of the social control. The laws expressed a social conviction." The American communities of the 19th and early 20th centuries, however, were neither Puritan nor integrated. "The influx of a vast and racially confused population has brought a diversity in social background and in sexual practices. The rapid development of urbanization which followed in consequence of the immigration has increased the confusion." Geoffrey May, *Social Control of Sex Expression* (New York: William Morrow, 1931), p. 259.
  25. In addition to the traditional bases of commitment — danger to one's self or to others — a new consideration was added in 1845. In that year, the Massachusetts Supreme Judicial Court denied a habeas corpus petition of Josiah Oakes, who sought his discharge from the McLean Asylum on the grounds that he had been illegally committed by his family. Affirming a lower court denial of Oakes' petition, the Court ruled the standard of commitment to be "whether a patient's own safety, or that of others, requires that he should be restrained for a certain time, and *whether restraint is necessary for his restoration, or will be conducive thereto*". To this the Court added that "the restraint can continue as long as the necessity continues". *Italics added.* Matter of Oakes, 8 Law Rep. 122, at 125 (Mass. 1845).  
A commentator on the law of civil commitment has noted that since the Oakes case "statutes and cases have increasingly focused on the patient's need for care and treatment as one criterion for commitment". "Civil Commitment of the Mentally Ill: Theories and Procedures", *Harvard Law Review*, LXXIX (1966): 1295.  
An extensive discussion of the history of American commitment laws is contained in Albert Deutsch, *The Mentally Ill in America: A History of Their Care and Treatment from Colonial Times* (Garden City, N.Y.: Doubleday-Doran, 1937), pp. 417-439. For an account of the public controversy which erupted in the 1870s over abuses of the commitment procedure and the professional reaction to the criticism, see Ruth B. Caplan, *Psychiatry and the Community in Nineteenth-Century America* (New York: Basic Books, 1969), pp. 190-198.
  26. Vern L. Bullough and Martha Voght, "Homosexuality and Its Confusion with the 'Secret Sin' in Pre-Freudian America", *Journal of the History of Medicine*, XXVIII (1973): 143-155.
  27. For an account of the American public's reception of Freud's psychoanalytic system, see Nathan G. Hale, Jr., *Freud and the Americans: The Beginnings of Psychoanalysis in the United States, 1876-1917* (New York: Oxford University Press, 1971), *passim*, esp. pp. 417-421.
  28. The following accounts of the history of masturbation in 19th century medicine and psychiatry have proved most helpful: E. H. Hare, "Masturbatory Insanity: The History of an Idea", *Journal of Mental Science*, CVIII (1962): 1-25; René A. Spitz, "Authority and Masturbation: Some Remarks on a Bibliographical Investigation", *The Yearbook of Psychoanalysis*, IX (1953): 113-145; John Duffy, "Masturbation and Clitoridectomy: A Nineteenth-Century View", *Journal of the American Medical Association*, CLXXXVI (1963): 166-168; John S. Haller, Jr., and Robin M. Haller, *The Physician and Sexuality in Victorian America* (Urbana, Ill.: University of Illinois Press, 1974), pp. 191-234; Alex Comfort, *The Anxiety Makers: Some Curious Preoccupations of the Medical Profession* (London: Thomas Nelson, 1967), pp. 69-113; Thomas S. Szasz, *The Manufacture of Madness* (London: Routledge & Kegan Paul, 1971), pp. 180-206. See also Robert H. MacDonald, "The Frightful Consequences of Onanism: Notes on the History of a Delusion", *Journal of the History of Ideas*, XXVIII (1967): 423-431; and R. P. Neuman, "Masturbation, Madness, and the Modern Concepts of Childhood and Adolescence", *Journal of Social History*, VIII (1975): 1-27.
  29. Hare, *op. cit.*, p. 4.
  30. Szasz, *op. cit.*, p. 139.
  31. Benjamin Rush, *Medical Inquiries and Observations upon the Diseases of the Mind* (Philadelphia: Kimber & Richardson, 1812; reprint ed., New York: Hafner, 1962), p. 347.
  32. *Ibid.*, p. 349.
  33. *Ibid.*, p. 33.
  34. Hare, *loc. cit.*
  35. *Ibid.*, p. 6.
  36. Sir William Ellis, *A Treatise on the Nature, Symptoms, Causes and Treatment of Insanity* (London: Samuel Holdsworth, 1838), p. 336.  
The commonly accepted physiological theory by which masturbation was linked to insanity up to the time Ellis put forward his hypothesis was that supplied by the Swiss physician Tissot. In 1758, Tissot published a Latin version of a work translated into French two years later under the title *l'Onanisme, ou dissertation physique sur les maladies produites par la masturbation*; German, English, and Italian translations quickly followed. In it, Tissot argues that the pernicious effects of masturbation on the nervous system are attributable to the discharge of semen — "la liqueur séminale" — causing an *increased* flow of blood to the brain. "This increase of blood explains how these excesses produce insanity. The quality of blood distending the nerves weakens them; and they are less able to resist impressions, whereby they are enfeebled." Samuel Tissot, *Onanism; or a Treatise upon the Disorders produced by Masturbation: or the Dangerous Effects of Secret and Excessive Venery*, A. Hume, trans. (London: 1766), p. 61; quoted by Hare, *op. cit.*, p. 3.  
R. P. Neuman quotes Tissot as claiming that semen was so essential to the human physiology that the loss of so much as an ounce of it would weaken the body more than the loss of forty ounces of blood (Neuman, *op. cit.*, p. 2).
  37. Alfred Hitchcock, "Insanity and Death from Masturbation", *Boston Medical and Surgical Journal*, XXVI (June 8, 1842): 285.

The belief that masturbation resulted in premature death persisted throughout the whole of the 19th century. As late as 1893, one physician writing on the subject recounted several instances of masturbators descending into slow and hideous deaths brought on by the vice. "Not all offenders are visited so severely", he notes. "Perhaps even a small proportion of the whole number [of onanists] die in this manner; yet, in this comparatively small minority, *those who persist in the practice will sooner or later surely be included*. Let no one delude himself with the false assumption that he can be exempt from this universal law. *There can be no possible exemption!* Those who persist will surely die the death most horrible of all deaths; and those who practice the most limited and occasional acts of onanism will surely be punished in proportion to their crimes; while the very individuals who seem to escape, are those who most surely carry the punishment for the remainder of their lives, never live to attain old age, and most frequently fall victims to some grave chronic disease, the germs of which they owe to this detestable vice. Or an acute malady, which they resist far less readily than others, cuts the thread of their existence in the prime of their manhood." Nicholas Francis Cooke, *Satan in Society: A Plea for Social Purity* (Chicago: N. C. Smith, 1893), pp. 96-97.

38. Hare, *op. cit.*, p. 6.
39. David Skae, *The Classification of the Various Forms of Insanity on a Rational and Practical Basis* (Address delivered at the Royal College of Physicians, London, 9th July, 1863 [London: 1863]).
40. Gregory Zilboorg, *A History of Medical Psychology* (New York: W. W. Norton, 1941), pp. 420-421.
41. David Skae and T. S. Clouston, "The Morisonian Lectures on Insanity for 1873", *Journal of Mental Science*, Lecture I: XIX (October, 1873): 340-355; Lecture II: XIX (January, 1874): 491-507. Dr. Skae died before the lectures could be delivered and this task, together with that of completing and editing the manuscript, was taken up by Dr. Clouston, later President of the Medico-Psychological Association. Clouston appends a note to the Lectures indicating his concurrence with the opinions expressed by Skae and, indeed, the lectures can legitimately be regarded as the joint effort of both physicians.
42. *Ibid.*, p. 348.
43. *Ibid.*, pp. 498-499.
44. *Ibid.*, p. 499.
45. Henry Maudsley, "Illustrations of a Variety of Insanity", *Journal of Mental Science*, XIV (July, 1868): 149-162.
46. *Ibid.*, pp. 153-154.
47. *Ibid.*, p. 154. Insanity due to masturbation at or soon after the age of puberty was, in the 1880s, subsumed under the broader category of *hebephrenia*, the mental derangement of adolescence. This classification originated with the German psychiatrist Ewald Hecker in 1871; its first systematic description in the United States was given by William A. Hammond, Surgeon-General of the Union Army during the Civil War and later President of the American Neurological Society, in his *Treatise on Insanity in Its Medical Relations* (New York: Appleton, 1883). In an article on the subject which appeared some years later, Hammond notes that hebephrenia "appears to be induced by any cause capable of lessening the vital powers of the individual,

among which masturbation and also the inception of the menstrual function are pre-eminent". He adds, "one of the worst cases I ever saw occurred in a boy of sixteen from South America and was the result of excessive masturbation". Although cognizant of the pernicious effects of masturbation, Hammond rejects the category of masturbatory insanity in favor of the more inclusive hebephrenia. "Undoubtedly", he points out, "masturbation, when practiced to excess, may modify to a greater or lesser degree the symptoms of hebephrenia, but the product is not entitled to be considered a separate form of mental derangement. The *insanity of masturbation* is simply hebephrenia with the additional phenomena due to excessive onanism." "Hebephrenia — Mental Derangement of Puberty", *Virginia Medical Monthly*, XIX (April, 1892): 6-7.

