# 4 Obscene . . . in a Certain Sense

Edward Duncombe was minding his bookshop in Upper St. Martin's Lane when a strange man came through the door. He wore a travelling cloak, as if he had just returned from a journey, and asked Duncombe for "some Songs and a catalogue of obscene Books for a friend in the Country."[1] Money was no object. He was willing to pay two or three guineas apiece for the books his friend was looking for. The stranger had come to the right place. Duncombe, 63, ran a brisk trade in smutty song books, and sold pornographic novels and prints under the name John Wilson. He had recently returned to his business after a two-year stint in Cold Bath Fields Prison, having made the mistake of selling one of those novels to a man who had visited his shop repeatedly, promising to pay an enormous sum.[2] That man had been an agent for the Society for the Suppression of Vice, Britain's longest-running anti-vice society. Duncombe had no appetite for another prison sentence. He told the stranger that he did not sell obscene books, or know anyone who did. The stranger was not discouraged. He returned to Duncombe's shop again and again, asking for specific titles: *The Confessions of Madame Vestris* (c. 1830), an epistolary account of youthful seduction and wedding-night bliss, and *Seraglio Scenes* (1830s), a harem fantasy "by the author of 'The Lusty Turk'."[3] Each time, Duncombe refused.

Duncombe's instincts had not failed him. One day, at the conclusion of yet another disappointing visit, the stranger did not slink away from the bookshop. Instead, he turned to the door and called out to a group of police officers waiting in the street. They crowded in. One of the officers instructed the old bookseller not to move, lest he handcuff him and "strap him down." Then a plain-clothes officer entered with an agent for the Society for the Suppression of Vice. Together, they ransacked Duncombe's shop, rifling through the drawers behind

[1] "Edward Duncombe, of 28 Little Andrew Street, Saint Martins Lane, Charged with Selling Obscene Prints: Defendant's Statements," April 16, 1856, MJ/SP/1856/006, LMA.
[2] "Court of the Queen's Bench, Dec. 7," *Globe*, Thursday, December 8, 1853, 4.
[3] "Edward Duncombe, of 28 Little Andrew Street." It may be significant that this agent's words – at least, as they were recorded by Duncombe – echoed phrases in Duncombe's sales catalogues. The police and anti-vice crusaders seem to have relied on sales catalogues to conduct stings. See Chapter 6 for another example.



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the counter and scattering books and papers everywhere. Try as they might, however, they "could not find any obscene or improper Books or Prints."[4] After the search was over, the plain-clothes officer turned to the Society agent and told him to take what he wanted. The agent took one last look around the shop. Eventually, he pocketed a handful of plates from behind the counter, and five or six books that struck Duncombe as unremarkable. "Commonly sold and exposed in Shop Windows," they included three medical titles: "Aristotle's Works, Physiology of Man, and Physiology of Woman." A few weeks later, in April 1856, Duncombe found himself in court, charged with distributing obscene material.

Duncombe had been selling cheap medical works for about twenty years. Among other things, he marketed them as titillating reading material. But would any judge or jury consider them obscene? Duncombe did not believe it. And if there is any truth to this story, which he submitted to support his defence at trial, the leaders of the Society for the Suppression of Vice shared his doubt. The Society did not present *Aristotle's Works*, *Physiology of Woman*, or, indeed, any of the books that Duncombe claimed its agent had seized from his shop as evidence of his crime. Instead, it presented the judge with a lavishly illustrated pornographic volume. The stranger, a paid witness for the Society named Blower Halden, claimed that Duncombe had sold it to him for thirty shillings after a friendly round of haggling. The book wasn't a plant, Halden added hastily: before he entered Duncombe's bookshop, "his pockets were searched by Sargent Thomas of the F. Division to see that he had no book about him, and when he came out he immediately handed the book in question to the officer, who was waiting in the street, and both marked it with their signatures."[5]

Who was telling the truth in this episode is less important than what it emphasizes about the status of cheap medical works on sexual matters at the time. They were assumed to attract prurient readers. Their authors and publishers could be harangued for pandering to those readers. They were sometimes marketed as titillating reading material. However, as the diverse, open trade explored in the previous chapters suggests, selling them was not considered a legal risk. The expansion of the print marketplace had certainly aroused anxieties that extended far beyond regular practitioners' concerns about its effects on the medical profession. Readers now despaired at how to navigate the sheer amount of published material available for sale.[6] The limits of publicly acceptable display also became a more frequent topic of debate. Together with manuals on venereal disease, reprints of old midwifery books, and works on female beauty, the publishing industry boom had made salacious

[4] "Edward Duncombe, of 28 Little Andrew Street."
[5] "Middlesex Sessions," *Times*, April 17, 1856, 11.
[6] Maurice S. Lee, *Overwhelmed: Literature, Aesthetics, and the Nineteenth-Century Information Revolution* (Princeton, NJ: Princeton University Press, 2019).

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penny papers, thrilling sensation novels, and gossipy news reports on divorce, inheritance, and sexual assault cases ubiquitous.[7] Stereoscopic slides of Parisian ballet dancers were being displayed in shop windows across London, and advertisements for nude photographs were beginning to trickle into the press.[8]

If the past few chapters have emphasized anything, it is that such materials were subject to a range of interpretations. The same medical work could be considered a shameless piece of self-promotion, a source of scientific knowledge, a means of moral instruction, a guide to a pleasurable sex life, convenient masturbation material, or some combination of these things. Victorian views about what was and was not beyond the limits of public display consequently diverged, sometimes in the extreme. For some Londoners, nude statues on display at the Crystal Palace, the site of Britain's 1851 Great Exhibition of the Works of Industry of All Nations, were grossly offensive. For others, a campaign to have the statues' genitals covered up was a cartoonish display of cultural ignorance.[9] There was only one cultural form that almost everyone, including publishers like Duncombe, agreed was obscene: unrelentingly explicit fiction like *The Confessions of Madame Vestris*, and the kinds of prints it was often packaged with. In a context in which laws against the display and distribution of obscene material existed, but a legal definition of obscenity did not, this meant that throughout the 1830s and 1840s prosecutions for obscenity overwhelmingly focused on pornography, the emergent, as-yet unnamed genre whose production and distribution Duncombe and his competitors were turning into an industry.

