

gender and history



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lesley a. hall

second edition



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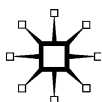
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# **Sex, Gender and Social Change in Britain since 1880**

Second Edition

Lesley A. Hall

palgrave  
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*This is once more for Ray McNamee, who, yet again, has had to endure a state of more than usual domestic chaos during the writing of this book, which he has borne with a truly remarkable degree of equanimity.*

Praise for the book when it was first published:

‘A super text which draws together a number of themes previously neglected – a good addition to any social history course.’ – **Yvonne Brown**, *Glasgow Caledonian University*

‘...one of a few rare books which can be enjoyed by the general reader, used as an undergraduate text, offer fresh insights to social historians and indicate further lines of enquiry for future researchers...This is history written with transparent warmth and humanity – it will undoubtedly give pleasure to all who are fortunate enough to read it.’ – **Paula Bartley**, *Reviews in History*

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‘This is an excellent book; superbly well informed but not weighted down with detail...It is also lively and entertaining.’ – **Chris Nottingham**, *Glasgow Caledonian University*

‘Wide-ranging and accurate coverage of complex and sensitive issues regarding sexuality, gender and social change.’ – **Melinda Barone**, *University College Salford*

‘There are few better people better placed to give an overview of the histories of sexuality since the late nineteenth century than Lesley Hall. As a senior medical archivist at the Wellcome Trust Library and author, she has been at the forefront of new historical work on sexuality over the last ten years. The value of this book is that it displays the breadth of recent historical research into fields of enquiry that can still sometimes seem almost impossible to illuminate. *Sex, Gender and Social Change since 1880* demonstrates an accumulation of knowledge of British sexuality that would have amazed an observer only a decade ago.’ – **Sam Pryke**, *Sexualities*

‘...*Sex, Gender and Social Change in Britain since 1880* is an ideal textbook for students. It offers the best overview of the development of sexuality in twentieth-century Britain, and promises to become essential reading for anyone interested in the topic, or to anyone hoping to teach a course on the topic. There is enough primary material to make important contributions to the field of the history of sexuality, and the synthesis of previous historical writing, which was long overdue, is both thought-provoking and convincing.’ – **Ivan Dalley Crozier**, *Journal of the History of Sexuality*

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# Introduction

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## **Then and now**

Historians of the nineteenth century have perceived a definite change in sexual attitudes, and in ways of talking about and dealing with sexual issues, around 1880, the beginnings of certain ‘modern’ ways of thinking about sex. Michael Mason has suggested that much early twentieth-century reaction against Victorianism was aimed specifically at those decades, during which leading anti-Victorians had grown up, while Simon Szreter has made a persuasive case for the persistence of a ‘long Victorian era’ in Britain, which only dissolved in the 1960s, rather than at the death of the Queen in 1901.<sup>1</sup>

The period since 1880 has seen apparently enormous changes in sexual attitudes, behaviour, and gender relations, and indeed in society as a whole. Sex and reproduction have become separated: not only does effective contraception mean that intercourse need have no reproductive consequences, but conception can now occur without intercourse. The legal, social, and economic status of women has changed in ways which would astound late Victorian campaigners for women’s rights to education, employment, the ownership of property, and involvement in the political process. No longer is heterosexual marriage the only acceptable form of sexual relationship with all others stigmatized and marginalized. Family structure and size have undergone considerable mutation. Marriages were then terminated (except in a very small proportion of cases) only by death or desertion, sometimes followed by remarriage, in the first case, or bigamy, in the second. Now there may be one or more sequential unions, either remarriage or cohabitation, and the maintenance of amicable relationships with former spouses.<sup>2</sup>

However, continuities remain. For a few decades in the mid-twentieth century, it seemed that the centuries-old fear of lethal or debilitating sexually transmitted diseases had been lifted by the advances of science: a halcyon era ended chiefly with the advent of AIDS/HIV in the early 1980s, but also by a recognition of the spread of a number of other unpleasant, though less fatal, conditions. Convictions for rape remain at a depressingly low rate and the

mindset of victim culpability persists, with preventive campaigns geared towards modifying female, rather than male, behaviour. While the penitential regimes and social exclusion awaiting the Victorian fallen woman no longer exist, a woman's sexual reputation is still something about which she can seldom be as cavalier as a man – imputations of promiscuity can still harm – while single mothers remain a stigmatized group. Homophobia is far from extinct.

While the number of single-person households continues to rise, still the majority of people live in some kind of familial situation, or have done for at least part of their lives. The meaning of 'family values' in an era of divorce, cohabitation, reformation of couples in sequentially monogamous relationships, and the increasing establishment of gay households with children, may be very different to what it was a hundred or even fifty years ago, yet the family remains not only a potent icon but a very real presence and continues to be invoked by politicians. Sexual scandal can still adversely affect the careers of those in public life – in fact, given the aggressiveness of the press in pursuing such cases, not to mention the extent to which news can proliferate via the internet in the twenty-first century, this may be even more of a problem than it was in an age when influence could keep scandals at bay, even when transgressive behaviour was an open secret among those in the know. Changes are not the same as triumphant progression towards sexual liberation.

## **Uncovering the past**

How can we ascertain what a complex society like Britain thought and felt, and did, about sex from the nineteenth to the beginning of the twenty-first century? What meanings did it assign to particular phenomena: what phenomena, indeed, were defined as falling within the realm of the sexual? We can look at the laws which overtly regulated a range of behaviours, and the ways these actually operated in practice.

Medicine had an increasing say on the relationship between sexuality and health: however, unlike the law, most medical practice takes place in the private and confidential space of the doctor's surgery or consulting room, and what goes on there can be hard to recover. While doctors might have been considered to be appropriate authorities on sexuality, for much of the period under discussion, it was regarded as a subject on which they should communicate only to other doctors rather than to the general public. Courts, however, are open to the public (though, when dealing with cases of 'immorality', they might be cleared) and their proceedings were and are reported in the media.