48. Maudsley, *op. cit.*, pp. 156-161.
49. *Ibid.*, p. 161.
50. Hare, *op. cit.*, p. 7.
51. H. Tristram Engelhart, Jr., "The Disease of Masturbation: Values and the Concept of Disease", *Bulletin of the History of Medicine*, XLVIII (1974): 247-248.
52. "Aberrations of the Sexual Instinct", *The Quarterly Journal of Psychological Medicine and Medical Jurisprudence*, I (July, 1867): 67.
53. *Ibid.*, pp. 66-67. Sentiments of this sort were by no means rare in the psychiatric literature of the period; it is a simple task to find evidence sufficient to support the thesis put forward by the historian Gerald Grob that "while the behavioral norms of psychiatrists were no different from those of most native Protestant Americans, they were clothed with a scientific mantle — a fact made possible by the vagueness of contemporary etiological theory and the ardent desire to prevent disease and to promote health". *Mental Institutions in America* (New York: The Free Press, 1973), p. 161.
54. Many psychiatrists were quite open in their use of theological language while claiming the disinterested objectivity of science. Grob notes that the following sentiments respecting mental disease, made by an influential member of the profession, were characteristic of American psychiatry: "God has put our lives, partially at least, into our hands. Whether we shall live to the fulness of our years, and give to each day its fulness of strength and pleasure, or whether we shall be miserable invalids, ever moving toward the grave and cut off in the morn, noon, or eve of life; these depend upon our obedience to those laws which God has stamped upon our frames." Edward Jarvis, "Law of Physical Life", *Christian Examiner*, XXXV (September, 1843): 4; quoted in Grob, *op. cit.*, p. 160.
55. A. Jacobi, "On Masturbation and Hysteria in Young Children", *The American Journal of Obstetrics and Diseases of Women and Children*, VIII (February, 1876): 595-606; IX (June, 1876): 218-238.
56. *Ibid.*, VIII (February, 1876): 606.
57. Allen Hagenbach, "Masturbation as a Cause of Insanity", *Journal of Nervous and Mental Disease*, VI (October, 1879): 603. Dr. Hagenbach puts the total number of admissions between 1860 and 1879 at 800 males and 700 females, of which 49 males were committed for masturbation. Should the admissions to the Cook County Asylum be typical of the national asylum population, both for gender and disease, Hagenbach's figures suggest that of the 41,000 patients enumerated in mental hospitals and asylums

- in 1880, about 22,000 were males and approximately 1350 of these were committed for masturbation. The figures for the asylum population of the United States in 1880 are taken from Samuel W. Hamilton, "The History of American Mental Hospitals", in *One Hundred Years of American Psychiatry* (Published for the American Psychiatric Associations, (New York: Columbia University Press, 1944), p. 86.
58. Hagenbach, *op. cit.*, pp. 607-608.
  59. *Ibid.*, p. 606.
  60. It became increasingly common in the late 19th century to link masturbation with deviant sexual behavior, especially homosexuality. This had led Bullough and Voght to the rather sweeping and only partly warranted conclusion that "during most of the nineteenth century homosexuality was often classified under the term *onanism* or *masturbation*". (Vern L. Bullough and Martha Voght, *op. cit.*, p. 145.)
  61. E. R. Palmer, "A Contribution to the Physiology of Sexual Impotence", *New York Medical Journal*, LVI (July 2, 1892): 5-6.
  62. Theophilus Parvin, "Nymphomania and Masturbation", *Medical Age*, IV (February 10, 1886): 49.
 

American physicians, including Dr. Parvin, were heavily influenced by the work of Dr. William Acton, a respected British venereologist and author of one of the most influential texts on the proper functioning and disorders of the reproductive organs. First published in 1857, the book went through eight American editions by 1895. With respect to female sexuality Acton noted that "the majority of women (happily for society) are not very much troubled with sexual feeling of any kind". Scientific observation leads one to conclude, he continues, that "there are many females who never feel any sexual excitement whatever. Others, again, immediately after each period, do become, to a limited degree, capable of experiencing it; but this capacity is often temporary, and may entirely cease till the next menstrual period. Many of the best mothers, wives, and managers of households, know little of or are careless about sexual indulgences. Love of home, of children, and of domestic duties, are the only passions they feel. As a general rule, a modest woman seldom desires any sexual gratification for herself. She submits to her husband's embraces, but principally to gratify him; and, were it not for the desire of maternity, would far rather be relieved from his attentions." William Acton, *The Functions and Disorders of the Reproductive Organs*, (7th edition Philadelphia: P. Blakiston, 1888), pp. 208-210. Acton's conclusions on this and a variety of other sexual subjects are extensively discussed in Steven Marcus, *The Other Victorians: A Study of Sexuality and Pornography in Mid-Nineteenth Century England* (New York: Basic Books, 1966), and Alex Comfort, *op. cit.*, pp. 38-60.
  63. E. C. Spitzka, "Cases of Masturbation (Masturbatic Insanity)", *Journal of Mental Science*, XXXIII (April, 1887): 61.
  64. "Neurasthenia, or Nervous Exhaustion", *Boston Medical and Surgical Journal*, LXXX (April 29, 1869): 217-221.
  65. "American Nervousness: Its Philosophy and Treatment", *Virginia Medical Monthly*, VI (July, 1879): 253-276.
  66. *A Practical Treatise on Nervous Exhaustion (Neurasthenia)* (New York: William Wood, 1880). I have consulted a later edition, edited, and with notes and additions by A. D. Rockwell (New York: E. B. Treat, 1892).
  67. *Ibid.*, p. 23.
  68. *Ibid.*, pp. 34-107.
  69. "American Nervousness: Its Philosophy and Treatment", *op. cit.*, p. 256.
  70. *Sexual Neurasthenia (Nervous Exhaustion)*, ed. A. D. Rockwell (New York: E. B. Treat, 1891), p. 93. One of Beard's followers went so far as to link neurasthenia caused by masturbation with the general paresis of tertiary syphilis. "The irritation of masturbation or excessive coition", he writes, "re-acting upon the brain for many years, has eventually, in the very prime of life and apparent physical development, produced something more than a mere functional disease. The patient wanders, and lingers, perhaps for years, on the border of mental rapture and moral responsibility, during which time his actions and speech become what is termed by his friends peculiar, its peculiarity increasing with time, marked by great extravagance of word and action. He eventually passes that imaginary line, and through a portal which has for its motto that which is said to have greeted the eyes of Dante, as he passed the entrance to the infernal region, 'Abandon hope, all ye who enter here', for I know no well authenticated case of cure of general paralysis of the insane." F. B. Bishop, "Sexual Neurasthenia as it Stands in Relation to the Border-Land of Insanity, and Insanity in General", *Virginia Medical Monthly*, XVIII (December, 1891): 754.
  71. Beard, *Sexual Neurasthenia*, *op. cit.*, p. 98.
  72. *Ibid.*, pp. 106-107.
  73. "Within a decade of Beard's death in 1883", an historian of medicine observed, "the diagnosis of nervous exhaustion had become part of the office furniture of most physicians. Few textbooks and systems of medicine failed to discuss it, and in 1893 neurasthenia received its ultimate legitimatization — the publication of a German *Handbuch der Neurasthenie*." Charles E. Rosenberg, "The Place of George M. Beard in Nineteenth-Century Psychiatry", *Bulletin of the History of Medicine*, XXXVI (1962): 258.
  74. "Cases of Masturbation (Masturbatic Insanity)", *Journal of Mental Science*, XXXIII (April, 1887): 57-73; XXXIII (July, 1887): 238-254; XXXIII (October, 1887): 395-401; XXXIV (April, 1888): 52-61; XXXIV (July, 1888): 216-225.
  75. *Ibid.*, XXXIII (April, 1887): foldout between 62 and 63.
  76. Quoted in James G. Kiernan, "Psychological Aspects of the Sexual Appetite", *Alienist and Neurologist*, XII (April, 1891): 199.
  77. Letter to the editor, *Detroit Lancet*, VIII (September, 1884): 121. Kiernan explains: "It should be remembered that repeated stimulation tends to exhaust the power of nerves to respond to the normal stimulation; for this reason the sated voluptuary seeks to arouse his flagging sexual system by unwonted stimuli." (*Ibid.*) The author offers a lengthier analysis of this view in two subsequent essays. See his "Psychological Aspects of the Sexual Appetite", *op. cit.*, pp. 188-219; and, "Psychical Treatment of Congenital Sexual Inversion", *Review of Insanity and Nervous Disease*, IV (June, 1894): 293-295.
  78. *Medical Record*, XXVI (July 19, 1884): 71.
  79. G. Frank Lydston, "Sexual Perversion, Satyriasis and