That pattern changed in the 1850s. Duncombe's 1856 trial did not surround medical works. However, it was bookended by a series of legal actions that ended in the destruction of cheap medical books and pamphlets and the shuttering of public anatomical museums on the grounds that they were obscene. This chapter examines these developments, and how they were driven by medical reformers' mounting concerns about consulting surgeons and public anatomical museums, and the Society for the Suppression of Vice's determination to shut the Holywell Street trade down. The mid-nineteenth century is often characterized as a watershed moment in which anxieties about print and sex set off a moral panic that established new standards for public display. The events examined in this chapter paint a different picture,

[7] Barbara Leckie, *Culture and Adultery: The Novel, the Newspaper, and the Law, 1857–1914* (Philadelphia: University of Pennsylvania Press, 1999); Thomas Boyle, *Black Swine in the Sewers of Hampstead: Beneath the Surface of Victorian Sensationalism* (New York: Viking, 1989).

[8] Lynda Nead, *Victorian Babylon: People, Streets, and Images in Nineteenth-Century London* (New Haven, CT: Yale University Press, 2000) .

[9] Jan Piggott, *Palace of the People: The Crystal Palace at Sydenham, 1854–1936* (London: Hurst, 2004), 52.

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one that affirms Katherine Mullin's recent argument that "the 'Victorian morality' supposedly encapsulated in the 1857 [Obscene Publications] Act and underscored in its 1868 refinement was something of a [modernist] fantasy."[10] They emphasize how tirelessly, and often ineffectually, small groups worked to whip up opposition to publications and displays that were widely tolerated, less out of concern for their specific effects on British citizens than out of opposition to particular kinds of businesses that had grown large and lucrative in the new age of mass print.

In examining how and why these groups argued that medical works were obscene in the hands of certain players, this chapter offers a picture of crystallizing strategies that would impact medical bookselling for decades to come, and influence how regular practitioners and, later, sex radicals contested and produced authority. Medical reformers made allegations of obscenity to undermine a kind of entrepreneur that they considered a threat to the medical profession and its members, while the Society for the Suppression of Vice embraced such allegations amid a flagging crusade against commercial vice culture. While gaps in the historical record make the Society's arguments difficult to access, medical reformers and some members of the judiciary supported these allegations by promoting contextual models of obscenity justified by paternalistic ideas about the reading capacities of women, children, and especially young men, the largest target audience of consulting surgeons and Holywell Street publishers alike. Medical works distributed in certain ways to certain audiences, they suggested, presented a danger to public morals in ways that they would not in other contexts.

By positioning the question of how a publication was being sold as crucial in obscenity cases, contextual models of obscenity addressed two obstacles that the groups I examine ran into. The first was the culture of reprinting and excerption that the Victorian print marketplace was built on, which meant that medical representations that these groups framed as obscene did not simply fall into roughly the same genre as works that they framed as legitimate. They were often very similar textually. The second obstacle was rapid crystallization of pornography's identity in the hands of a new, specialized body of producers. It did not yet have a name. Nevertheless, it was a media form that many people considered instantly recognizable by the 1850s, and it offered a standard against which works like *Aristotle's Masterpiece* would always be compared. The formulation of a legal "test of obscenity" in 1868, examined towards the end of the chapter, established commercial context as vital to determining obscenity in legal cases, affirming arguments examined in this chapter. As we shall see, the test's introduction did not necessarily sway public, governmental,

[10] Katherine Mullin, "Unmasking *The Confessional Unmasked*: The 1868 *Hicklin* Test and the Toleration of Obscenity," *ELH* 85, no. 2 (2018): 495–496.

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or judicial opinions as to whether medical works could fairly be called obscene. Many people were not convinced. However, its introduction would prove to be a significant turning point in the history of selling, and authorizing, sexual knowledge.

## The Trials of Prosecution

The origins of British obscenity law lie more than a century prior to Duncombe's trial, in an attempt to put the bookseller Edmund Curll in prison. Curll was known for publishing piracies, state secrets, and bawdy books, and tried to barter favour by acting as a political informant. His antics made him powerful enemies in the government, and by the middle of the 1720s they were determined to punish him. In 1725, the Crown had Curll arrested for selling "Lewd and Infamous Books." However, it found it difficult to establish that Curll had committed a crime. The works it presented to the court as evidence were *Venus in the Cloister, or, The Nun in her Smock* (1724), an English version of an anti-Catholic piece of French erotica, and *A Treatise on the Use of Flogging in Venereal Affairs* (1718), a translation of a Latin production framed as a medical treatise. Both works could be considered immoral, but, in England, neither counted as blasphemous, libellous, or seditious. Moral matters were dealt with in ecclesiastical courts under canon law, and Curll's counsel argued that common law had no jurisdiction in the case. Ultimately, a novel counter-argument prevailed and, in 1727, the common-law misdemeanour of obscene libel joined those of blasphemous and seditious libel. What made Curll's actions criminal, judges in the case decided, was that he dealt in *printed* works, which could be distributed "all over the kingdom." Curll's actions constituted a threat to public morality because his publications could spread around and "affect all of the King's subjects."[11]

Recognizing obscenity law's origins in an attempt to punish a single troublesome bookseller is helpful to understanding how it operated in England more than a century on. It did not ban books or censure authors, but targeted isolated acts of publication, display, or distribution. Its highly individualized applications meant that it was enforced very inconsistently and, as we shall see, enabled a certain amount of legal creativity: as in Curll's case, charges of obscenity were often driven by concerns that stretched beyond, and in some cases had little to do with, the works at issue. This origin story also helps explain the state's relatively hands-off stance on enforcement. Obscene libel's status as a misdemeanour rested on the argument that obscene material

[11] *Rex v. Curl* 1727, *English Reports* 93: 850–851. For a thorough account of Curll's career, arrest, and trial, see Paul Baines and Pat Rogers, *Edmund Curll, Bookseller* (Oxford: Oxford University Press, 2007).

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endangered all of the monarch's subjects. Yet, the government was never strongly invested in protecting them from it. While the police played an increasingly important role in obscenity cases during the nineteenth century, no public prosecutor was ever charged with bringing them to court. That task was mostly left up to private parties, who were welcomed to prosecute those who dealt in obscene material – and to shoulder the costs of doing so.