New specialisms in the twentieth century – psychology, sociology, pedagogy – claimed intellectual rights over this area. Religious and moral ideologies – not always clearly distinguished from issues of health and hygiene – have been expressed in advice on conduct in a range of forms, from sermons to the 'agony pages' in women's magazines. From the later nineteenth century, an eclectic science of sexology, drawing on a variety of other disciplines, laid claims to rational investigation of the complex phenomena of sexuality. From the 1930s, there were attempts to use social survey methods to enquire into people's attitudes and beliefs about sex, and even their behaviour, though early

investigators were aware of the problems: how truthful would respondents be on such a touchy subject – indeed, would they respond at all? – and several encountered the belief that there was a ‘correct’ answer to the questions. The media has played an increasingly important role in generating and disseminating sexual discourse, with the increase of literacy, the rise of new forms such as film and television, and new technologies of creation and distribution.

The relation between regulatory codes, societal beliefs more generally, and practice is by no means simple: because certain acts or relationships were tabooed does not mean that they did not occur – proscription or deprecation indicates that a possibility, if no more, might exist. What does appear from historical analysis is some degree of fit – by no means absolute – between a society’s ideologies about sex and behaviour. For example, a taboo on sexual intercourse outside marriage may lead to a relatively low, but seldom non-existent, illegitimacy rate. Male same-sex activities may be the subject of stringent legal penalties, but since these were actually enforced, some men must have been engaging in such practices. The pressures against forbidden activities may not entirely prevent them, but may lead to extreme means of concealment (e.g. infanticide of illegitimate children) or internalization of guilt (as in the case of masturbation, pervasively condemned as a menace to health and morality throughout the nineteenth and early twentieth centuries, although the practise was almost universal among men).

### **The polyphony of ideas**

As Michel Foucault famously wrote in *The History of Sexuality*, sexuality is constituted by discourse:<sup>3</sup> however, at any given moment in history several discourses may be operating at both the social and the individual level. ‘Orthodox’ discourses, such as religion, law, and medicine, were not internally monolithic nor always in agreement among themselves. In Victorian England sex outside marriage was a sin and chastity part of a Christian life, and the middle-class male was defined by his ability to control his baser urges; but it was also widely believed that it was unhealthy for a mature man to go without sex, which could lead to conflicts and compromises in both behaviour and social arrangements. In the early to mid-twentieth century, British law defined the homosexual as a criminal, while medical and psychological opinion considered homosexuality a disorder. Within the medical model, there were further differences of opinion: homosexuality might be seen as an inborn defect analogous to colour-blindness about which nothing could be done, or amenable to the latest developments of science. Thus there are always several discourses in play, contradicting or undermining one another. Not only is ‘discourse’ not monolithic, discourses are not impermeable sets of ideas with distinct boundaries.

People (and indeed societies) are capable of simultaneously holding ideas inconsistent with one another: a prime example of this would be the belief that women were by nature maternal and destined for monogamous marriage, alongside fears that given the slightest encouragement – education, employment opportunities, the granting of political rights, the accessibility of birth

control – they would immediately renege on their duty to marry and keep the world populated. Similarly, homosexuality has been conceived of as unnatural, disgusting, and horrible, and yet one experience in adolescence, or even maturity, was supposed to be seductive enough to ‘corrupt’ a male. Most examples are not so extreme, but this lack of consistency is (perhaps) particularly strong in the area of ideas about sex, since these are less likely than other ideas to be consciously analysed and interrogated.

## **Entering the Twilight Zone**

Although the creation of knowledge has been studied for many years, agnotology, dealing with the creation of ignorance, has only just begun to be explored. It may involve deliberate obsfuscation by interested parties with an agenda of deception, but can also be the product of the inability to see various things and their connections at particular historical moments, or even a refusal of knowledge.<sup>4</sup> Recent oral history work by Kate Fisher and Simon Szreter has demonstrated that the demands of female sexual respectability in the early twentieth century required avoidance of knowledge of sexual matters before marriage, a mindset which continued after marriage and affected, for example, women’s attitudes towards birth control.<sup>5</sup> This concept clearly has interesting implications for thinking about sexuality in the past.

There is much that cannot be retrieved about sexual lives in the past, but this area is not so blank as might be imagined. Some of the kinds of texts generated by the orthodox authorities – evidence given in court, case histories presented to doctors – contain embedded accounts or hints of other ways of looking at things. Courts of law sat on, and medical journals reported, cases of sexual assault on children in the belief that this would cure venereal diseases. This was also mentioned in evidence to government commissions, as was the belief among prostitutes that when they got old and sick and went into hospital, they would be smothered.<sup>6</sup> Private communications between individuals may speak of matters deemed inappropriate for public discussion. Letters to birth-control pioneer Marie Stopes mentioned the belief that, by government edict, there was always one dud in a box of contraceptives (conflating the perceived unreliability of these products with establishment pronatalism),<sup>7</sup> and also the very widespread idea that it was not illegal to terminate pregnancy in its early stages.<sup>8</sup> The pronouncements of figures representing the establishment, judges, doctors, and politicians, illuminate their own unexamined beliefs about class, gender, and sexuality, including such mythologies as the enormous prevalence of false accusations of rape and designing girls preying on innocent upper-class youths, and that only a doctor could possibly ask women about birth-control practices.

There has been a strong tradition of discretion – or nervous evasiveness – about sex in Britain. Governments have been persistently reluctant to venture too far in statutory regulation of this area, drawing a definite (if in practice sometimes fuzzy) line between private conduct and public manifestations. Thus, prostitution is not illegal, but there have been continuing measures to keep it out of the public eye, from the routine policing of street soliciting, to

concerns about the proliferation of 'tartcards' in phone boxes advertising sexual services. The general legislative story has been one of delaying action, in spite of significant instances of governments being pushed into hasty and often ill-drafted legislative action by specific immediate pressures. This has been almost inevitably in the direction of punishing or controlling sexual problems (and usually punishing and controlling the bodies of groups, such as prostitutes, perceived as embodying these problems), never of the liberalization of laws known to be causing suffering to large numbers.

In fact, once a law, any law, has been passed it can take decades to change it, even in the face of persistent demands. Time after time concerns were expressed over, for example, divorce, venereal diseases, obscenity, abortion, to which governments responded by the appointment of an official investigatory body, thus demonstrating recognition of the seriousness of the issue, while relieving them of the need for immediate action that was likely to prove politically contentious. An alternative strategy was to handle the issue through administrative extension of existing legislation. Private Members of Parliament were always at liberty to introduce reforming measures, though the fate of these, lacking government support, was hazardous.<sup>9</sup> Although official attitudes at the top level may have been hands-off, a good deal of policing of moral behaviour went on at local levels, however, by agencies of central and local government, and by voluntary bodies, often in alliance with local authorities or police forces.