- Nymphomania", *Medical and Surgical Reporter*, LXI (September 7, 1889): 254.
80. *Ibid.*, LXI (September 7, 1889): 253-258; LXI (September 14, 1889): 281-285.
  81. Editorial, *Medical Standard*, XI (March, 1892): 79-80.
  82. Elliott T. Brady, "Perversion of Sexual Instinct — Sadism in Southern Negroes — Its Remedy, Castration", *Virginia Medical Monthly*, XX (June, 1893): 277-282.
  83. Hamilton D. Wey, "Morbid Sensuality in a Reformatory", *Chicago Medical Recorder*, X (February, 1896): 143-145.
  84. William Lee Howard, "Masturbation in the Young Girl the Cause of Acquired Sexual Perversion", *Buffalo Medical Journal*, LXI (December, 1905): 291-292.
  85. G. Stanley Hall, *Adolescence: Its Psychology*, (2 vols.; New York: Appleton, 1907), I: 441-442.
  86. *Ibid.*, I: 444.
  87. *Ibid.*, I: 435-436.
  88. Comfort, *op. cit.*, pp. 95-110.
  89. René Spitz, *op. cit.*, p. 122.
  90. *Ibid.*, and Comfort, *op. cit.*, p. 101.
  91. Comfort reports that "part of the gravamen of the charge [against Baker Brown] appeared to stem from the suspicion of advertising and blackmail rather than the unwarrantable character of the operation, as well as from his practice of operating on patients, including old ladies of seventy, without prior permission." *Ibid.*
  92. C. B. Miller, "Masturbation", *American Practitioner*, XV (May, 1877): 285-286.
  93. Joseph W. Howe, *Excessive Venery, Masturbation, and Continence* (New York: Bermingham, 1883), pp. 110-111.
  94. A. J. Bloch, "Sexual Perversion in the Female", *New Orleans Medical and Surgical Journal*, XXII (July, 1894): 1.
  95. *Ibid.*, p. 4.
  96. Alvin Eyer, "Clitoridectomy for the Cure of Certain Cases of Masturbation in Young Girls", *International Medical Magazine*, III (November, 1894): 261.
  97. Eric John Dingwall, *The Girdle of Chastity: A Medico-Historical Study* (London: Routledge, 1931), pp. 126-127.
  98. *Ibid.*, p. 127.
  99. C. D. W. Colby, "Mechanical Restraint of Masturbation in a Young Girl", *Medical Record*, LII (August 7, 1897): 206.
  100. Theophilus Parvin, "Nymphomania and Masturbation", *op. cit.*, p. 51.
  101. D. Yellowlees, "Masturbation", *Journal of Mental Science*, XXII (July, 1876), 336-337.
  102. *Ibid.*, p. 337.
  103. James Hyde, "Precocious and Other Phenomena of Sexual Orgasm", *Chicago Medical Journal and Examiner*, XXXVI (June, 1878): 582. Professor Jacobi of the College of Physicians and Surgeons and a contemporary of Dr. Hyde's, held that infibulation could well "be replaced by an artificial sore of the surface of the penis" with equal success. A. Jacobi, *op. cit.*, VIII (February, 1876): 606.
  104. Hyde, *op. cit.*, p. 585.
  105. Sylvanus Stall, *What a Young Boy Ought to Know* (Philadelphia: Vir Publishing Company, 1887), p. 117. "The kind of restraint which is necessary", cautions Professor L. Emmett Holt in the standard text on diseases of childhood, "will depend upon the manner of masturbating. If by the hands, these must be tied during sleep, so that the child can not reach the genitals; if by thigh-friction, the thighs must be separated by tying one to either side of the crib. In inveterate cases, a double side-splint, such as is used in fracture of the femur, may be applied . . . Corporal punishment is often useful in very young children." *The Diseases of Infancy and Childhood* (New York: Appleton, 1897), p. 698. Much the same advice is contained in the 1933 edition of the same work. L. Emmett Holt, Jr., and Rustin McIntosh, *Holt's Disease of Infancy and Childhood*, 10th ed. (New York: Appleton-Century, 1933), p. 780.
  106. Everett Flood, "An Appliance to Prevent Masturbation", *Boston Medical and Surgical Journal*, CXIX (July 12, 1888): 34.
  107. Charles L. Dana, "On Certain Sexual Neuroses", *Medical and Surgical Reporter*, LXV (August 15, 1891): 244. The medical profession does not appear to have been above intellectual theft, for the same article appears in plagiarized form in the *Massachusetts Medical Journal*, XXIV (September, 1904): 385-393, as an "original communication", under the title "Sexual Psychoses", by one Joseph P. Bolton, M.D., of Hartford, Connecticut. Several other instances of plagiarism were found in the *Massachusetts Medical Journal* during this period; the journal seems to have subsisted in the first decades of this century on material stolen from other medical periodicals. Its circulation was approximately 8500 in 1905, quite respectable for a medical monthly.
  108. Dana, *op. cit.*, p. 244.
  109. *Ibid.*, p. 245.
  110. Joseph W. Howe, *op. cit.*, p. 254.
  111. *Ibid.*, p. 264. Equally effective were steel rings armed with sharp teeth on the inner surface, or leather rings furnished with teeth or pins. When placed on the penis at bedtime they served to awaken the sleeper should erection occur.
  112. See, for example, Edgar J. Spratling, "Masturbation in the Adult", *Medical Record*, XLVIII (September 28, 1895): 442-443. Spratling contends that, although sectioning the dorsal nerves is a rational procedure in the treatment of masturbation, it is somewhat too radical for constant routine practice.
  113. The same operation was also employed as a therapeutic technique for homosexuality. See "The Gentlemen Degenerate: A Homosexualist's Self Description and Self-Applied Title", *Alienist and Neurologist*, XXV (February, 1904): 68.
  113. The favored method of cauterizing the genitalia apparently involved catheterization of the urethra with silver nitrate, the effect of which would be to burn it and thus make it insensible. It is highly recommended by certain physicians who observed that even chronic masturbators halted the habit once treatments began. See L. L. Hale, and others, letters to the editor under the title "Involuntary Seminal Emissions", *Medical World*, IV (August, 1886): 274-276; and, Charles Dana, "On Certain Sexual Neuroses", *op. cit.*, pp. 244-245. Bernard Sachs, onetime President of the American Neurological Association and Professor of Mental and Nervous Diseases at the New York Polyclinic, writes that "actual cautery to the spine and even to the genitals are the only possible means of effecting a cure" for masturbation. *A Treatise on the Nervous Diseases of*

- Children* (New York: William Wood, 1905), p. 540.
114. The technique was used successfully in a case dating back to 1869. Some two decades later the method had been perfected and involved sectioning the ducts midway between the external inguinal ring and the testes. See Robert J. Preston, "Sexual Vices — Their Relation to Insanity — Causative or Consequent", *Virginia Medical Monthly*, XIX (June, 1892): 201.
  115. *Topeka Capital*, Sunday, August 26, 1894. See, also, the *Winfield (Kansas) Courier*, Friday, August 24, 1894.
  116. Editorial, *Kansas Medical Journal*, VI (September 1, 1894): 455-456.
  117. *Topeka Lance*, Saturday, September 1, 1894.
  118. Editorial, *Kansas Medical Journal*, VI (September 8, 1894): 471.
  119. Editorial, *American Journal of Insanity*, LI (April, 1895): 581. In July, 1921, the *American Journal of Insanity* was renamed the *American Journal of Psychiatry*.
  120. Quoted in the *Texas Medical Journal*, X (November, 1894): 239.
  121. A. E. Osborne, "Castrating to Cure Masturbation", *Pacific Medical Journal*, XXXVIII (March, 1895): 151.
  122. "Emasculating of Masturbators — Is It Justifiable?" *Texas Medical Journal*, X (November, 1894): 239.
  123. This, despite the *Kansas Medical Journal's* insistence that "these operations are old as the profession, are the remedy, and only remedy, for extreme and reprobate cases [of onanism], recognized as legitimate in the profession, and constantly practiced by men eminent in standing and learning". Editorial, VI (September 8, 1894): 471.
  124. Robert Preston, "Sexual Vices — Their Relation to Insanity — Causative or Consequent", *op. cit.*, p. 200. With such horror was masturbation looked upon by the psychiatric profession and so successful had physicians been in communicating the monstrosity of these acts to an ignorant laity that it is not surprising that some people surrendered themselves to mutilation rather than persist in the habit.  
A tragic case of "self-treatment" by a guilt-ridden 15 year old boy is reported in 1886. The barbarity of the medical profession when it came to sexual matters is typified by the fact that the following account was carried more for the amusement of readers of the *Medical Record* than for any other purpose.  
"The patient, being discouraged by his fruitless endeavors to free himself from the worst of all habits, deliberately selected the privy as the theatre of his operations, and, holding the offending organ by the prepuce with one hand, took aim with a small pistol, and shot it, with the other. The ball (22 calibre) entered the dorsal surface; running beneath the skin it entered the glans behind the corona, emerged on its dorsal surface, and again penetrated the prepuce before making its final exit." J. C. Pennington, "A Radical Treatment for Masturbation", *Medical Record*, XXIX (May 29, 1886): 640.
  125. A. E. Osborne, *op. cit.*, p. 152.
  126. F. E. Daniel, "Castration of Sexual Perverts", *Texas Medical Journal*, IX (December, 1893): 255-268. In April, 1894, a two-page précis of the article was carried in the *Medical Record*. Daniel's sentiments were of such long-standing interest to the profession that the *Texas Medical Journal* reprinted the article 20 years later. XXVII (April, 1912): 369-385.
  127. *Ibid.* (December, 1893), p. 267.
  128. See Norman Dain, *Concepts of Insanity in the United States, 1789-1865* (New Brunswick, N.J.: Rutgers University Press, 1964), pp. 205-206, and David J. Rothman, *The Discovery of the Asylum* (Boston: Little-Brown, 1971), pp. 265-269.  
Pessimism regarding the curability of mental disorders, particularly those occasioned by or manifested in sexual aberrations, was early given impetus by several investigations into the conditions of the insane in American asylums. For example, Edward Jarvis noted, in 1855, that, although the curability rate at the Worcester Hospital was as high as 72 per cent for those patients whose insanity sprang from "religious excitement and emotions" or ill health, it dropped to 11 per cent of those whose mental disorders were caused by "the lowest sensuality". Edward Jarvis, *Report on Insanity and Idiocy in Massachusetts by the Commission on Lunacy* (Boston: William White, 1855; reprint ed., with an introduction by Gerald N. Grob, Cambridge, Mass.: Harvard University Press, 1971), p. 75.
  129. In fairness to Dr. Daniel's position it should be remarked that he does not totally dismiss the therapeutic aspects of castration. With respect to masturbation he writes:  
"Reasoning *a priori*, if a perverted sexual sense be the cause of mental disturbance and unsoundness — and there can be no doubt that habitual masturbation frequently is, both cause and effect — the removal of the glands should restore the equilibrium, on the fundamental principles on which we practice medicine; if it be an expression of diseased mind [*sic*], the operation may exert a beneficial influence on the mind; as we know that asexualization often completely changes the character of the individual, and that too, without detriment to the mere physical man. Reasoning by analogy, if the removal of the ovaries will cure hysteria or hystero-epilepsy, as is extensively claimed for properly selected cases, surely we should be warranted in hoping that castration will, by obliterating the sense, relieve some, if not all of the disturbances of the mind. It would be an advisable hygienic measure in habitual masturbation, whether the practice be cause or effect, by arresting the wasting of vital force by seminal losses, and consequent impairment of physical health." *Op. cit.*, p. 265.
  130. *Ibid.*, p. 267.
  131. William A. Hammond, "Castration as a Substitute for Capital Punishment", *Medical News*, LX (April 2, 1892): 390-391.
  132. Hunter McGuire and G. Frank Lydston, "Sexual Crimes Among the Southern Negroes — Scientifically Considered — An Open Correspondence", *Virginia Medical Monthly*, XX (May, 1893): 122.
  133. F. L. Sim, "Asexualization for the Prevention of Crime and the Curtailment of the Propagation of Criminals", *Journal of the American Medical Association*, XXII (May 19, 1894): 753; Robert Boal, "Emasculating and Ovariectomy as a Penalty for Crime and the Reformation of Criminals", *Journal of the American Medical Association*, XXIII (September 15, 1894): 429-432; B. A. Arbogast, "Castration the Remedy for Crime", *Denver Medical Times*, XV (August, 1895): 55-58; and; J. W.