For most of the nineteenth century, the Society for the Suppression of Vice primarily enforced obscenity laws in England. On its establishment in 1802, the middle-class Anglican organization outlined some extraordinarily broad goals: it aimed to combat "profanation of the Lord's day and profane swearing; publication of blasphemous, licentious and obscene books and prints; selling by false weights and measures; keeping disorderly public houses, brothels and gaming houses; procuring; illegal lotteries; [and] cruelty to animals."[12] Suppressing so many forms of immorality proved impossible for the Society, whose use of *agent provocateurs* to catch vice in action made it so unpopular with the public that it perennially struggled to attract members. It drifted from campaign to campaign. At various times, it waged war on Sunday trading, blasphemy, racecourses, betting shops, West End prostitution, and sensational journalism, only to give up after a few years. There was one exception to this pattern: the Society's opposition to the Holywell Street trade. The Society had been a stalwart enemy of radical politics in the 1810s and 1820s, bringing fourteen actions for blasphemous libel against Richard Carlile and his family members, and it was a consistent opponent of the raucous trade in sexual material that grew out of radical circles.[13]

The Society's decades-long crusade against Holywell Street publishers was plagued by problems largely caused by the nature of obscenity law itself. One of the most significant was that prosecutions for obscene libel were expensive, time-consuming affairs. The Society relied on regular donations from a small number of wealthy patrons, including Eton College and the Dean of Westminster, and occasional bequests from deceased members to fund its activities.[14] It never had enough money to bring all the prosecutions it wanted to. Aiming to maximize their impact, it tended to target the most successful

[12] M. J. D. Roberts, "The Society for the Suppression of Vice and Its Early Critics, 1802–1812," *History Journal* 26, no. 1 (1983): 159. For further information about the Society and its history, see Roberts, "Making Victorian Morals? The Society for the Suppression of Vice and Its Critics, 1802–1886," *Australian Historical Studies* 21, no. 83 (1984): 157–173 and Colin Manchester, "Obscenity Law and Its Enforcement in the Nineteenth Century," *Journal of Legal History* 2, no. 1 (1981): 45–61.

[13] "Society for the Suppression of Vice (U.K.)," in *Encyclopedia of Censorship*, eds. Jonathon Green and Nicholas J. Karolides (London: Infobase, 2014), 521. See William St. Clair, *The Reading Nation in the Romantic Period* (Cambridge: Cambridge University Press, 2004), 313 for further details about the Society's pursuit of Carlile and his family.

[14] See Society for the Suppression of Vice account records (1802–91), HBM; Manchester, "Lord Campbell's Act," 225.

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Holywell Street publishers. All told, it prosecuted William Dugdale nine times. As the fact that the Society repeatedly prosecuted Dugdale suggests, however, its actions had little practical impact. According to the Society, the number of shops known for selling sexual material in London did fall from nearly sixty in the 1830s to about twenty by 1850.[15] However, the massive expansion of Holywell Street newspaper advertising over this period suggests that if this is true, it probably had less to do with the Society's prosecutions than it did with the increasing popularity of postal retailing, and the dominance that Dugdale, Duncombe, and a few other figures came to exert over the trade.

Why were the Society's prosecutions so ineffectual? People often speculated that Holywell Street publishers got charges against them dropped or dismissed by calling on friends made in high places through their trade in luxury pornography. A former compositor of Dugdale's claimed to have bumped into him at his shop just a few months after he had been sentenced to two years in prison.[16] However, it appears that the main problem was, again, the law itself, which did not have the capacity to ban books, nor destroy businesses. A bookseller could be fined or sent to prison for up to two years for distributing obscene publications, and the state could destroy his copies of the works at issue. However, new editions of the same works could and did freely enter the market, as competitors capitalized on the free publicity that obscenity trials generated. In many cases, as the Society's secretary, Henry Pritchard, complained in 1857, Holywell Street publishers' families continued to run their businesses while they were in prison, sometimes issuing copies of the same works they had been prosecuted for selling. These offences would have to be dealt with separately to get the works off the street.[17]

The Society had enduring faith that more legal action would resolve these problems, and repeatedly lobbied Parliament to pass legislation to make it less expensive and more expedient. Thanks to these efforts, a clause in the 1824 Vagrancy Act banned the exposure of "any obscene print, picture, or exhibition" "in any street, road, highway, or public place," and enabled offenders to be summarily tried before a magistrate.[18] Unfortunately for the Society, the clause did not cover material displayed in shop windows (a shop window was not legally a public place), nor material sold inside a bookshop. Prosecution for obscene libel remained the Society's only recourse in these cases. More lobbying eventually secured clauses in the 1838 Vagrancy Act, which made displaying obscene articles in windows an offence, and the 1839 Metropolitan Police Act, which enabled the police to take sellers of obscene articles into

[15] HC Deb August 12, 1857, vol. 147, col. 1480.
[16] Thomas Frost, *Reminiscences of a Country Journalist* (London: Ward and Downey, 1886), 54.
[17] HL Deb June 25, 1857, vol. 146, col. 328.
[18] Quoted in Colette Colligan, *The Traffic in Obscenity from Byron to Beardsley: Sexuality and Exoticism in Nineteenth-Century Print Culture* (Basingstoke: Palgrave Macmillan, 2006), 11.

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custody without a warrant. These developments fostered cooperation between the Society and the Metropolitan Police force, and, at first, they enabled more prosecutions.

However, Holywell Street publishers were nothing if not adaptive. Dugdale baited the Society on at least one occasion by displaying racy prints affixed with strategically placed labels in his shop windows, but most cleaned up their window displays.[19] The Society did not consider this much of a victory. Its goal was to kill the trade itself. To keep prosecutions going, it fell back on an old trick: paying young men to visit Holywell Street publishers' shops and purchase items that could be used as evidence for prosecutions. Holywell Street publishers soon caught on. Suspected agents were sent away with bawdy songsters and other merely suggestive material. Recognized agents were packed off with religious pamphlets. By the middle of the 1840s, the Society and its allies in the police force had taken to using the bawdy material to apply for warrants to search their shops for explicit publications. Once again, Holywell Street publishers adapted. They concealed their explicit productions and kept their eyes peeled for police officers. In 1851, one of Dugdale's shopboys recognized officers approaching his shop at no. 37 Holywell Street, locked them out, and dashed to Dugdale's second shop at no. 16 Holywell Street. By the time the police arrived at no. 16, a mass of books and prints was burning in the fireplace.[20]

The difficulty of procuring evidence to prosecute Holywell Street publishers was deeply frustrating to the Society and its allies in the police force. In their zeal to crack down on the Holywell Street trade in the face of its seemingly unstoppable expansion, they began to ignore the letter of the law. In March 1856, shortly after the alleged ransacking of Duncombe's shop, John Stanton, an agent for the Society, and seven police officers stormed into Dugdale's house while he was out on business. They did not have a warrant to search it. Nevertheless, as a "great crowd" looked on from the street, they did so and seized thousands of books, prints, and stereotype plates on the grounds that they were obscene. Dugdale was incandescent with fury. He was also prepared. William F. Howe, a legal clerk he had hired to get him out of Cold Bath Fields Prison a few years earlier, had been at the house in his absence. With Howe's assistance, Dugdale sued Stanton for entering his residence and seizing his property. The police raid had been illegal, Dugdale argued, and Stanton's actions had been burglary. This time, Dugdale had the law on his side.[21]

[19] "The Queen v. William Dugdale the Elder," MJ/SP/1850/05/010, 2, LMA.
[20] "The Abomination of Holywell-Street," *Morning Advertiser*, September 25, 1851, 6.
[21] "Court of the Exchequer," *Reynolds's Newspaper*, July 13, 1856, 16. For information about Howe, whose later career in New York rivalled Dugdale's for notoriety, see Richard H. Rovere, *Howe and Hummel: Their True and Scandalous History* (New York: Farrar, Strauss, 1947).