Anna Clark has recently adumbrated the useful concept of 'twilight moments' as a way to discuss 'those sexual activities or desires which people are not supposed to engage in, but they do....acts which people committed, or desires they felt, which could be temporary; they returned to their everyday lives, and evaded a stigmatized identity as deviant'. All sorts of acts might occur at such moments but never be openly acknowledged or named.<sup>10</sup> This formulation could apply across a range of activities ranging from the merely shameful (the married man buying condoms from a distant shop) to the deeply illegal (homosexual activities). Lost in this twilight are the many couples throughout the period who, legally unable to marry, nevertheless presented themselves as married, and the children whose illegitimacy was concealed through familial stratagems such as pretending that their mother was their sister or their aunt.<sup>11</sup> This concept has interesting resonances with what David Nash and Anne-Marie Kilday have argued was an enduring culture of shame and shaming practices.<sup>12</sup>

'Twilight moments' can also describe the ways in which sexual activities were controlled and regulated, in subtle and not always articulated ways. A wide-ranging system for the provision of free, voluntary, and confidential treatment of venereal diseases (which might well have proved controversial) was introduced in 1917 via the extension of existing powers of public health administration rather than being contested in Parliamentary debates.<sup>13</sup> Policing of prostitution under the solicitation laws technically required the woman to have been behaving riotously and indecently, or soliciting to the annoyance of the public: however, contemporary observers and historians have pointed out that once a woman had been designated as a 'common prostitute', actual annoyance or indecent behaviour was seldom involved: she could be arrested for being in a public place even when not seeking business.<sup>14</sup> Sean Brady has

drawn attention to Home Office secrecy in the late nineteenth century over establishing sentencing policies for cases involving sex between men or men and boys,<sup>15</sup> and Alan Travis has revealed its secret blacklist of banned books and magazines of the 1950s.<sup>16</sup> A number of studies have adumbrated complex relationships between governmental authorities (national and local) and voluntary organizations over issues to do with sexuality: Pamela Cox has illuminated the labyrinthine networks of public and private bodies dealing with 'delinquent girls' in the early twentieth century.<sup>17</sup> All of these were about keeping sexual matters and their surveillance and control in the realm of the hidden or the inexplicit.

David Vincent, in *The Culture of Secrecy, Britain 1832–1998*, dealt mainly with government secrecy and concealment, but also touched on how this reflected wider cultural attitudes about rights to privacy and accepted class-based codes of conduct. He pointed out the different strategies deployed towards the 'civilized' and 'the great unwashed'. Both public and voluntary initiatives in the later nineteenth century increased surveillance of the urban poor, and the lesser right of the lower classes to personal privacy has been a persisting theme. Their private lives have been more likely to have a public dimension, as they sought charitable aid or state assistance, often administered according to concepts of 'the deserving poor' who conformed to middle-class defined standards of respectability.<sup>18</sup>

Sexual transgressions were much more visible at the lower social end of their much wider spectrum: as the traditional song, 'She Was Poor But She Was Honest' argued, 'It's the rich wot gets the pleasure, it's the poor wot gets the blame.'<sup>19</sup> Emma Jones has demonstrated that via court cases and newspaper reports, it is possible to discover a good deal about the practice of illegal 'back-street' abortion and the mechanisms by which individuals located practitioners, but it remains less easy to reconstruct the discreet world of the 'Harley Street' abortionist and his clientele.<sup>20</sup> Recent local studies of prostitution provide us with a nuanced picture of the lives of women who became street prostitutes,<sup>21</sup> but there were other forms of sex work less readily reconstructed. The 1916 survey *Downward Paths* pointed out that it was far less easy to research the more discreet manifestations.<sup>22</sup> While clear connections between street prostitution, poverty, and expedients for survival can be made, there was a whole range of other possibilities between that and the highest class of renowned courtesans, such as 'Skittles' (Catherine Walters) and Laura Bell, who mingled with the social elite and now grace the pages of the *Oxford Dictionary of National Biography*.

It is thus not surprising that most early British surveys relating to sexual activities focused on the working classes: the Royal College of Obstetricians and Gynaecologists 1940s' survey into birth control use for the Royal Commission on Population drew its sample from patients in publicly funded or voluntary hospitals, not private nursing homes, and Eliot Slater and Moya Woodside's almost contemporary *Patterns of Marriage* was confined to the urban working class, although the Mass Observation 'Little Kinsey' was an exception, both questioning a wide range of members of the general population and seeking information from its largely middle-class 'Panel'.<sup>23</sup> Breaching sexual secrecy,



however, also had repercussions for the upper and ruling classes. Once codes of confidentiality and discretion had been violated, they were not exempt: if their marriages reached the stage of the divorce court, their matrimonial difficulties were extensively rehearsed in the press. Sexual scandals about the eminent, famous, and wealthy continue to flourish.<sup>24</sup>

Official ideas about secrecy drew strength from assumptions about what was and was not acceptable to the public, and also, perhaps, a reluctance to consider that the public's opinions might differ. Cases of obscenity tried before magistrates showed rather different results to those tried before juries, as in the famous 1960 case of Penguin Books for publishing D. H. Lawrence's *Lady Chatterley's Lover*. Governments and establishment bodies have been nervous about undertaking surveys into the sexual habits of the nation, but Mass Observation in 1949 was agreeably startled at the almost unanimously positive public response to its 'Little Kinsey' investigation. It has been suggested that Margaret Thatcher's alleged personal intervention to forbid governmental funding for a survey of sexual attitudes and behaviour in Britain came from fear that it might disclose how great the mismatch was between the 'family values' promoted by her government, and the actual conduct of the governed.

### **Slicing up the story**

There are a number of ways in which the story of sex, gender and social change during this period could be presented. It could be sliced thematically (marriage, reproductive questions, sexually transmitted diseases, same-sex relations, censorship, etc.), but all these issues were strongly intertwined, or had mutual repercussions, and to discuss them in isolation down plays important connections, as well as presenting perhaps rather too coherent narratives – many of these stories were stop-start affairs, incidents emerging out of silence or obscurity and followed once more by silence. Traditional periodizations, such as from the death of Victoria to the Great War, the War, the interwar period, the Second World War, tend to overemphasize monarchs' reigns and situate war as a major source of disruption and agent of change when it often brought into prominence and visibility themes already present, and even halted processes of change. The period is therefore divided up by decades, an artificial arrangement which, nonetheless, enables the juxtaposition of contemporaneous phenomena and the indication of the ebb and flow of the importance given to particular elements in the complexity of British sexual culture. It also reveals the constant interplay of 'reactionary', 'progressive', and apathetic forces in the creation of policy and the dissemination of knowledge.