Frazier, "Castration for Crime as Preventive and Curative Treatment", *Texas Medical Journal*, XI (March, 1896): 498-503. Dr. James Weir of Owensboro, Kentucky, published an article in 1895 taking the somewhat unusual position of supporting the lynching of rapists as an effective deterrent against sexual crimes. "The Sexual Criminal", *Medical Record*, XLVII (May 11, 1895): 581-585.

134. See Deutsch, *op. cit.*, pp. 353-385.

135. J. Ewing Mears, "Asexualization as a Remedial Measure in the Relief of Certain Forms of Mental, Moral and Physical Degeneration", *Boston Medical and Surgical Journal*, CLXI (October 21, 1909): 585-586.

Professor Lydston went even further. He writes that "consumptives, epileptics, insane, incurable inebriates, and criminals at least should not be allowed to marry unless they consent to sterilization. This would prevent the crime of permitting a degenerate child to be born.

"The State would stand in a parental relation to the children of the poor and orphans. It should see that all children are physically and morally trained. Australia has proved the practicality of this system.

"I would make every school a military school and gymnasium in modified form. Manual training of children should replace some of our modern educational fads and fancies. The brain is developed and trained through muscle building and manual training as well as through special senses.

"All criminals and insane, epileptics, prostitutes, and confirmed inebriates should be regarded as culls until they have established their right to be considered 'cured' and worthy of replacement as social integers. If incurable, they are social excreta, and should be placed beyond the possibility of contaminating the body social." G. Frank Lydston, "Sex Mutilations in Social Therapeutics", *New York Medical Journal*, XCV (April 6, 1912): 684.

136. William Malamud and G. Palmer, "The Role Played by Masturbation in the Causation of Mental Disturbance", *Journal of Nervous and Mental Disease*, LXXVI (September, 1932): 220-233; LXXVI (October, 1932): 366-379.

137. *Ibid.*, p. 377.

138. Ronald Walters, "Introduction", *Primers for Prudery: Sexual Advice to Victorian America*, Ronald Walters, ed. (Englewood Cliffs, N.J.: Prentice-Hall, 1974), p. 15.

139. G. Frank Lydston, "A Contribution to the Hereditary and Pathological Aspects of Vice", *Chicago Medical Journal and Examiner*, XLVI (February, 1883): 147.

140. *Ibid.*

141. See David J. Pivar, *Purity Crusade: Sexual Morality and Social Control, 1868-1900* (Westport, Conn.: Greenwood, 1973), *passim*; John C. Burnham, "Psychiatry, Psychology and the Progressive Movement", *American Quarterly*, XII (1960): 457-465; *idem*, "The Medical Inspection of Prostitutes in America in the Nineteenth Century: The St. Louis Experiment and its Sequel", *Bulletin of the History of Medicine*, XLV (1971): 203-218; *idem*, "Medical Specialists and Movements Towards Social Control in the Progressive Era: Three Examples", in Jerry Israel, ed., *Building the Organizational Society* (New York: Free Press, 1971), pp. 19-30.

142. Pivar, *op. cit.*, p. 80.

143. *Ibid.*, p. 150.

144. *Ibid.*, p. 92.

145. Paul S. Boyer touches on the role the medical profession and the social hygiene movement played in the anti-pornography campaign at the end of the 19th century. See his *Purity in Print: The Vice-Society Movement and Censorship in America* (New York: Scribner, 1968), pp. 23-30.

146. Pivar, *op. cit.*, pp. 187, 283-284.

147. *Ibid.*, p. 189.

148. Prince A. Morrow, "A Plea for the Organization of a 'Society of Sanitary and Moral Prophylaxis'", (Read before the Medical Society of the County of New York, May 23, 1904), *Transactions of the American Society of Sanitary and Moral Prophylaxis*, I (1906): 17

149. *Ibid.*

150. Prince A. Morrow, "Results of the Work Accomplished by the Society of Sanitary and Moral Prophylaxis", *Transactions of the American Society of Sanitary and Moral Prophylaxis*, II (1908): 117.

151. Reference to these reforms are scattered throughout the *Transactions*. On changes in legislation, see especially Mrs. William H. Baldwin, Jr., "The Social Evil in New York City, with Reference to Law Enforcement", *Transactions of the American Society of Sanitary and Moral Prophylaxis*, III (1910): 186-211.

152. Prince A. Morrow, "Results Achieved by the Movement for Sanitary and Moral Prophylaxis — Outlook for the Future", *Transactions of the American Society of Sanitary and Moral Prophylaxis*, III (1910): 94.

153. Charles Walter Clarke, *Taboo: The Story of the Pioneers of Social Hygiene* (Washington, D.C.: Public Affairs Press, 1961), p. 58.

154. *Ibid.*, p. 61.

155. *Ibid.*, p. 62; Pivar, *op. cit.*, pp. 243-244; and, "The American Social Hygiene Association", *Vigilance*, XXVI (December, 1913): 1.

156. Clarke, *op. cit.*, p. 75.

157. *Ibid.*, p. 76.

158. *Ibid.*, p. 75.

159. Charles W. Eliot, "The American Social Hygiene Association", *Social Hygiene*, I (December, 1914): 3-4.

160. Friedman, *op. cit.*, pp. 508-512.

161. "Social Hygiene Legislation in 1915", *Social Hygiene*, II (April, 1916): 245-256.

The following are among the bills introduced in the California legislature during its 1915 session: (1) A. B. 287, increasing the penalty for rape to from 20 to 50 years; (2) A. B. 288, raising the age of consent to 20 years; (3) A. B. 78, making single acts of adultery or fornication misdemeanors; (4) A. B. 1, prohibiting intercourse between Caucasians and Japanese and Chinese; (5) A. B. 496, prohibiting advertisements purporting to cure venereal diseases; (6) S. B. 1018, providing for mandatory asexualization of sex perverts; (7) A. B. 274, increasing the penalty for seduction to from 5 to 10 years; (8) S. B. 76, making illegal the use of a tenement house for purposes of prostitution [enacted as Ch. 572]; (9) A. B. 1262, allowing the courts to commit sex perverts to a state hospital for treatment [enacted as Ch. 510]; (10) A. B. 219, making "sexual perversion" a felony [enacted as

Ch. 586]; (11) S. B. 983, prohibiting employment agencies from sending women to places of known immorality [enacted as Ch. 551].

The Wisconsin legislature was no less zealous in caring for the sexual morals of its citizens. A dozen bills were brought forward in 1915, of which four were passed and signed into law: (1) A. B. 410, holding it a felony if a man commits fornication which results in a pregnancy with a single female and subsequently leaves the state; (2) A. B. 436 and S. B. 286, prohibiting single acts of fornication; (3) S. B. 29, prohibiting taxi drivers and others from transporting a person to a place of prostitution; (4) S. B. 156, making illegal soliciting in restaurants and saloons; (5) S. B. 147 and H. B. 543, prohibiting sexual relations between persons afflicted with venereal diseases; (6) A. B. 562, prohibiting the marriage of epileptics; (7) A. B. 599, prohibiting women from being in dance halls where liquor is sold; (8) S. B. 30, prohibiting indecent exhibitions; (9) S. B. 26, prohibiting hotel clerks, livery men, bell boys, etc., from sending or taking a person to a prostitute [enacted as Ch. 161]; (10) S. B. 150, raising the age of consent to 18 years, and if the female were previously chaste, 21 years [enacted as Ch. 611]; (11) S. B. 154, prohibiting employment agencies from sending females to places of known immorality [enacted as Ch. 115]; (12) A. B. 476, making illegal "improper" liberties with a child [enacted as Ch. 199].