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The lawsuit embarrassed the Society, the police, and the judiciary. Dugdale and his supporters dredged up mishandling of previous obscenity cases, boldly defended his trade in explicit literature, and ridiculed the Society's claim that all of the items seized in the raid were obscene. Acting as a witness, one of Dugdale's daughters, Frances Thornhill, testified that she – a married woman with three children – did sell "what you [the judge] call obscene books" at her father's shop. However, she declared, "I do not call 'Fanny Hill' obscene. Coloured figures of naked men and women are in that book, but you can also see them at the Crystal Palace." Watchers in the court gallery laughed. Seeing that the judge was unconvinced by Thornhill's views on Dugdale's edition of John Cleland's *Memoirs of a Woman of Pleasure*, Howe took the argument in a more conciliatory direction. He hastened to agree that the work was indecent. But, he pointed out, Stanton and the police had illegally seized "some thousands [of works] . . . which are not so. There are the 'Sam Hall' song books, for instance, with Mr. Robson in *Villikins* (laughter); the 'Fifteen Comforts of Matrimony,' by Sheridan; Dr. Culverwell's works; Lord Byron's 'Cain'; 'Animated Legs'." The gallery roared with laughter.[22]

Howe found support on the witness stand as well as in the gallery. An arbitrator called by the court, a Soho stereotype founder, agreed with Howe's assessment of Dugdale's publications. Having sifted through the mass of books, prints, and stereotype plates seized from Dugdale's house, the founder declared that the "only obscene works amongst it are 'Fanny Hill,' 'Scenes in a Harem,' 'The Trial of Roger for a Game at Romps' and the 'Adventures of a Bedpost'," all well-known erotic titles. "The remainder," he opined, "are mostly medical works and facetious, humourous tales, but are not obscene or indecent."[23] Dugdale won his suit. But the Society refused to back down. It pushed on with its actions, and with lobbying of government. The following year, seizing property suspected of being obscene became legal, and the raid on Dugdale's shop became a model for action against the Holywell Street trade. This shift in strategy brought works like *Aristotle's Masterpiece* and R. and L. Perry & Co's *The Silent Friend* to the centre of courtroom debates about the boundaries of obscenity law.

## Medical Works in Court

The Society for the Suppression of Vice found a saviour in the Lord Chief Justice, John Campbell: a man who was both an active politician in the House of Lords and a judge who had ruled for the Society in many obscenity cases over the years.[24] In May 1857, Campbell presided over two obscenity trials.

[22] "Court of the Exchequer," *Reynolds's Newspaper*, 16.
[23] "Court of the Exchequer," *Reynolds's Newspaper*, 16.
[24] For instance, see "Court of the Queen's Bench, Dec. 7," *Globe*, 4.

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One was yet another trial for William Dugdale, who was charged with selling "prints of an indecent nature" and an "obscene and disgusting book."[25] The proceedings were memorable. After recounting Stanton's actions the previous year and suggesting that lines in Campbell's staid chronicle *Lives of the Chancellors and Keepers of the Great Seal in England* (1848–50) were grossly indecent, Dugdale cried that he had not had a fair trial, brandished a knife, and threatened to commit suicide on the spot. But the trial that lingered in Campbell's mind was that of William Strange, another printer, publisher, and bookseller connected with radical politics, for selling *Paul Pry*, a flash penny paper that spun its stories about sexual scandal as a campaign to expose metropolitan vice.

Like other flash papers, *Paul Pry* was suggestive, but not sexually explicit. The Society's decision to target a periodical of such "low-level smuttiness" has been interpreted as a sign of its determination to draw a firm "distinction between acceptability and unacceptability" in print culture.[26] The Society certainly found the paper's adoption of its anti-vice rhetoric as a fig leaf for publishing courtesan biographies offensive. However, it is doubtful that it targeted *Paul Pry* solely for its content. Flash papers frequently promoted and were sometimes backed by Holywell Street publishers. *Paul Pry* was printed at Strange's address for a pseudonymous proprietor, and the only person who advertised in it was William Dugdale, who used the paper to spread word about his "extensive Catalogue of Rare and Curious Works."[27] The Society convinced Campbell that comparatively innocent works like *Paul Pry* could be moral poison, and opened his eyes to how interwoven trade in such works was with trade in pornography.[28] Watchers in the court gallery had laughed at the

[25] "Law Intelligence," *Morning Chronicle*, May 11, 1857, 8.

[26] Nead, *Victorian Babylon*, 221.

[27] "Advertisement: Now Publishing," *Paul Pry*, October 11, 1856, 8. It is impossible to know what was really going on in this case. It is unclear whether the William Strange involved was William Strange the elder, a contemporary of Dugdale's, or his son, William Strange the younger. Dugdale may or may not have been involved in *Paul Pry* beyond advertising in it. The only other periodicals I have seen in which Dugdale was the sole advertiser were those he published, but the pseudonym under which *Paul Pry* was issued, Richard Martin, was not identified with Dugdale. Given that the Society never attempted to prosecute figures like William West, a radical publisher-bookseller known for his trade in bawdy material, my guess is that the Society believed that *Paul Pry* and Strange were connected with the pornography trade, a charge that Strange denied in court. For a record in which Strange addressed the idea that he was connected with the "Holywell-street gang," see "The Queen v. Strange," *Saint James's Chronicle*, May 12, 1857, 1. On the question of which Strange was involved, see John Adcock, "A Strange Story – William Strange of Paternoster Row," *Yesterday's Papers*, accessed February 19, 2024, https://john-adcock.blogspot.com/2014/05/a-strange-story-william-strange-of.html. On West's free trade in bawdy material, see Ed Cray, "Introduction," in *Bawdy Songbooks of the Romantic Period: Items Published by William West* (1836–42), ed. Ed Cray (London: Routledge, 2022), xxix–xxxvi.

[28] See "The Queen v. Strange," *Saint James's Chronicle*, 1; Campbell's words in HL Deb May 11, 1857, vol. 145, col. 103; and his discussion of Dugdale's business in HC Deb July 9, 1857, vol. 146, col. 1152.

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idea that Dr. Culverwell's works were obscene. However, such works were a means through which young men were encouraged to seek out immoral pleasures – and purchase reading material that few Victorians would hesitate to call obscene.