The particular areas discussed are: marriage, divorce, and heterosexual relations more generally; the changing status of women; birth control, abortion, and other reproductive issues; prostitution and the sex-trade; same-sex relations; censorship and perceptions of obscenity; sexually transmitted diseases; state of sexual knowledge and sexual ignorance; and ways in which sex was analysed and understood with the rise of new intellectual disciplines. Attention is given to the role of pressure-groups. Sexual violence and abuse is also touched on. Where it is possible to do so, mention is made of changes in ideas about

manhood and masculinity: 'being a man' was always a precarious endeavour and fraught with complications. What is beginning to emerge is the extent to which large numbers of men behaved decently and responsibly, whether this was in providing support for women to whom they were not married and their offspring, or taking contraceptive precautions within marriage.

Much of the material in this study is implicitly or explicitly about England, and many of the concerns discussed had a specifically metropolitan bias (London being seen as the place where 'vice' particularly flourished, as well as the base of many investigators). Because the history of sexual attitudes and behaviour is still a relatively new and somewhat controversial area, there tends to be a lack of locally based studies, although this is beginning to change. Roger Davidson's work on the control of venereal diseases in Scotland has indicated the extent to which not merely the different legal system, but specifically Scottish moral and civic traditions put a decisively variant twist on the 'English system' implemented in 1917.<sup>25</sup> His more recent work with Gayle Davis on wider issues of the governance of sexuality in late twentieth-century Scotland illuminates these issues still further.<sup>26</sup> Kate Fisher's work on attitudes around reproduction and birth control in Wales suggests community values contrary to the models birth-control campaigners tended to promote;<sup>27</sup> her more recent joint work with Simon Szreter is a valuable analysis of oral history testimonies from communities in the north and south of England.<sup>28</sup> Russell Davies has also considered sexuality in the Welsh context, specifically Carmarthenshire, in *Secret Sins*, while a number of articles have looked at the introduction of birth control clinics into several Welsh areas.<sup>29</sup> Jeffrey Weeks, considering *The World We Have Won* in 2007, locates his wider narrative against his own background in the Rhondda at a specific historical moment.<sup>30</sup> In Ireland before independence, attitudes towards sexuality (strongly influenced by religion) played an important part in defining national identity, an argument borne out by Maria Luddy's recent important work on prostitution in Ireland and Diarmaid Ferriter's study of sex and society in modern Ireland, which also demonstrate how this continued after the establishment of the Republic. Leanne McCormick illuminates the related, yet also distinctive, pressures in play in Northern Ireland.<sup>31</sup> Even within England itself considerable variations by region, occupation, and class were reflected in differing demographic patterns.<sup>32</sup> So far, work on homosexuality has tended to concentrate on London, although Harry Cocks has illuminated the Bolton Whitmanite circle of the late nineteenth century and Sheila Rowbotham's magisterial biography of Edward Carpenter indicates his provincial networks. Work on Manchester's subcultures of men having sex with men is in progress.<sup>33</sup>

## Historiographical developments

Scholarship has proliferated since the first edition of *Sex, Gender and Social Change in 1880*. While Jeff Weeks's *Sex, Politics and Society* (1981) remains an important pioneering text,<sup>34</sup> numerous studies since then, and since 1999, have illuminated the field or provided nuance to his arguments. Even so, a great deal of work still remains to be done and there are significant gaps in our knowledge

and understanding. There has been outstanding work on cultures of male homosexuality, although this has been, as already mentioned, predominantly London-centred.<sup>35</sup> Exciting work on female same-sex relationships has emerged in spite of the difficulty of researching these hidden histories.<sup>36</sup> Outstanding studies on marital sexuality and questions about reproduction and its control have appeared.<sup>37</sup> New work on prostitution is both closely analysing policy debates on regulation and looking beyond them to consider routine police management, the role of rescue organizations, and the ways in which women sex workers were agents rather than victims.<sup>38</sup> Foundational and nuanced work on the role of the popular press in making sexual knowledge and creating understandings of gender has appeared.<sup>39</sup>

An increasing amount of work is being done on the role of race and ethnicity and the Empire in the creation of national sexual identities and attitudes: much of this has specifically addressed the colonial and imperial context, although there were implications for the home country and notions of appropriate British sexuality as avoiding, on the one hand, the promiscuous brutality of the primitive and, on the other, the sensual excess of the decadent and over-refined. Particularly following the Second World War and mass immigration from the 'New Commonwealth', Britain has become a multicultural society: some of the complex issues around the role of race, gender, and sexuality in constructing new ideas of nationhood in the postwar era are addressed in Wendy Webster's *Imagining Home*.<sup>40</sup>

Recent work has manifested a 'spatial turn', looking at specific sites of sexual interaction, their definition, their usage, and their contestation, whether this was the 'monkey-walk' of adolescents in Northern cities, nude displays in the Windmill Theatre on the boundary between Soho and the West End of the legitimate theatre, 'cottaging' by men in public urinals, or, indeed, the juxtaposition of serious sexological studies and frankly pornographic works in the stockrooms and catalogues of mail-order booksellers.<sup>41</sup> The significance of religion and spirituality in changing attitudes around sexuality is beginning to be investigated and to demonstrate their so far rather undervalued importance. A number of studies suggest that class and economic status remain a useful category of analysis and interpretation.

Constraints of space continue, as they did in the first edition, to operate as to how much detail could have been gone into and how deeply certain areas could have been covered.

# 1

## The Victorian Background

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### **Defining the Victorians**

‘The Victorians’ and their sex lives remain endlessly fascinating in the popular mind. Several memorable but erroneous ideas are constantly recirculated by journalists and the media.<sup>1</sup> In spite of numerous scholarly works deconstructing any idea of a monolithic Victorian morality, there is a continuing stereotypical picture of the Victorians as sexually repressed hypocrites; while every few years for the past forty or so somebody publishes a popular book promising to overturn all these received ideas about the Victorians (usually by focusing on particular individuals, groups, or subcultures behaving in ways counter to the stereotype).<sup>2</sup>

The changes and developments during the final decades of Victoria’s reign, continuing into the new century, were the outcome of trends and possibilities already present. On the other hand, many ‘Victorian values’ persisted well into the twentieth century: a plausible case can be made for ‘a long Victorian era’ in Britain which did not finally dissipate until around 1960.