162. See Appendix I.

163. Between 1907 and 1937, thirty-three states had enacted sterilization laws of one sort or another. They are, in order of passage: Indiana (1907); California, Connecticut, Washington (1909); Iowa, Nevada, New Jersey (1911); New York (1912); Kansas, Michigan, North Dakota, Wisconsin (1913); Nebraska (1915); New Hampshire, Oregon, South Dakota (1917); Alabama, North Carolina (1919); Colorado (1920); Delaware, Montana (1923); Virginia (1924); Idaho, Maine, Minnesota, Utah (1925); Mississippi (1928); Arizona, West Virginia (1929); Oklahoma, Vermont (1931); South Carolina (1935); and, Georgia (1937).

For a discussion of these laws, see Harry L. Laughlin, "Eugenical Sterilization in the United States", *Social Hygiene*, VI (October, 1920): 499-532; and, Norman St. John-Stevan, *op. cit.*, pp. 160-197, 291-309.

164. Most states drafted their sterilization statutes in such a way that sex perverts could fall under the provisions of the act although they were not specifically included as subject to sterilization. Several states, however, explicitly included sexual perverts as subject to asexualization. These were: California, Idaho, Iowa, Kansas, Nebraska, North Dakota, Oregon, South Dakota, and Utah. (Laughlin, "Eugenical Sterilization in the United States", *op. cit.*, and Norman St. John-Stevan, *op. cit.*, pp. 296-309.)

Dr. Harry Laughlin, writing in *Social Hygiene*, the journal of the American Social Hygiene Association, concluded that the sterilization statutes were not nearly as comprehensive as medical science could have wished. In the Model Sterilization Statute which he proposes, the following people would be subject to sterilization:

"All persons in the state who, because of degenerate or defective hereditary qualities, are potential parents

of socially inadequate offspring, regardless of whether such persons be in the population at large or inmates of custodial institutions, regardless also of the personality, age, sex, marital condition, race, possessions of such persons." A "socially inadequate" person, for purposes of the act, is defined as "one who by his or her own effort, chronically, and regardless of etiology or prognosis, fails in comparison with normal persons, to maintain himself or herself as a useful member of the organized social life of the state." (*Op. cit.*, pp. 519-520.)

165. See Appendix II.

166. Howard B. Woolston, *Prostitution in the United States* (New York: Century, 1921; reprint ed., Montclair, N.J.: Patterson Smith, 1969), p. 25.

167. *Ibid.*, p. 31.

168. See Vern L. Bullough, *The History of Prostitution* (New Hyde Park, N.Y.: University Books, 1964), pp. 187-195; and, Fernando Henriques, *Prostitution in Europe and the New World* (London: MacGibbon & Kee, 1963), pp. 268-320.

169. St. Louis had instituted a system of regulation in 1870, but the law was repealed 4 years later after intense pressure was brought to bear on the Missouri legislature by a coalition of purity groups and physicians. Similar measures were defeated in New York in 1871 and 1875; in Chicago, in 1871; in California, in 1871; in Cincinnati, in 1874; in Pennsylvania, in 1874; and in the District of Columbia, in 1876. For a discussion of these attempts at regulation, see Sheldon Amos, *A Comparative Survey of Laws in Force for the Prohibition, Regulation, and Licensing of Vice in England and Other Countries* (London: Stevens, 1877), pp. 417-422; William Burgess, *The World's Social Evil* (Chicago: Saul Bros., 1914), pp. 39-47; *idem*, "Brief History of Regulation of Vice", *Vigilance*, XXV (August, 1912): 2-9; and, Woolston, *op. cit.*, pp. 26-31.

170. Woolston, *op. cit.*, p. 38.

171. George E. Worthington, "Developments in Social Hygiene Legislation From 1917 to September 1, 1920", *Social Hygiene*, VI (October, 1920): 557. For a discussion of the contributions of the social hygiene movement to wartime legislation against vice, see, William F. Snow, "Social Hygiene and the War", *Social Hygiene*, III (July, 1917): 417-450; and, Franklin Martin, "Social Hygiene and the War", *Social Hygiene*, III (October, 1917): 605-627.

The anti-vice campaign even extended to American troops overseas. The official position was contained in a bulletin issued to members of the American Expeditionary Forces by General Pershing, in which he declared that "sexual continence is the plain duty of members of the A.E.F., both for the vigorous conduct of the war, and for the clean health of the American people after the war". Toward this end, U.S. military authorities attempted to close all the brothels in areas of France where American troops were stationed and, when this proved unsuccessful, declared them off limits. Fred D. Baldwin, "The Invisible Armor", *American Quarterly*, XVI (1964): 432-444.

172. Over 30 cities had established commissions to investigate commercialized vice between 1910 and 1915. These included the following (shown with the year in which the investigation was undertaken):

- Atlanta (1912)  
 Baltimore (1913)  
 Chicago (1910)  
 Cleveland (1911)  
 Denver (1913)  
 Grand Rapids (1912)  
 Hartford, Conn. (1912)  
 Honolulu (1913)  
 Kansas City, Mo. (1911)  
 Lexington, Ky. (1915)  
 Little Rock (1912)  
 Louisville (1915)
- Minneapolis (1911)  
 Newark (1914)  
 New York (1912)  
 Philadelphia (1912)  
 Pittsburgh (1912)  
 Portland, Me. (1915)  
 Portland, Ore. (1912)  
 Richmond (1914)  
 St. Louis (1914)  
 San Francisco (1911)  
 Shreveport, La. (1913)  
 Syracuse (1912)
- (Joseph Mayer, *Regulation of Commercialized Vice* [New York: Klebold Press, 1922] p. 11; and, Burgess, *World's Social Evil*, *op. cit.*, pp. 260-262.)
173. The Mann Act was enforced with a vengeance. Between June, 1910, and January, 1915, more than one thousand "white slavers" were convicted under the law. Roy Lubove, "The Progressives and the Prostitute", *The Historian*, XXIV (1961): 313.
174. See Appendix III.
175. Wharton, *op. cit.* (12th edition), II: 2007-2008 (section 1722).
176. Friedman, *op. cit.*, p. 503. Friedman notes: "As of 1900, most states still *technically* recognized the possibility of a common-law crime. But some states had statutes that specifically abolished the concept. These statutes stated bluntly that all crimes were listed in the penal code, and nothing else was a crime. In some states, the courts *construed* their penal codes as (silently) abolishing common-law crime. Where the concept survived, it was hardly ever used; the penal codes were in fact complete and exclusive".
177. Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Maine, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Texas, Virginia, Washington, Wisconsin.
178. Arkansas (1897), Delaware (1895), District of Columbia (1912), Indiana (1905), Iowa (1907), Kansas (1913), Louisiana (1912), Maryland (1892), Mississippi (1904), Missouri (1899), Montana (1895), Nebraska (1893), New Hampshire (1895), New Mexico (1901), North Carolina (1907), Oklahoma (1903), Rhode Island (1896), South Dakota (1903), Tennessee (1896), Utah (1898), Vermont (1890), West Virginia (1893), Wyoming (1890). Kentucky and South Carolina had not prohibited keeping a house of ill-fame by 1920.
179. For a fuller analysis of the Red Light Injunction and Abatement Law and its effects in reducing prostitution in Iowa see, Herbert E. Gernert, "Legislation on the Social Evil: The Red Light Injunction Laws of Iowa and Nebraska", *Vigilance*, XXV (August, 1912): 14-29.
180. See Appendix III.
181. J. George, Jr., "Prostitution", in, Ralph Slovenko, ed., *Sexual Behavior and the Law* (Springfield, Ill.: Charles C. Thomas, 1965), p. 650. Professor George notes that "so long as the citizen was unable to coerce public officials into enforcement of the laws against prostitution and unable to move against public nuisances in his own right, open prostitution could flourish if the police or public officials so desired; the ballot box was an indirect and usually ineffective way of controlling their activity. It was to meet such a situation that the Red Light Abatement Laws were passed, and it is through their invocation and application that citizens' groups have been able to suppress open and notorious prostitution in almost all cities in the United States."
182. See, among others, Samuel G. Kling, *Sexual Behavior and the Law* (New York: Bernard Geis Associates, 1965), p. 117; and, Robert G. Fisher, "The Sex Offender Provisions of the Proposed New Maryland Criminal Code: Should Private Consenting Adult Homosexual Behaviour Be Excluded?" *Maryland Law Review*, XXX (1970): 92.
183. See Appendix III.
184. A complete draft of the law together with a brief discussion of its provisions is contained in, Worthington, *op. cit.*, pp. 561-564.
185. Morris Ploscowe, "Sex Offenses: The American Legal Context", *op. cit.*, p. 217.
186. Alfred C. Kinsey, Wardell B. Pomeroy, and Clyde E. Martin, *Sexual Behavior in the Human Male* (Philadelphia: Saunders, 1948), p. 392.
187. John C. Burnham, "Psychiatry, Psychology, and the Progressive Movement", *op. cit.*, p. 462.
188. William F. Snow, *op. cit.*, pp. 428, 439-440.
189. J. H. McCassey, "Disobedience as a Cause of Insanity", *Cincinnati Lancet-Clinic*, LXXXVI (July 11, 1896): 35.
190. The bureaucratization of American life during the Progressive period is extensively discussed by Robert H. Wiebe, *The Search for Order: 1877-1920* (New York: Hill & Wang, 1967).
191. By 1950, the identification of asylum and penitentiary had been completed. A concurrent process had been under way for some years aimed at substituting therapeutic sanctions for the sanctions of the law. This movement culminated in the passage of the sexual psychopath laws in a number of states and marked psychiatry's major inroad into legal doctrine in the area of sexual behavior. The sexual psychopath laws provided for a civil commitment procedure by which two psychiatric experts could commit a "sexual psychopath" — usually defined as one lacking the power to control his sexual impulses — to an asylum for an indefinite period. Criminal conviction of a sexual offense was not, in most states a prerequisite for commitment. These laws are discussed at length in Alan H. Swanson, "Sexual Psychopath Statutes: Summary and Analysis", *Journal of Criminal Law, Criminology and Police Science*, LI (1960): 215-235. See, also, St. John-Stevas, *op. cit.*, pp. 228-230.