Speaking of the matter in the House of Commons, Campbell cited Dugdale's translation of Alexandre Dumas the younger's romantic novel *La Dame aux camélias* (1848), which the bookselling firm W. H. Smith was then selling across the country in its popular railway bookstalls. Although he personally considered Dumas's novel "of a polluting character," Campbell admitted that few people would consider the novel obscene. However, he pointed out, Dugdale's translation was bound with a catalogue that advertised nearly a hundred publications, "most of which" were cheap and, he opined, "of a very abominable description indeed."[29] A copy at the British Library lists a mixture of pornographic novels, prints and albums, bawdy song books, night guides, medical works, and French letters for sale.[30] The catalogue transformed Dumas's novel into a gateway to iniquity. Advertisements for inexpensive editions of *Fanny Hill* and *The Adventures of a Bedpost* – works which, Campbell pointed out, had been found obscene in court – appeared at the top of its very first page. "What [is] the remedy for all this," he asked, "and how [is] the evidence to be procured?" The Society had told him of the difficulty it had in getting its hands on works like *The Adventures of a Bedpost*.[31]

Campbell's answer was a bill, drafted with the Society's help, that was designed to create exactly what it wanted in the wake of Dugdale's embarrassing lawsuit: a law that would enable the police to seize and destroy obscene material on sworn testimony that it was being sold to the public. Like the clauses in the Vagrancy Acts and the Metropolitan Police Act, Campbell's Obscene Publications Bill did not specify what obscene material was. Unlike those pieces of legislation, sellers whose property was searched and publications were destroyed would have no recourse to a hearing.[32]

The bill horrified many members of Parliament. Some members of the House of Lords argued that in failing to spell out what constituted obscenity, Campbell was making way for the destruction of great art and literature. Before long, an over-zealous police officer would surely mistake a classical nude for an indecent print.[33] In the House of Commons, debate centred on a different

[29] HC Deb July 9, 1857, vol. 146, col. 1152.
[30] See "Works Sold by H. Smith," in Alexander [*sic*] Dumas, *The Lady of the Camelias* [*sic*] (London: Henry Smith [William Dugdale], c. 1855), C.194.a.447(1), BL.
[31] HC Deb July 9, 1857, vol. 146, col. 1152.
[32] See Colin Manchester, "Lord Campbell's Act: England's First Obscenity Statute," *Journal of Legal History* 9, no. 2 (1988): 223–241 for a more thorough discussion of the Obscene Publications Bill's design and its passage through Parliament.
[33] HL Deb June 25, 1857, vol. 146, col. 328. Nead, *Victorian Babylon*, 193 offers an extended analysis of this argument.

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problem: Campbell's bill invited deliberate abuses of the law. Leaving the term "obscene" undefined, some MPs argued, would incite a flood of frivolous lawsuits. Recalling Dugdale's recent performance in court, one predicted that the "literary works of Lord Campbell himself – his *Lives of the Lord Chancellors* . . . would be made the subject of prosecutions."[34] Others worried that frustrated authorities would exploit the bill's provisions to search the property of people suspected of committing other crimes. And others were certain that competitors would use them to attack each other. The MP Richard Monckton Milnes reported that booksellers "entertained a well-grounded fear that, in a trade in which so much competition existed, the Bill, if passed, would enable any man, hostilely disposed towards them, to . . . declare upon an oath, that he knew they had some obscene books in their possession," a claim that could lead to a raid on their businesses and, potentially, the unwarranted destruction of their stock.[35] Campbell aimed to kill a cancer on the book trade, but his cure would poison the industry.

None of these objections was unfounded.[36] But Campbell was stubborn. Although he eventually altered the bill so that a magistrate, judge, or justice of the peace would decide whether works seized by the police were destroyed, and although he insisted that the bill was intended to apply "exclusively to works written for the single purpose of corrupting the morals of youth" – which ensured that it passed in August 1857 – he refused to define the term "obscene."[37] Why? Some scholars have suggested that Campbell, the Lord Chief Justice, was naïve and thought that obscenity was self-evident; others, that he thought defining obscenity too difficult to accomplish without endangering his bill. However, Campbell's zeal to rid England of Holywell Street publishers, and his knowledge of how they operated, suggests a third possibility: Campbell knew that leaving the term open to interpretation was the only way to have a chance at destroying the Holywell Street trade. In isolation, few people considered many of the works that Dugdale sold obscene. He took care to conceal works that were widely seen as offensive from the authorities – and

[34] HC Deb August 12, 1857, vol. 147, col. 1479

[35] HC Deb August 12, 1857, vol. 147, col. 1480. Scholars often do not take Milnes's remarks seriously because he was a collector and author of expensive pornography and thus had a personal interest in blocking Campbell's bill. However, as the next chapters suggest, these remarks were perceptive.

[36] Radicals charged with blasphemous libel had previously sued respected publishers for blasphemous libel in protest. Campbell presided over some of the proceedings. See Jim Cheshire, *Tennyson and Mid-Victorian Publishing: Moxon, Poetry, Commerce* (Basingstoke: Palgrave Macmillan, 2016), 40. Moreover, business owners often weaponized allegations of immorality to attack competitors. For instance, see Lee Jackson's account of skirmishes between brewers and owners of gin palaces in *Palaces of Pleasure: From Music Halls to the Seaside to Football, How the Victorians Invented Mass Entertainment* (New Haven, CT: Yale University Press, 2019), 21, 70–84.

[37] HL Deb June 25, 1857, vol. 146, col. 329.

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should they be destroyed, he could sell other material until he could reprint them and use it to advertise them. If the Society found magistrates who could be swayed by the argument that material other than pornography was dangerous in the wrong hands, however, it could strike a much larger blow at his and his competitors' businesses.

That is, at least, what that Society seems to have attempted immediately after the passing of the Obscene Publications Act. Historians often claim that no judgments on works "other than pornographic material" were passed under the Act until 1868, over a decade after it came into effect.[38] However, court records of obscenity trials rarely indicate which titles came under scrutiny, a policy meant to avoid giving them publicity. Since journalists were not bound to conceal titles or refrain from describing the works at issue, newspaper reports often fill in these details.[39] Reports on the raft of obscenity trials that followed the Act's passage in the autumn of 1857 and the spring of 1858 suggest that at the direction of the Society the police systematically raided publishers' and booksellers' shops and warehouses in and near Holywell Street, indiscriminately seizing the stock of players whose main business was sexual material and players who probably sold just a few explicit works alike. The Society then asked magistrates presiding over the cases to order the destruction of many works that would not previously have been considered likely to justify obscenity charges, including medical works.