How far is it realistic or useful to bracket sexual attitudes and behaviour between 1837 and 1901 as having something unique and specific in common? To what extent did the several generations who lived through that era, as members of a complex culture spread widely across the globe, undergoing radical change as a result of technological and economic developments, during a period of over sixty years, have enough in common to be lumped together as they so often are? The roots of many facets of ‘Victorianism’ lay well back during the reaches of the long eighteenth century.

Ideas about sexuality were embedded in an intricate nexus of not always clearly articulated ideas about gender, race, and class, even as the Victorian era saw the rise of scientific analyses of race and gender and sociological investigations of the lower classes – which, however, did not necessarily represent entirely new ways of thinking rather than revised encodings of well-established prejudices. Racialized imagery pervaded perceptions of sex. On the one hand there was the notion of the primitive, the out-of-control (primarily

associated with Africa), on the other the effete decadent (tending to be associated with 'The Orient'), which were to be avoided, even while they returned as recurrent features in, for example, Victorian pornography and even high art. Complex hierarchies and categories were constructed and phenomena which might blur those boundaries perceived as highly threatening.<sup>3</sup>

There were significant changes in the Victorian era as well as persisting beliefs and attitudes. Significant pieces of legislation dealing with aspects of sexual conduct were passed, partly the result of attempts to tidy up and consolidate the inherited mass of criminal legislation, but also reflecting growing secularization of the regulation of moral conduct, formerly the purview of the church and ecclesiastical courts: in 1837, for example, civil registration of marriage was introduced.

### **Wholly matrimony**

In 1857 a Matrimonial Causes Act made divorce more widely accessible (it also covered separations and annulments), as part of the shift of non-doctrinal jurisdiction from ecclesiastical to secular courts to simplify an entangled system of probate jurisdiction, although the intent was simply procedural, not to make divorce more widely accessible. Previously, only a small elite had been able to pursue the complicated and expensive private Parliamentary divorce, which required the plaintiff first to obtain an ecclesiastical separation and fight a successful civil case ('*crim. con.*': 'criminal conversation') for damages against his wife's seducer. A Divorce Court was established in London. The law enshrined an adversarial process between guilty and innocent parties, with the innocent rewarded with a decree. Two equally guilty spouses, or an innocent party who had condoned their partner's transgression (e.g. George Henry Lewes, the consort of the novelist George Eliot) or colluded with them to dissolve the union, were to be punished by making them stay together.

Ideas about the different sexual natures of men and women, and the relative weight of their respective transgressions of the moral code, were clearly inscribed into this Act. Adultery by a woman was so horrendous that a single act permitted her husband to sue for divorce. In a man, however, the offence was sufficiently trivial that even when persistent, it was not regarded as reason for a woman to terminate her marriage, unless added to cruelty, desertion, bigamy, or incest. The traditional reason given was fear of a wife introducing a spurious child into the family, whereas the man's promiscuity had no such deleterious effects.<sup>4</sup>

This Act, compromised though it might be, did represent a blow against the ecclesiastical doctrine of the indissolubility of marriage (Church law had permitted separation but not remarriage). It did grant some rights to women in intolerable unions. Of the 253 petitions heard in the first year of the Court's existence, 97 (well over a third) were from women. While judges and lawyers could not change the law itself, case-law – for example two cases in 1865 and 1866 establishing the knowing and reckless communication of venereal disease by the husband as cruelty – influenced its practical operation.<sup>5</sup> Numbers of divorces in Britain remained low by comparison with other European countries

and North America: although the percentage of cases appeared to demonstrate a massive increase (100 per cent over 40 years), the absolute numbers were relatively small.<sup>6</sup> Gail Savage has revealed a social range of petitioners much broader than once supposed: even the extremely poor were sometimes able to obtain release from bad marriages. Press attention, however, focused on not necessarily typical cases among the upper classes or entertainment professions (the relatively advantaged financial status of women in these groups enabled them to initiate cases, a recourse less available to most women).<sup>7</sup> Olive Anderson has drawn attention to the continuing significance of private contracts of separation enabling couples to live apart amicably, but this solution did not permit remarriage.<sup>8</sup> Although technically divorce was easier to obtain in Scotland and the law more egalitarian, social disapproval (and possibly expense) kept numbers low.<sup>9</sup>

It was a very limited concession to the rights of women, however. A more or less simultaneous attempt to pass a Married Women's Property Bill failed, although the Divorce Act gave divorced and judicially separated women the status 'feme sole', able to own property and make contracts. Under common law, a married woman's independent identity was totally subsumed in that of her husband's under the doctrine of 'coverture'. She was unable to enter into legal contracts and had no rights in her own property, all she had (earned or inherited) being deemed to belong to her husband. This was not merely degrading, but actively oppressive and hurtful to women's interests, as in the cases of men who kept mistresses on, or drank away, or gambled their wives' earnings. An alternative system, equity, regulated through the Court of Chancery, enabled the trust settlement of property on a woman, protecting it from her husband's common-law rights, but did not usually grant full rights (e.g. she could not usually alienate it). This option was only open to the privileged property-owning elite.