## APPENDIX I

## Age of consent\*

State	1886	1895	1917
Alabama	10	10	14
Arizona (a)	10	18	18
Arkansas	"puberty"	16	16
California	10	14	18
Colorado	10	18	18
Delaware	10	7 †	16
District of Columbia	10	16	16
Florida	10	10	18 (chaste) 10 (unchaste)
Georgia	10	10	10
Idaho (b)	12	14	18
Illinois	10	14	16
Iowa	10	13	15
Kansas	10	18	18
Kentucky	12	12	16
Louisiana	12	12	18
Maine	10	14	16
Maryland	10	14	16
Massachusetts	10	16	16
Michigan	10	14	16
Minnesota	10	16	18
Mississippi	10	10	18 (chaste) 12 (unchaste)
Missouri	12	14	18 (chaste) 14 (unchaste)
Montana (c)	10	16	18 (chaste) 15 (unchaste)
Nebraska	12	15	18 (chaste) 15 (unchaste)
Nevada	12	12	16
New Hampshire	10	13	16
New Jersey	10	16	16
New Mexico (d)	10	14	16
New York	10	18	18
North Carolina	10	10	14 (chaste) 10 (unchaste)
North Dakota (e)	10	16	18
Ohio	10	14	16
Oklahoma (f)	10	14	18 (chaste) 16 (unchaste)
Oregon	10	16	16
Pennsylvania	10	16	16 ‡
Rhode Island	10	16	16
South Carolina	10	10	14
South Dakota (e)	10	16	18
Tennessee	10	12	21 (chaste) 12 (unchaste)
Texas	10	15	15
Utah (g)	10	13	18
Vermont	11	14	16
Virginia	10	12	14
Washington§ (h)	12	16	18 (chaste) 15 (unchaste)
West Virginia	12	14	14
Wisconsin	10	14	21 (chaste) 18 (unchaste)
Wyoming (i)	10	18	18

(a) Arizona Territory until 1912.  
 (b) Idaho Territory until 1890.  
 (c) Montana Territory until 1889.

(d) New Mexico Territory until 1912.  
 (e) Dakota Territory until 1889.  
 (f) Oklahoma Territory until 1907.

(g) Utah Territory until 1896.  
 (h) Washington Territory until 1889.  
 (i) Wyoming Territory until 1890.

Sources: Benjamin DeCosta, "Age of Consent Law — 1886", *Philanthropist*, February, 1886, p. 5; Helen Gardner, "Sound Morality", *Arena*, XIV (October, 1895): 410; Herbert E. Gernert, "Legislation on the Social Evil: The 'Age of Consent' Laws", *Vigilance*, XXV (September, 1912): 8-13; Timothy Newell Pfeiffer, "The Matter and Method of Social Hygiene Legislation", *Social Hygiene*, III (January, 1917): 51-73; George E. Worthington, "Developments in Social Hygiene Legislation from 1917 to September 1, 1920", *Social Hygiene*, VI (October, 1920): 557-568. In addition, the statutes themselves have been consulted.

Notes:

\* The age set by statute below which consent by a female is not a defense to a prosecution for rape.

The table shows the age of consent as of January 1, 1886; June 30, 1895; and December 31, 1917.

† The 1883 statutes of Delaware do not indicate an age of consent and the courts of that state held that the common-law age of ten prevailed. However, an amendment to the 1883 statutes several years later stipulated an age of consent of seven years. In late 1895 the state legislature changed the age to sixteen.

‡ In Pennsylvania, if a jury found that the female, even though under the age of sixteen, were of previously unchaste character and consented to sexual intercourse, the accused was to be acquitted of the charge of rape and convicted of the lesser crime of fornication.

§ During World War I, Washington established an age of consent for males, making it an offense for a woman to have sexual relations with a boy under the age of eighteen despite his consent. The primary motive for this law seems to have been "to restrain prostitutes and other lewd women from catering to young boys". (Worthington, *op. cit.*, p. 565n.)

APPENDIX II

Legislative enactments and court decisions expanding the sodomy statutes, 1879-1925

1879 Pennsylvania

The following section was added to the Pennsylvania criminal code:

"The terms sodomy and buggery, as and where used in the laws of this commonwealth, shall be understood to be a carnal copulation by human beings with each other against nature, *res veneria in ano*, or with a beast, and shall be taken to cover and include the act or acts where any person shall wilfully and wickedly have carnal knowledge, in a manner against nature, of any other person, by penetrating the mouth of such person; and any person who shall wickedly suffer or permit any person to wickedly and indecently penetrate, in a manner against nature, his or her mouth, by carnal intercourse, he, she and every such person, committing any of the acts aforesaid, or suffering the same to be committed, as aforesaid, shall be guilty of the crime of sodomy or buggery, and upon conviction thereof, shall be liable to the punishment now prescribed by law for the crime of sodomy or buggery." [11 June 1879, P.L. 148, § 1]

1881 Indiana

Indiana did not have a sodomy law before 1881. In that year the Indiana legislature enacted the following statute:

"Whoever commits the abominable and detestable crime against nature by having carnal knowledge with mankind or beast; or who, being a male, carnally knows any man or woman through the *anus*; and whoever entices, allures, instigates or aids any person under the age of twenty-one years to commit masturbation or self-pollution is guilty of sodomy and, upon conviction thereof, shall be imprisoned in the State prison not more than fourteen nor less than two years." [Rev. Stats. 1881, § 2005]

In 1913 the Indiana courts held that the statute prohibited fellatio. [Glover v. State, 179 Ind. 459, 101 S.E. 629 (1913)]

1886 New York

New York's original sodomy law prohibited "the crime against nature". In 1886 the New York legislature

decided that the language of the statute was inadequate and substituted the following:

"A person who carnally knows in any manner any animal or bird, or carnally knows any male or female person by the anus or by or with the mouth; or voluntarily submits to carnal knowledge, or attempts sexual intercourse with a dead body, is guilty of sodomy." [N.Y. Laws 1866, c. 31, § 6]

1887 Massachusetts

The Massachusetts legislature added the following statute to its criminal code to supplement its sodomy law:

"Whoever commits any unnatural and lascivious act with another person shall be punished by a fine of not less than \$100 nor more than \$1,000 or by imprisonment in the State prison for not more than five years, or in jail or the house of correction for not more than two and a half years." [L. 1887, c. 436, § 1]

1889 Ohio

Ohio did not have a sodomy law until 1885. Four years later, the law was revised to read as follows:

"Whoever shall have carnal copulation in any opening of the body, except sexual parts, with another human being, or with a beast shall be deemed guilty of sodomy and on conviction thereof shall be imprisoned in the penitentiary: not more than twenty years." [L. 1889, p. 251, § 1]

1890 Wyoming

Wyoming amended its sodomy statute to read as follows:

"Whoever commits the abominable and detestable crime against nature, by having carnal knowledge of a man or beast; or who being a male carnally knows any man or woman through the anus, or in any other manner contrary to nature, and whoever entices, allures, instigates or aids any person under the age of twenty-one years to commit masturbation or self-pollution, is guilty of sodomy, and shall be imprisoned in the penitentiary not more than five years or may be imprisoned in the county jail not more than twelve months." [L. 1890, p. 139, § 87]

1895 North Dakota

The language of the North Dakota statute was

amended to read as follows:

"Every person who carnally knows in any manner any animal or bird, or carnally knows any male or female person by the anus or by or with the mouth, or voluntarily submits to such carnal knowledge, or attempts sexual intercourse with a dead body, is guilty of sodomy and shall be punished by imprisonment in the penitentiary for not less than one year nor more than ten years, or in the county jail for not more than one year." [Rev. Code, 1895, § 7186]

#### 1896 Louisiana

The Louisiana statute prohibiting sodomy was amended to read as follows:

"Whoever shall be convicted of the detestable and abominable crime against nature committed with mankind or beast with the sexual organs or mouth, shall suffer imprisonment at hard labor for not less than two years and not more than ten years." [Acts 1896, no. 6, § 1]

#### 1897 Illinois

The Illinois statute prohibited "the infamous crime against nature either with man or beast". In 1897 the Illinois courts ruled that the crime may be committed by any act of bestial and unnatural copulation. [Honselman v. People, 168 Ill. 172, 48 S.E. 304 (1897)]

#### 1898 Wisconsin

The Wisconsin legislature added the following clause to its sodomy statute:

"Said crime [sodomy, or the crime against nature] may be committed by the penetration of the mouth of any human being by the organ of any male person as well as by penetration of the rectum; proof of emission is not required." [Stats. 1898, § 4591]

#### 1899 New Hampshire

New Hampshire has no specific statute prohibiting sodomy nor did the State ever enact one. However, in 1899 the legislature passed the following "offense against chastity":

"Whoever commits any unnatural and lascivious act with another person shall be imprisoned not less than three years and no more than five years or fined not less than \$100 nor more than \$1,000." [L. 1899, c. 33, § 1]

#### 1902 Iowa

The Iowa legislature passed its first sodomy statute in 1892. Ten years later it revised the law to read as follows:

"Whoever shall have carnal copulation in any opening of the body except the sexual parts, with another human being, or have carnal copulation with a beast, shall be deemed guilty of sodomy." [29 G.A., c. 148, § 1 (1902)]

#### 1903 Michigan

In 1892 the Michigan courts held that, to constitute the offense of sodomy, the sexual act must be committed in that part of the body where it is usually committed, i.e. anally. [People v. Hodgkin, 94 Mich. 27, 53 N.W. 794 (1892)]

Partly as a result of this ruling, the Michigan legislature passed the following statute in 1903:

"Any male person who, in public or private, commits or is a party to the commission of, or attempts to procure the commission by any male person or any act of gross indecency with another male person shall be guilty of a felony." [L. 1903, c. 198, § 1]

Similar statutes prohibiting gross indecency between females and between males and females were passed in 1939. [L. 1939, c. 148, p. 294]

In 1897 a bill to protect boys under fifteen years of age from homosexual advances was enacted:

"Any male person over the age of fifteen who shall debauch and deprave the morals of any boy under fifteen years of age by enticing or soliciting such boy to commit the abominable and detestable crime against nature, either with any man or beast, or who shall himself commit the abominable and detestable crime against nature, whether with or without the consent of such boy, shall be guilty of a felony." [L. 1897, c. 95, § 2]

#### 1904 Georgia

Georgia's original statute defined sodomy as "the carnal knowledge and connection against the order of nature, by man with man, or in the same unnatural manner with woman". In 1904 the State courts ruled that the statute covered fellatio. [Herring v. State, 119 Ga. 709, 46 S.E. 876 (1904)]

#### 1909 Minnesota

The Minnesota statute prohibiting sodomy was amended in 1909 to make its language more explicit. It reads as follows:

"A person who carnally knows in any manner any animal or bird, or carnally knows any male or female person by the anus or with the mouth, or voluntarily submits to such carnal knowledge; or attempts sexual intercourse with a dead body, is guilty of sodomy, and is punishable with imprisonment in the State prison for not more than twenty years." [L. 1909, c. 270, § 1] § 1]

#### 1909 Washington

Washington did not have a sodomy statute until 1893. In 1909 the law was amended to read as follows:

"Every person who carnally knows in any manner any animal or bird; or who carnally knows any male or female person by the anus or with the mouth or tongue; or who voluntarily submits to such carnal knowledge; or who attempts sexual intercourse with a dead body, shall be guilty of sodomy and shall be punished by imprisonment in the State penitentiary for not more than ten years." [L. 1909, c. 249, § 204]

#### 1910 South Dakota

South Dakota's statute prohibiting "the detestable and abominable crime against nature committed with mankind or with a beast" was declared by the South Dakota courts to cover copulation *per os*. [State v. Whitmarsh, 26 S.D. 426, 128 N.W. 580 (1910)]

#### 1911 Missouri

The Missouri legislature revised its sodomy statute prohibiting "the abominable and detestable crime against nature" to read as follows:

"Every person who shall be convicted of the detestable and abominable crime against nature, committed with mankind or with beast, with the sexual organs or with the mouth, shall be punished by imprisonment in the penitentiary for not less than two years." [L. 1911, p. 198, § 1]

#### 1913 Nebraska

The original Nebraska statute prohibiting sodomy was passed in 1875. In 1910 the Nebraska Supreme Court ruled that the law did not prohibit acts of fellatio, noting:

"It is to be regretted that acts so infamous and disgusting have not been declared to be a felony by the legislature of this state, and we trust that the lawmakers will speedily remedy this defect." [86 Neb. 234, 125 N.W. 594, at 595 (1910)].

As a result of this ruling, the Nebraska legislature enacted the following statute in 1913:

"Whoever has carnal copulation with a beast, or in any opening of the body except sexual parts with another human being shall be guilty of sodomy and shall be imprisoned in the penitentiary not more than twenty years." [L. 1913, p. 203]

1913 Oregon

The original statute prohibiting "the crime against nature" was revised in 1913 to read as follows:

"If any person shall commit sodomy or the crime against nature, or any act or practice of sexual perversity, either with mankind or beast, or sustain osculatory relations with the private parts of any man, woman or child, or permit such relations to be sustained with his or her private parts, such person shall upon conviction thereof be punished by imprisonment in the penitentiary not less than one year nor more than fifteen years." [L. 1913, c. 21, p. 56]

In 1928 the Oregon courts held that the statute included mutual masturbation. [State v. Brazell, 126 Ore. 579, 269 P. 884 (1928)]

1914 Alabama

The original Alabama statute, prohibiting "the crime against nature, either with mankind or with any beast", was construed by the Alabama courts to include fellatio. [Woods v. State, 10 Ala. App. 96, 64 So. 2d 508 (1914)]

1914 Nevada

The Nevada statute, making a crime "the infamous crime against nature, either with man or beast", was held by the Nevada courts to cover all unnatural acts in whatever form or by whatever means perpetrated. [*In re Benites*, 37 Nev. 145, 140 P. 436 (1914)]

1914 North Carolina

The North Carolina statute, first passed in 1837, prohibited "the abominable and detestable crime against nature". In 1914 the North Carolina Supreme Court held that the language of the statute covered sexual acts *per os*. [State v. Fenner, 166 N.C. 247, 80 S.E. 970 (1914)]

1915 Alaska

The Alaska criminal code provided that sodomy, "or the crime against nature", be punished by one to ten years in the Territorial penitentiary. In 1915, the language was revised to read as follows:

"Unnatural crimes. That if any person commit sodomy, or the crime against nature, or shall have unnatural, carnal copulation by means of the mouth, either with beast or mankind of either sex, such person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than ten years." [L. 1915, c. 22, § 1]

1915 California

The California statute, prohibiting "the infamous crime against nature, committed with mankind or with any animal", was held by the California courts in 1897 not to include sexual acts *per os*. [People v. Boyle, 116 Cal. 658, 48 P. 800 (1897)]

As a result of this decision the California legislature, in 1915, enacted the following section to its criminal code:

"The acts technically known as fellatio and cunnilingus are hereby declared to be felonies and any person convicted of the commission of either thereof shall be imprisoned in the state prison for not more than fifteen years." [Stats. 1915, p. 1022]

In 1901, the California legislature passed the following statute prohibiting sexual acts with children under fourteen years of age:

"Any person who shall wilfully and lewdly commit any lewd or lascivious act . . . upon or with the body or a part or member thereof, of a child under the age of fourteen years, with intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of such person or of such child, shall be imprisoned in the state prison not less than one year." [Stats. 1901, p. 630]

1915 Delaware

The Delaware statute prohibiting "the crime against nature" was held to include sexual acts *per os* by the Delaware courts in 1915. [State v. Maida, 6 Boyce 40, 29 Del. 40, 96 A. 207 (Ct. Gen. Sess. 1915)]

1915 Montana

The Montana statute prohibited "the infamous crime against nature, committed with mankind or with any animal". In 1915, the Montana courts construed the statute as covering sexual acts *per os*. [State v. Guerin, 51 Mont. 250, 152 P. 747 (1915)]

1916 Idaho

The Idaho sodomy statute prohibited "the infamous crime against nature, committed with mankind or with animal". In 1916, the language of the statute was ruled to cover fellatio and cunnilingus by the Idaho courts. [State v. Altwater, 29 Idaho 107, 157 P. 256 (1916)]

1916 Maryland

The Maryland legislature added the following statute to its criminal code:

"Every person who shall be convicted of taking into his or her mouth the sexual organ of any other person or animal, or who shall be convicted of placing his or her sexual organ in the mouth of any other person or animal, or who shall be convicted of committing any other unnatural or perverted sexual practice with any other person or animal, shall be fined not more than one thousand dollars or be imprisoned in a jail or in the House of Correction or in the penitentiary for a period not exceeding ten years, or shall be both fined and imprisoned within the limits above prescribed in the discretion of the court." [L. 1916, c. 616, § 1]

1917 Arizona

In 1912 the Territorial courts ruled that Arizona's sodomy statute prohibiting "sodomy, or the crime against nature", did not cover fellatio. [Weaver v. Territory, 14 Ariz. 268, 127 P. 724 (1912)]

As a result of this decision the Arizona legislature passed the following additional statute in 1917:

"Any person who shall wilfully commit any lewd or lascivious act upon or with the body of (or) any part or member thereof, of any male or female person, with the intent of arousing, appealing to or gratifying the lust or passion or sexual desires of either such persons, in any unnatural manner, shall be guilty of a

felony and imprisoned not less than one year nor more than five years." [L. 1917, c. 2, § 1]

## 1917 Florida

The Florida sodomy statute, proscribing "the abominable and detestable crime against nature, either with mankind or beast", was originally enacted in 1868. In 1921, the Florida courts ruled that the statute covered sexual acts *per os*. [Ephraim v. State, 82 Fla. 93, 89 S. 344 (1921)]