Reports of the proceedings illustrate serious disagreement over whether these works could fairly be called obscene, not least between the Society and the people whose businesses had been raided. Book trade workers did not bother to defend pornography in these cases. Typical defences for selling an explicit novel or print were that the seller had acquired it in a bulk purchase from another bookseller and not known what it was, or that a Society agent had pressured the seller to procure it. The only possible exception to this pattern was Sydney Powell, a bookseller who challenged the court to prove that stereoscopic slides that he insisted were "intended for medical men . . . and in no respect more indecent than the exposure of living models in our schools of art" were obscene. If the court could assure him "of the point at which the line could be drawn" between science and obscenity, he swore, "he would pledge

[38] Manchester, "Lord Campbell's Act," 234. See also Katherine Mullin, "Poison More Deadly than Prussic Acid: Defining Obscenity after the 1857 Obscene Publications Act (1850–1885)," in *Prudes on the Prowl: Fiction and Obscenity in England, 1857 to the Present Day*, ed. David Bradshaw and Rachel Potter (Oxford: Oxford University Press, 2013), 15.

[39] To reconstruct obscenity trials, I compared all identifiable reports on the trials cited here and in subsequent chapters in *British Library Newspapers 1800–1900, 19th Century UK Periodicals*, Part I, and *British Newspaper Archive* in addition to examining official court documents. For further information about crime reporting during this period, see Judith Rowbotham and Kim Stevenson, eds., *Criminal Conversations: Victorian Crimes, Social Panic, and Moral Outrage* (Columbus, OH: Ohio State University Press, 2005).

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himself to observe the law."[40] Medical books and pamphlets, however, were given a real defence. Sellers protested that such works offered valuable information, had freely circulated for decades, and were being sold in respectable shops all over London. On those grounds, they were clearly not obscene.

At first glance, news reports suggest that these arguments were ineffective. James Thornhill (Dugdale's son-in-law), Edward Morris, Charles Paul, William Winn, and Henry Blacketer each protested when they appeared to summons in the autumn of 1857 that their medical works were "perfectly correct" instructional volumes, only to see them destroyed.[41] Some magistrates seem to have been as eager to destroy their stock as the Society. In one case, in which several booksellers protested the Society's characterization of *Aristotle's Masterpiece* as an obscene publication, the magistrate roared that "the title page alone was enough to condemn the book."[42] Others wrestled with the decision. The magistrate Robert Phillip Tyrwhitt mused that "there were certainly some very indecent things" in an unnamed medical work sold by Blacketer, and that they "were certainly very dangerous to youth," but, being at least "half-medical," the work must have some scientific value. Yet perhaps, Tyrwhitt reasoned, "the medical was only used for the purpose of selling the books." The "book before him was never read by young surgeons." Ultimately, he justified condemning the work to destruction by citing concerns about its circulation. It may have scientific value, he conceded. Yet, Blacketer sold it "into the hands of raw, inexperienced youths." The fact that Blacketer was selling the book to inappropriate readers turned necessary scientific detail into gratuitous representation.[43]

However, some news reports suggest that other magistrates rejected the idea that medical works, or at least some medical works, were obscene. For instance, Winn's expression of bewilderment over what booksellers "may sell and what [they] may not" on one of his court appearances suggests that some magistrates thought medical works put before them unobjectionable, so debates about them never took place in court, or were not reported:

> [A] work called *The Silent Friend*, which was seized last time, and had been returned as unobjectionable, was now seized again. Then *Aristotle* was condemned, but now they had brought out a new edition, which they thought unobjectionable. In fact, *Curtis on Manhood*, which had been returned, had been transmogrified into *Aristotle*, which had

[40] "Police Intelligence," *Morning Chronicle*, February 18, 1858, 8.
[41] "The Hollywell-Street Nuisance," *Morning Chronicle*, October 14, 1857, 7; "Police Courts: Bow Street," *Daily News*, November 21, 1857, 6; "Police Intelligence: Bow Street," *Morning Post*, November 21, 1857, 7; and "Seizure of Indecent Publications," *Morning Chronicle*, November 27, 1857, 3.
[42] "Police Intelligence," *Morning Post*, November 21, 1857, 7.
[43] "Seizure of Indecent Publications," *Morning Chronicle*, 3.

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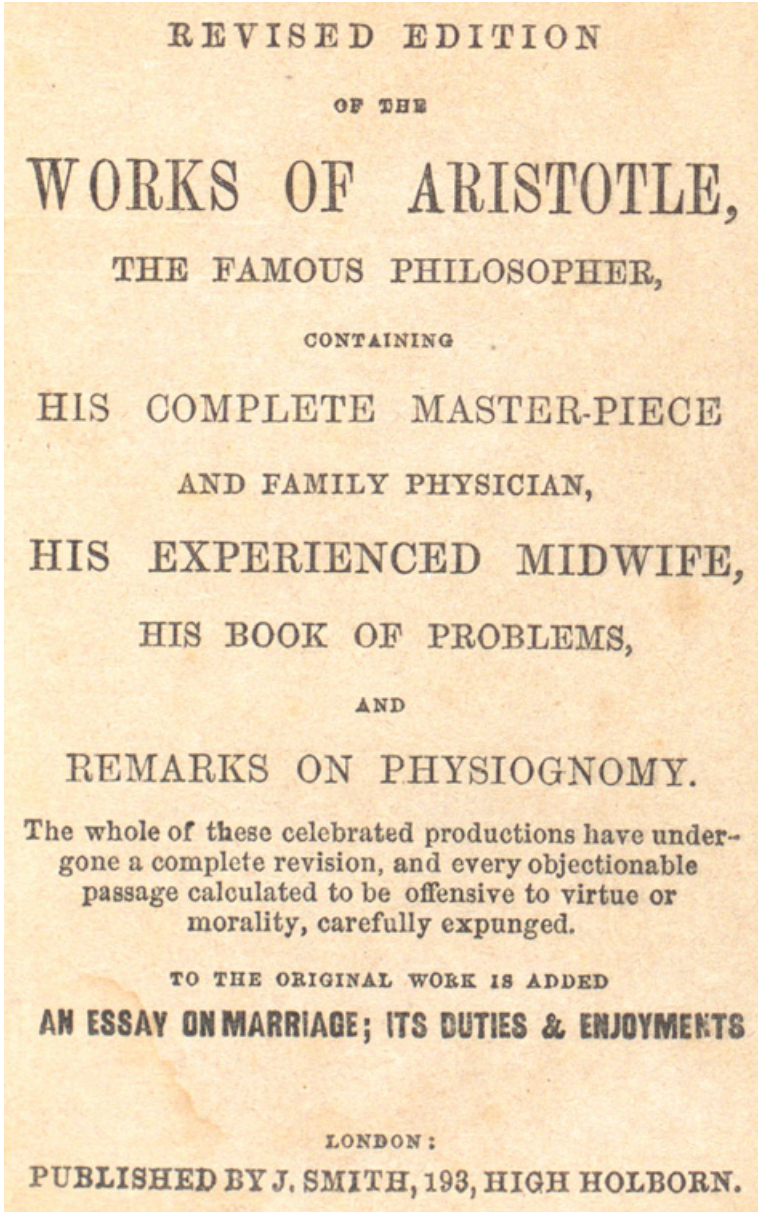
been condemned. (Laughter) The magistrate would, therefore, see all they wanted to do was to "keep within the law."[44]