An inadequate Married Women's Property Act was passed in 1870 after several years of active campaigning. Parliament conceded the righteousness of preventing the exploitation of working-class women, but qualms about any wholesale alteration of the economic relations of husband and wife produced a 'legislative abortion' with a dangerous lack of clarity, inconsistencies, and unnecessary complications, although it did guarantee to women income earned in occupations carried on separately from their husbands. The Act also made women liable for support of their husbands and children, which, given their disadvantageous position, was invidious. But it did grant, in however restricted a way, the principle that in certain circumstances, married women could and should have ownership and control over their property.<sup>10</sup>

Women were not even entitled to the custody of their own children born in wedlock (ironically, unmarried mothers were more favourably placed, though at the cost of serious restrictions on suing for affiliation orders under the bastardy clauses of the New Poor Law of 1834<sup>11</sup>). The father was regarded as the 'natural' guardian of his children whatever his faults, without even right of maternal access. A Custody of Infants Act had been passed in 1839 following the notorious case of Caroline Norton, a writer well-connected with influential political and literary circles, whose brutal husband removed and concealed

her children. The Act permitted a mother to petition in the equity courts for custody of her children up to the age of seven and access to older ones. She had, however, to be wealthy enough to undertake a Chancery action, innocent of sexual misconduct, and legally separated: serious limitations. The 1857 Divorce Act gave some leeway to the judge's discretion in awarding custody, even to a guilty spouse, but again divorce was only available to a relatively limited group of women. A further Infant Custody Act in 1873 allowed mothers in exceptional circumstances to petition for custody of or access to children under the age of 16 rather than seven, and permitted husbands to relinquish custody of their children as part of the terms of separation. It also removed the absolute bar to custody of a wife's sexual misconduct. However, it failed to recognize equal parental rights, thus disappointing feminist supporters.<sup>12</sup>

There was considerable concern about male violence within marriage. Official investigations and some MPs advocated flogging as a punishment for domestic brutality and other crimes of violence. Legislation passed in 1878, however, concentrated not on punishing the miscreant but helping his victim. Largely at the instigation of Victorian feminist Frances Power Cobbe, who in that year published an influential essay, 'Wife-torture in England', the Matrimonial Causes Act enabled brutalized wives to obtain a Protection Order with the force of a judicial separation in the Magistrates' Court, to receive custody of their children, and to be awarded maintenance. This did not constitute divorce and the woman could not remarry. Like much other Victorian legislation affecting women, it was aimed largely at the working-class woman, perceived as a deserving victim, and protecting her from the wrong kind of man. In practice, magistrates might give credence to husbands' promises of reform and refuse the order. But this law did overturn the notion that husbands were permitted physical chastisement of their wives.<sup>13</sup> Gail Savage has recently demonstrated that, although rape within marriage was not considered a crime (a belief founded in common law rather than statute and occasionally the subject of judicial debate<sup>14</sup>), judges in the matrimonial court often took husbands' abusive sexual behaviour into consideration in cases of divorce or separation, and such behaviour could constitute grounds for refusal by wives to comply with orders for restitution of conjugal rights.<sup>15</sup> Martin Wiener suggests that these increasingly hardening attitudes of legislature and judiciary towards male domestic violence, in the context of changing paradigms of manliness, did not necessarily accrue popular support, adducing the case of George Hall, who had murdered his faithless wife. Popular feeling against the capital verdict forced the grant of a reprieve.<sup>16</sup> Nash and Kilday, however, in an intriguing study, argue that popular media revived older community practices of public shame both for excessively abusive husbands and for such traditional behaviours.<sup>17</sup>

Another matrimonial issue agitated for by the Marriage Law Reform Association, to heated opposition, was the desire to legalize marriages with a deceased wife's sister (the first bill was introduced in 1841). In many households the wife's sister took over the functions of mother to orphaned nieces and nephews and housekeeper to her widowed brother-in-law, and often, for either convenience or out of developing mutual affection, a sexual relationship

resulted. As the law stood, the potential partners were within 'forbidden degrees' of kinship and could not marry as the union was technically incestuous. This apparently humane piece of legislation, likely to affect only a minority of the population, generated enormous moral panic, not only among ecclesiastics who cited Biblical authority, but also among others who felt that this might be the beginning of a slippery slope into moral anarchy, although women campaigners for matrimonial law reform pointed out that the Bill's sponsors refused to contemplate extending an equal right to marry deceased husbands' brothers.<sup>18</sup>

Given the deleterious position of women within wedlock, it is hardly surprising that some Victorian women not only protested verbally against the denigration of married women implicit in coverture ('a species of legal prostitution' according to feminist campaigner Josephine Butler), but rejected overt marks of marital servitude, such as wearing a wedding ring or taking the husband's surname, and chose a registry office ceremony, in which the woman was not required to promise to obey. Leading male feminist John Stuart Mill (author of *The Subjection of Women*, 1869, who, as independent MP for Westminster, supported numerous women's causes in Parliament), while he did marry his longtime companion Harriet Taylor in 1851 after her husband's death, openly renounced the rights over her granted him in law.

Some refused to enter marriage at all. Alice Vickery, one of the first women to qualify in medicine, apparently never married her consort Charles Robert Drysdale, doctor and Malthusian campaigner, while Elizabeth Wolstenholme, agitator for women's rights in many fields, initially entered an 'informal marriage' with silk manufacturer Ben Elmy, rejecting the interference of church or state in a private matter and opposing the patriarchal values inscribed in matrimony. Principle was one thing, however, and practice another. Vickery and Drysdale were always assumed to be married and their children were born abroad, obviating the need to register their births in the United Kingdom. Their medical careers (especially Vickery's) and their work in promoting contraception were both at risk from any whisper of 'immorality'. For similar reasons, Wolstenholme was under pressure from fellow feminists to regularize her union, especially once she became pregnant, and she finally submitted in 1875. Perhaps the most famous Victorian free union was that of George Eliot and G. H. Lewes, who were unable to marry: had he been able to get a divorce they presumably would have married, and she certainly acted as a benevolent stepmother to his sons.<sup>19</sup>

Ginger Frost has demonstrated that conscientious objectors to marriage were a distinct minority among those 'living in sin' in Victorian England. Apart from members of the unrespectable poor and criminal classes, to whom the legalities of marriage were a matter of indifference, many couples of a more respectable station were unable to marry either because one or other partner was unable to dissolve a previous union, or because they were within forbidden degrees of kinship (usually brother- and sister-in-law). Those who could afford to sometimes married abroad where the laws were more lenient, even though such marriages were not legally valid in England: others formalized the union bigamously. Frost also indicates that some men set up quasi-matrimonial



menages with women of a lower class who would not have been acceptable wives for their social position.<sup>20</sup>

Heterosexual marriage, as the only legitimate place in which sexual activity could take place, had a large degree of privilege within Victorian society – reflected in the reluctance to make any alteration in its terms and conditions. Yet small, significant changes were being made: the shrill anti-feminist and misogynistic tone of much Victorian writing on the ‘Woman Question’ has to be seen in the context of altering expectations of women and their changing status.