In 1917 the Florida legislature enacted the following statute:

"Whoever commits any unnatural or lascivious act with another person shall be punished by fine not exceeding \$500, or by imprisonment not exceeding six months, or by both such fine and imprisonment." [Acts 1917, c. 7361, § 1]

## 1917 Oklahoma

Oklahoma's statute proscribing "the detestable and abominable crime against nature, committed with mankind or with a beast", was ruled to cover fellatio by the State courts. [*Ex parte* De Ford, 14 Okla. Crim. 133, 168 P. 58 (1917)]

## 1922 Hawaii

The Hawaii sodomy statute prohibited "the crime against nature, either with mankind or any beast". In 1922, the Territorial courts held that fellatio was covered by the statute. [Territory v. Wilson, 26 Hawaii 360 (1922)]

## 1923 Utah

The Utah statute prohibited "the detestable and abominable crime against nature". In 1913, the Utah courts ruled that sexual acts *per os* were not covered by the language of the statute. [State v. Johnson, 44 Utah 18, 137 P. 632 (1913)]

As a result of this decision the Utah legislature amended its sodomy law in 1923 to read as follows:

"Every person who is guilty of sodomy or any other detestable and abominable crime against nature, committed with mankind or with any animal with either the sexual organs or the mouth, is punishable by imprisonment in the state prison not less than three years nor more than twenty years." [L. 1923, p. 21, § 8121]

## 1924 Virginia

The Virginia statute prohibited "buggery, either with mankind or with any brute animal". In 1923 the Virginia courts held that the language of the statute did

not cover sexual acts *per os*. [Wise v. Commonwealth, 135 Va. 757, 115 S.E. 508 (1923)]

As a result of this decision the Virginia legislature revised the language of its statute to read as follows:

"If any person shall carnally know in any manner any brute animal, or carnally know any male or female person by the anus or by or with the mouth, or voluntarily submit to such a carnal knowledge, he or she shall be guilty of a felony and shall be confined in the penitentiary not less than one nor more than ten years." [Acts 1924, c. 358, § 4551]

## 1925 West Virginia

The West Virginia legislature enacted a statute almost identical in wording to the Virginia statute of 1924. [W. Va. Code 1925, 61-8-13]

## 1925 Kansas

The Kansas statute proscribed "the detestable and abominable crime against nature, committed with either mankind or with beast". In 1925 the Kansas courts ruled the language of the statute prohibited sexual acts *per os*. [State v. Hurlbert, 118 Kan. 362, 234 P. 945 (1925)]

## Also:

## 1899 Vermont

Vermont has never enacted a sodomy statute. However, in 1899 the State courts held that sodomy, *coitus per anum*, was indictable as a common-law crime. [State v. LaForrest, 71 Vt. 311, 45 A. 225 (1899)]

## Sources:

Norman St. John-Stevias, *Life, Death and the Law* (London: Eyre & Spottiswoode, 1961), pp. 310-324; Walter Barnett, *Sexual Freedom and the Constitution* (Albuquerque: University of New Mexico Press, 1973), pp. 21-51; "Homosexuality and the Law — An Overview", *New York Law Forum*, XVII (1971): 273-303; "Note: Sodomy Statutes: The Question of Constitutionality", *Nebraska Law Review*, L (1971): 567-575; "Note: Victimless Sex Crimes: To the Devil, not the Dungeon", *University of Florida Law Review*, XXV (1972-73): 139-159; "Note: The Crimes Against Nature", *Journal of Public Law*, XVI (1967): 159-192; James R. Spence, "The Law of Crime Against Nature", *North Carolina Law Review*, XXXII (1954): 312-324. In addition, the statutes themselves have been consulted.



APPENDIX III

Year of first adoption, by State and Territory, of four laws against prostitution (to 1920)

State	White slavery <sup>1</sup>	Injunction and Abatement <sup>2</sup>	Soliciting	Vice repressive <sup>3</sup>
Alabama	*	1919	...	...
Arizona	1913 <sup>abc</sup>	1913	...	...
Arkansas	1913 <sup>abc</sup>	...	...	...
California	1911 <sup>abc</sup>	1913	...	...
Colorado	1909 <sup>c</sup>	1915	1908	...
Connecticut	1911 <sup>abc</sup>	1917	1888	1919
Delaware	1911 <sup>abc</sup>	1919	...	1919
District of Columbia	1910 <sup>b</sup>	1914	1916	...
Florida	1911 <sup>ab</sup>	1917	...	...
Georgia	...	1917	1918	...
Idaho	1911 <sup>abc</sup>	1915	...	...
Illinois	1909 <sup>abc</sup>	1915	1915	...
Indiana	1913 <sup>abc</sup>	1915	...	...
Iowa	1913 <sup>ab</sup>	1909	...	...
Kansas	1913 <sup>ab</sup>	1913	1913	...
Kentucky	1916 <sup>abc</sup>	1918	...	...
Louisiana	1910 <sup>abc</sup>	1918	1918	...
Maine	1913 <sup>abc</sup>	**	...	1919
Maryland	1910 <sup>abc</sup>	1918	...	1920
Massachusetts	1910 <sup>abc</sup>	1911	1910	...
Michigan	1911 <sup>abc</sup>	1915	...	...
Minnesota	1909 <sup>abc</sup>	1913	1913	...
Mississippi	...	1918	...	...
Missouri	1913 <sup>abc</sup>	1921	...	...
Montana	1911 <sup>abc</sup>	1917	1895	...
Nebraska	1911 <sup>abc</sup>	1911	...	...
Nevada	1913 <sup>abc</sup>	...	1912	...
New Hampshire	1911 <sup>abc</sup>	**	...	1919
New Jersey	1910 <sup>abc</sup>	1916	...	...
New Mexico	1913 <sup>ab</sup>	1921	...	...
New York	1911 <sup>abc</sup>	1914	1910	...
North Carolina	1911 <sup>ab</sup>	1913	...	1919
North Dakota	1909 <sup>abc</sup>	1911	...	1919
Ohio	1910 <sup>ab</sup>	1917	...	1919
Oklahoma	1910 <sup>ab</sup>	...	...	...
Oregon	1911 <sup>abc</sup>	1913	...	...
Pennsylvania	1911 <sup>abc</sup>	1913	...	...
Rhode Island	1910 <sup>abc</sup>	...	1910	1919
South Carolina	...	1918	...	...
South Dakota	1912 <sup>abc</sup>	1913	...	...
Tennessee	1917 <sup>ab</sup>	1913	...	...
Texas	1911 <sup>ab</sup>	**	...	...
Utah	1911 <sup>abc</sup>	1913	1909	...
Vermont	1911 <sup>abc</sup>	...	...	1919
Virginia	1910 <sup>abc</sup>	1916	1918	...
Washington	1909 <sup>abc</sup>	1913	1909	...
West Virginia	1911 <sup>abc</sup>	...	...	...
Wisconsin	1911 <sup>abc</sup>	1913	1915	1919
Wyoming	1915 <sup>abc</sup>	1921	...	...

Sources:

Herbert E. Gernert, "Legislation on the Social Evil: The White Slave Traffic Laws", *Vigilance*, XXV (June, 1912): 2-9; Timothy Newell Pfeiffer, "The Matter and Method of Social Hygiene Legislation", *Social Hygiene*, III (January, 1917): 51-73; George E. Worthington, "Developments in Social Hygiene Legislation from 1917 to September 1,

1920", *Social Hygiene*, VI (October, 1920): 557-568; Joseph Mayer, *The Regulation of Commercialized Vice* (New York: The Klebold Press, 1922), pp. 28-32; David Lawrence, "Washington — The Cleanest Capital in the World", *Social Hygiene*, III (July, 1917): 312-321. In addition, the statutes themselves have been consulted.

*Notes:*

<sup>1</sup> The White Slavery Laws have reference to three classes of offenses, indicated by the superscripts *a*, *b* and *c* after the year of adoption, viz.:

- <sup>a</sup> enticing, transporting, or forcing a female into prostitution;
- <sup>b</sup> pandering;
- <sup>c</sup> pimping and living off the earnings of a prostitute.

The table indicates the date of passage by the various states of a comprehensive law prohibiting these acts. In some instances these laws superceded previous statutes proscribing more specific aspects of these offenses, such as enticing a female under a particular age to a house of ill-fame.

<sup>2</sup> The Injunction and Abatement Laws permitted a civil action to enjoin the operation of a brothel as a public nuisance. The table covers legislation to 1921.

<sup>3</sup> The Vice Repressive Law is a comprehensive statute prohibiting, among other things, keeping, setting up, maintaining, operating, occupying, permitting someone to

occupy, transporting to, directing someone to, residing in, entering, remaining in, any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation; soliciting for the purpose of prostitution, lewdness, or assignation; "giving or receiving of the body for sexual intercourse for hire", and, "giving or receiving of the body for indiscriminate sexual intercourse without hire".

\* Alabama did not pass a White Slave Law by 1920. However, in 1897 its legislature passed a statute directed against procuring or employing a female over ten and under eighteen for purposes of prostitution. It later amended its vagrancy statute to cover pimps and prostitutes.

\*\* Maine, New Hampshire, and Texas enacted statutes which classified bawdy-houses as nuisances prior to Iowa's passage of its Red Light Injunction and Abatement Law in 1909. The dates of passage are: Maine, 1891; New Hampshire, 1899; and Texas, 1907.