It is also clear that some judges considered even measured decisions like Tyrwhitt's wrongheaded. In November 1857, Justice John Taylor Coleridge spoke out against the "misdirection of the provisions of a statute, doubtless well intentioned, but not therefore the less dangerous."[45] In Coleridge's view, the intended and rightful target of the Obscene Publications Act was trade in pornography, and men of his station knew pornography when they saw it: "common sense," he claimed, enabled them to identify publications whose object was to "excite depraved passions." However, "it was not uncommonly said that this or that picture of some great artist . . . might properly form the subject of a prosecution . . . and it was very easy for ingenious persons to deceive themselves, and perhaps others, by such a tone of argument." Echoing earlier debates in Parliament, Coleridge raised the spectre of a scenario in which Holywell Street publishers turned "the table on the public by prosecuting [such] works and publications under the colour that they are of the objectionable kind." They might claim that an artist's statue of Eve at the fountain in John Milton's *Paradise Lost* was obscene, and prevail on the basis that works of a similar character – works that could be misused by people with "impure mind[s]," but whose purpose was not to excite the passions – had been condemned. This would surely undermine public faith in the law. "Instead of looking at an isolated passage or picture," he argued, magistrates must "look at the book itself, and see whether the general object of it was of the kind represented in the indictment." "Take any medical or surgical book," he went on. Such a book could be misused, of course, but everyone "knew that the author, in dealing with his subject, must tell things for the sake of instruction."[46]

In this uncertain environment, as Winn's comments suggest, some publishers aimed to make it harder for the Society to argue that their medical works were obscene. The title page of one 1857 edition of *Aristotle's Masterpiece* declares that "the whole of these celebrated productions have undergone a complete revision, and every objectionable passage calculated to be offensive to virtue or morality, carefully expunged" (Figure 4.1). Its preliminary Advertisement, dated November 1857, repeats the message, claiming that expurgation has rendered the manual "instructive and entirely free from offence":

[44] "Keeping within the Law," *Bell's Life in London*, November 15, 1857, 8.
[45] "The objection we made to the *Obscene Publications Act*," *Law Times*, November 14, 1857, 110.
[46] "Mr. Justice Coleridge on Obscene Publications," *Beverley and East Riding Recorder*, November 14, 1857, 3.

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REVISED EDITION

OF THE

WORKS OF ARISTOTLE,

THE FAMOUS PHILOSOPHER,

CONTAINING

HIS COMPLETE MASTER-PIECE

AND FAMILY PHYSICIAN,

HIS EXPERIENCED MIDWIFE,

HIS BOOK OF PROBLEMS,

AND

REMARKS ON PHYSIOGNOMY.

The whole of these celebrated productions have undergone a complete revision, and every objectionable passage calculated to be offensive to virtue or morality, carefully expunged.

TO THE ORIGINAL WORK IS ADDED

AN ESSAY ON MARRIAGE; ITS DUTIES & ENJOYMENTS

LONDON:

PUBLISHED BY J. SMITH, 193, HIGH HOLBORN.

Figure 4.1 Title page with disclaimer. *Revised Edition of the Works of Aristotle, the Famous Philosopher* (London: J. Smith, [1857]). By courtesy of Michael and Anne Bull.

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The odium in which the book has been held by the moral and virtuous, does not apply to the present edition. That which was good and useful has been retained, and that only; the omission being supplied by new matter of an interesting and valuable character.

No one can be more anxious than the Publisher to put an end to the shameful traffic in immoral or obscene books. At the same time, no one can be better aware of the fact, [*sic*] that such books command a large circulation. To supply a good and moral edition of a work hitherto accounted the reverse of either, is, he believes, both good and useful. With this object in view, he issues the present edition of *Aristotle*, as he is able to state with confidence that it contains nothing unchaste or impure.[47]

This edition of *Aristotle's Masterpiece* is, indeed, one of the more buttoned-up versions of the manual, in which the original introductory Masterpiece, which describes puberty and the first stirrings of sexual desire, has been replaced with an essay on "Marriage: Its Duties and Enjoyments," which appears to have been cobbled together out of excerpts from various literary works, conduct books, and Nicholas Venette's *Conjugal Love*.[48] Many of this edition's differences from the 1684 *Aristotle* predate the Obscene Publications Act's passage. It may not really have been censored for the occasion. However, a reference in its chapter on "Monstrous Births" demonstrates that an editor did work on the text after the Obscene Publications Act was passed. Here, a brief description of the hirsute body of Julia Pastrana, an indigenous Mexican woman who was exhibited as "the Bear Woman" and "the Nondescript" in London in August 1857, joins descriptions of other "living curiosities."[49] According to the text, Pastrana's exhibition took place "a few weeks ago." While updating this section, an editor may have deleted material that they considered likely to support obscenity charges.

Luckily for those who issued copies of *Aristotle's Masterpiece*, the manual and other cheap medical works vanished from the courts when the Holywell Street raids ended in 1858. The Society was satisfied with what it had accomplished, and so was Campbell. "Holywell-street, which had long set law and decency at defiance, has capitulated after several assaults," he wrote gleefully in his diary. "Half the shops are shut up, and the remainder deal in nothing but

[47] *Revised Edition of the Works of Aristotle* (London: J. Smith, 193, High Holborn, 1857), de.24.07306, BL.

[48] For possible sources, compare *Revised Edition*, 26, with Robert Pollack's poem *The Course of Time* (Edinburgh: William Blackwood and T. Cadell, 1827); *Revised Edition*, 31, with Robert Charles Dallas, *Elements of Self-Knowledge; Intended to Lead Youth into an Early Acquaintance with the Nature of Man* [. . .]. (London: B. Crosby, 1805), 255; *Revised Edition*, 39, with *A Manual of the Etiquette of Love, Courtship and Marriage* (London: Thomas Allman, 1853), 53; *Revised Edition*, 40, with "Hood on Matrimony," *Harper's Weekly*, August 8, 1857, 510; and *Revised Edition*, 17–18 with Nicholas Venette, *Conjugal Love; or, The Pleasures of the Marriage Bed* [. . .]. (London: Printed for the Booksellers, 1750), 150–151.