## **The Woman Question**

Very gradually, women (apart from those of the lower classes, who had always had to engage in paid work) were entering the economic marketplace and claiming the right to careers other than that of governess, although initially this was envisaged as only applying to women who failed to marry. That marriage did not obviate the necessity for earning money was apparent in the cases of, for example, several successful women writers who resorted to authorship in order to maintain invalid or incompetent husbands and other male relatives. A handful of women (several of whom married) engaged in the ultimately successful struggle to become doctors, Florence Nightingale and other reformers were claiming a role for nurses as skilled professionals rather than subservient handmaidens to male doctors, and women’s voices were raised in the cause of sanitary reform. The Post Office, the Civil Service, and some businesses, notably the Prudential Insurance Company, began to recruit ‘young ladies’ to undertake routine clerical tasks. Women were also actively campaigning for rights to political representation and to improved educational opportunities, and improvements in women’s status, both economically (through the Married Women’s Property Acts) and as mothers of children. In 1869 the Municipal Franchise Act allowed women to vote in municipal elections on exactly the same terms as men. By 1879, 70 women had themselves been elected to Local School Boards.<sup>21</sup>

The vision of Victorian households as monolithically patriarchal and accruing unmarried female relatives as dependents has been subjected to critique, and Gordon and Nair’s analysis of household composition in a suburb of Victorian Glasgow suggests that a significant proportion of middle-class establishments were headed by (widowed or single) women. They add further evidence to contest the idea of the Victorian (middle-class) woman as enmeshed in the private sphere, reclining on a sofa in a state of real or hysterical ill-health, arguing that the public and private were far from readily separable. The home itself was a permeable space, with sociability playing an important role, rather than a secluded haven of nuclear family privacy. Women were also advancing their rights to be heard in, and to have influence in, the public world, in some cases deploying the very doctrine of ‘separate spheres’ as a rhetorical tool for arguing that the values of ‘women’s sphere’ ought to be brought to bear on the world outside the home. The ways in which women were literally active outside the home, for example in various forms of voluntary work, as well as becoming

increasingly part of the urban landscape with the development of department stores and public amenities, and even engaging in business activities, are still sometimes overlooked.<sup>22</sup> The importance of female reputation, however, should not be underestimated. 'Respectability' remained an important asset, among the lower as well as the middle classes.

Chastity was regarded as the pre-eminent female virtue: however, the absolute dichotomy often posited between the chaste, sexless, 'good' woman and the promiscuous, sexual, 'bad' woman was rather more nuanced. Plenty of writers and authorities either implicitly or explicitly put the case for the desirability of the sexually responsive wife. The opinion of William Acton, the much-cited mid-Victorian medical authority on sex, that decent women seldom desired sexual gratification on their own account, but only submitted to please their husbands and achieve maternity was never universally accepted (and was a mere passing comment in Acton's analysis of the functions and disorders of the male). On the other hand, some historians suggest that far from being sexless, under the crinoline the Victorian female was a hot little number. While many Victorian women probably did manage to enjoy sex at least occasionally, the lack of effective contraception and the consequent frequency of (or fear of) pregnancy, the long-term effects of obstetric incompetence, the sexual fears, and probable ineptness as lovers of many Victorian middle-class males (and the brutality of males in all classes of which only the worst examples came to the attention of the courts) must have militated against any universality of sexual enjoyment.

There was something of a sliding scale between the 'good' and the 'fallen' woman: a strong case can be made for a concept of the retrievable fall. A woman who had once become the mother of an illegitimate child did not thereby lose all hope of returning to decent society, at least in the lower echelons. In some communities bearing a child might not even adversely affect chances of marriage, and society as a whole regarded the unfortunate once-fallen as a different case to the habitually promiscuous. As discussed in more detail below, women seduced under promise of marriage and subsequently jilted found courts sympathetic, as did unfortunates driven to infanticide. The Foundling Hospital specifically provided for the (first) children of unwed mothers, raped or seduced under promise of marriage, who found themselves unable to support themselves and a child.<sup>23</sup> Even William Acton, not usually regarded as particularly sympathetic to the plights of women, differentiated the 'young-housemaid or pretty parlour-maid' who 'with shame or horror bears a child to the butler, or the policeman, or her master's son' from 'streetwalkers and professional prostitutes', and advocated the employment of these unfortunates as wet-nurses to enable them to earn an honest living.<sup>24</sup> Much of the moral impetus behind the prostitute rescue movement came from a sense that many were unwilling recruits forced into the life by the severity of society towards a first slip.<sup>25</sup>

## **Victorian manhood**

The Victorian male has been far less studied than the Victorian woman, but a number of recent studies have begun to explore nineteenth-century paradigms

of masculinity. These were shaped not only by the basic division of gender – a man should eschew effeminacy – but by class and race. The middle-class Victorian man was supposed to be able to exercise control, not merely over others, but over himself, and to avoid falling into excess of any kind. Men were expected to have an appropriate degree of assertion and even aggression, but this was ideally to be kept in rational check (although assumptions about working-class masculinity tended to assume that they were less capable of this and thus more likely to be violent). Nash and Kilday suggest that press accounts of divorce and other aristocratic scandals drew on older shaming models as a middle-class critique of aristocratic and even royal manhood.<sup>26</sup>

John Tosh has depicted the rise of a domestic ideal. Marriage was already central to adult male status, but greater stress was being laid on the importance of home life for men working under increasingly alienated professional and business conditions. Tosh also suggests, however, that this ideal was in practice a source of significant tensions, and that by the 1870s the long interim between maturity and achieving a position to marry created a bachelor culture that some men were reluctant to eschew. Working-class men formed their identity around being good providers for their families and heads of households: this was, however, not only under constant threat from economic conditions but from increasing interventions by the state and voluntary bodies (such as the National Society for the Prevention of Cruelty to Children) into working-class homes and infringing upon their paternal rights.<sup>27</sup> ‘Manliness’ was an inherently unstable category.

There were still libertine subcultures with values counter to the above constructions of respectable masculinity. The Cannibal Club epitomized elite male privilege: it was ‘defined by wealth, education and social standing’. The members were able to travel widely, collect, consume, and catalogue rare and expensive volumes of pornography, even indulge perverse whims for books bound in human skin. Whatever their anthropological and scientific credibility, the members were aware of the potential to fall foul of the obscenity laws despite their status, so published anonymously or under pseudonyms in limited editions. Unlike a previous generation of pornographers, they had no wider agenda of political subversion. The Club embodied the privileged white male turning his scientifically classificatory (and possibly also lustful) gaze upon women and other races.<sup>28</sup> At a very different level, young men who desired to be ‘men about town’ consumed aspirational ‘sporting guides’, purporting to provide insider knowledge of the urban jungle and the sexual pleasures that might be found there.<sup>29</sup>

## **Sexual crimes**

In 1861 The Offences Against the Person Act incorporated various existing sexual crimes: ‘Rape, Abduction and Defilement of Women’, ‘Bigamy’, ‘Attempts to Procure Abortion’, ‘Concealing the Birth of a Child’, and ‘Unnatural Offences’. Rape was defined as a felony and severely penalized, and might incur life imprisonment (though the court had discretion to impose a lower sentence). However, the actual definition of ‘genuine’ rape was problematic.

Alfred Swaine Taylor's *The Principles and Practice of Medical Jurisprudence*, 1865 (first edition following the 1861 Act), mentioned 'false accusation' in the second paragraph of the relevant chapter, with the anecdotal claim that 'for one real rape tried in the circuits, there were on the average twelve pretended cases!' The medical witness was advised to note various phenomena extraneous to the medical examination in order to testify to the truthfulness or otherwise of the woman's tale. Even in the case of assaults on children with actual injury, a caveat was registered about the purposeful production of such signs 'for false charges... with a view of extorting money'. As for adult women, 'it does not appear probable that intercourse could be accomplished against the consent of a healthy adult', unless the woman were drunk, drugged, unconscious or hypnotized, set upon by more than one man, or terrorized by threat or duress or possibly 'if she falls into a state of syncope or is rendered powerless by terror and exhaustion'. Taylor did counter the belief that pregnancy could not result from genuine rape.<sup>30</sup>

Studies based on local juridical sources relating to rape and violence against women indicate that the kinds of evidence available and the ways in which sources were generated cannot answer questions about actual incidence or policing policy. There are problems of what women identified as rape, whether it was regarded as appropriate to take it into the legal system, and where sexual violence stood in the broader spectrum of male-female brutality. Above all, conflicting interpretations of the same act were generated by men and women. Given the degree of determination and courage needed for a woman to take a case to court, it seems improbable that this would be done with spurious charges as often as Swaine Taylor and his legal colleagues assumed. There were major problems of communication in the courtroom, with a substantial misfit between women's accounts and the demands and formulas of the legal structure. Both women and their assailants were judged on the basis of adventitious indications of 'respectability' or the reverse, and this had significant implications for whose account was believed.<sup>31</sup> Louise Jackson has meticulously documented the extent to which even children were believed to be mendacious about sexual assaults.<sup>32</sup>

Another legal theatre in which women's sexual lives were foregrounded was the civil action for breach of promise, in which women could sue men for reneging on a commitment to marry. While this action was regarded with some hostility by middle-class advocates of sexual equality, it provided a degree of protection for a vulnerable subgroup of women. Ginger Frost discovered that courts and juries were usually sympathetic to women of meagre economic resources who might have been kept waiting for years (losing the opportunity for other offers), been at the expense of a trousseau, had sometimes lent or given money to their supposed fiancé, and occasionally been seduced in anticipation of marriage. Issues of respectability were certainly at stake, but having succumbed to the advances of a cad in the belief that his ultimate intentions were honourable did not inevitably compromise claims to respectability. Why women gained sympathy in this context but not in that of rape is an interesting question. It may have been because the woman was not trying to put the man in prison, but wanted compensation for deprivation of what was regarded as

a woman's major asset, an appropriate marriage, and her wasted hopes. There was also a class aspect: the women who undertook these suits were mainly of a similar background and with the same value system as the men on the jury, and likely to arouse the protective and chivalrous instincts of the judge. Rape, however, was much more of a risk for lower-class women, who were less likely to share assumptions with the court.<sup>33</sup>

Legal and jury sympathy for pathetic disadvantaged women was also found in cases of infanticide. Very few of these ever resulted in a murder verdict, lawyers, judges, and juries equivocating with the exact terms of the relevant statute and the contested state of medical evidence, to bring in the lesser charge of concealment of pregnancy. As with the sympathy for jilted fiancées, there was a sense that these women were (largely) sad victims of irresponsible male seducers (against whom, under the 1834 Poor Law, they could not even claim affiliation orders<sup>34</sup>). Medical reformers, however, were inclined to view the problem as a sanitary question of preventable infant mortality and were thus hostile to this 'sentimental' attitude. Medical coroners were noticeably harsher in such cases.<sup>35</sup> While desperate women who murdered their illegitimate infants did receive significant leniency from the courts, men who murdered their illegitimate offspring out of fear of exposure or resentment against the mothers' demands for support were regarded with great severity by judges: issues of appropriate masculinity, that is, control of emotions, and taking responsibility, were at stake.<sup>36</sup>

### **'Unnatural' Offences**

Offences against the Person included 'Unnatural Offences' (rape, along with bigamy, carnally knowing young girls, procuring defilement of young girls, forcible abduction of women, etc., not to mention murder and assaults, presumably being 'natural'). Principal was the 'abominable Crime of Buggery, committed either with Mankind or with any Animal' (described in the margin as 'Sodomy and Bestiality'). It was assumed that everyone knew what exactly this consisted of, as it was not more specifically defined. The penalty was reduced from death to imprisonment for from ten years to life. Attempts to commit buggery, or assault with intent to commit same, or 'any indecent assault upon any male person' counted as misdemeanours with a maximum sentence of ten years (it is sometimes incorrectly stated that prior to the 1885 Criminal Law Amendment Act only buggery, i.e., anal intercourse, was actually penalized).<sup>37</sup> Swaine Taylor, after nearly thirty closely printed pages on rape, devoted two paragraphs, less than a page, to 'Sodomy, Bestiality'. These are surprisingly coy, never actually mentioning anal intercourse, following detailed accounts of lacerations, contusions, and discharges of the female genitalia and the significance of semen traces and how to look for them. 'This crime is defined, the unnatural connection of a man with mankind or with an animal...penetration alone [i.e., emission was not necessary] is sufficient to constitute it', and further on he remarks obliquely, 'the act must be in the part where it is usually committed...if done elsewhere it is not sodomy'. Lack of consent was not an issue (a consenting partner was equally guilty) and it was possible to commit 'this