[49] *Revised Edition*, 57. For further information about Pastrana and her life, see Nadja Durbach, *Spectacle of Deformity: Freak Shows and Modern British Culture* (Berkeley: University of California Press, 2009), 107.

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moral and religious books!"[50] The actions of 1857–8, which Campbell compared elsewhere to the 1857 siege of Delhi, did deal a massive blow to the Holywell Street trade. However, their effects were mostly temporary. Aspects of the trade, and of London's low culture more broadly, were permanently diminished. Although Duncombe and Dugdale carried on selling sexual material well into the 1860s, they advertised in a narrower range of venues, and the raucous commercial culture promoted by flash papers like *Paul Pry* faded along with flash papers themselves.[51] But new players and new forms of entertainment seamlessly filled their place. Businesses oriented around the sale of explicit photographs and stereoscopic slides had begun to emerge in the 1850s. By the early 1860s, they were booming.

Adolphus Henry Judge, alias Adolphus Henry Delplangue, was known as "one of the most extensive and crafty dealers in these publications . . . the king of the trade."[52] Judge and his four brothers – one of whom was married to Dugdale's daughter Jessie – created thousands of explicit photographs out of premises in Kentish Town, London.[53] They sold them to customers hearkening from "all classes of society" and "all parts of the country" by post under a variety of trade names, including Delplangue & Co, Megret & Co, Hall & Co, and Rozez, Janin, and Humbert, and probably supplied third-party dealers on a wholesale basis.[54] Like Dugdale a few years earlier, Judge advertised widely in the press. His advertisements often indicated that his images were taken "from life" or "from nature," euphemisms for nudity that served as shorthand for such photographs in advertisements through the rest of the century. In some venues, Judge was more daring: an 1863 notice in *Herapath's Railway Journal* informs readers that Delplangue & Co sold "erotic photographs" alongside the novels of the Marquis de Sade.[55]

As that advertisement suggests, while such pornographers did not deal in the same variety as Holywell Street publishers, they typically offered a handful of explicit novels and medical works alongside visual material, as well as French letters. *Aristotle's Masterpiece*, *Every Woman's Book*, and *Fruits of Philosophy*

[50] Quoted in M. J. D. Roberts, "Morals, Art, and the Law: The Passing of the Obscene Publications Act, 1857." *Victorian Studies* 28, no. 4 (1985), 626–627.

[51] Dugdale died in prison in 1868. There is no record of Duncombe's death, but his trail vanishes in the mid-1860s.

[52] Quoted in Peter Mendes, *Clandestine Erotic Fiction in English, 1800–1930*, 2nd ed. (London: Routledge, 2016), 443.

[53] Sheryl Straight, "The Judge Brothers," *The Erotica Bibliophile*; accessed February 19, 2024, www.eroticabibliophile.com/; "Extraordinary Charge of Libel," *Morning Advertiser*, September 26, 1864, 7.

[54] "The Trade in Indecent Literature," *Morning Post*, August 30, 1872, 7. By 1872, the Judges had reportedly established six shops devoted to this material in London. See "The Trade in Indecent Literature," *London Evening Standard*, August 31, 1872, 7.

[55] "Stereoscopic Slides Taken from Life," *Herapath's Railway Journal*, July 11, 1863, 730.

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were the most common medical works advertised.[56] Curiously, Judge also experimented with cultivating another market for his photographs: medical students. In 1861, Delplanque & Co advertised "Photographs showing the Mons Veneris, Labic Pudendi, Perinaeum, Meatus Uranarius, &c." to students in the *Medical Times and Gazette Advertiser* and the *Lancet General Advertiser* for a guinea a set.[57] It is impossible to know whether these images were the same ones that Judge advertised elsewhere as erotic photographs, and hard to say whether medical students, who were known for making bawdy jokes in anatomy theatres, were really meant to use them as instructive material.[58] Either way, Judge's decision to advertise in medical journals suggests new ways in which thin boundaries between the categories of the medical and the erotic could be exploited.

As well as failing to shut down trade in sexual entertainment, the events of 1857–8 failed to establish that cheap, explicit medical works were obscene, even in pornographers' hands. On one raid on Judge's residence in Kentish Town, police officers dismissed what they found as "quasi-medical" productions and speculated that Judge kept his offensive material in another venue.[59] Next to the photographic equivalent of *The Confessions of Madame Vestris*, *Aristotle's Masterpiece* could look awfully tame. And those who did consider such works dangerous to public morals often did not think that they were covered under Campbell's Act. Indeed, a writer for the *Saturday Review* suggested that Campbell's refusal to define the term "obscene" was to blame for an increase in the sale of materials "which are certainly not positively indecent, but which, it is equally clear, are expressly intended for the gratification of that pruriency which Parliament tried to deprive of its coarser stimulants."[60] A writer for the *Solicitor's Journal & Reporter* summed up the situation in 1867: the "definition of the offence [of obscene libel in common law] is very defective," he grumbled, "nor have the statutes, which have supplied a better machinery for suppressing the offence, given

[56] For examples, see "Aristotle's Masterpiece," *Reynolds's Newspaper*, February 7, 1864, 8; "Nothing Impossible," *Illustrated Sporting News and Theatrical and Musical Review*, November 20, 1869, 8; "Secret Doings" and "The Forbidden Book," *Illustrated Police News*, December 14, 1872, 4.

[57] "To Medical Students," *Medical Times and Gazette Advertiser*, August 11, 1860, [2]; "To Medical Students," *Lancet General Advertiser*, August 11, 1860, [2].

[58] Laura Kelly, *Irish Medical Education and Student Culture, c.1850–1950* (Oxford: Oxford University Press, 2017), 189.

[59] "Middlesex Sessions," *The Times*, August 31, 1872, 11.

[60] "Holywell-Street Revived," *Saturday Review*, August 21, 1858, 180. For further examples, see "Photography and Bad Taste," *London Review*, March 28, 1863, 326–327; "Moral Sewage," *Saturday Review*, December 24, 1864, 776–777; "M. Dupin on the Social Evil," *Saturday Review*, July 8, 1865, 42–43; "Immoral Advertisements," *Pall Mall Gazette*, November 28, 1865, 9–10; "Mr. Swinburne's Defence," *London Review*, November 3, 1866, 482–483; "London Streets," *Saturday Review*, November 16, 1867, 629–630.

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any assistance in defining it."[61] For now, the only certain means of securing a victory in obscenity cases was to seize pornography.

## Obscene Quackery

The Society for the Suppression of Vice was not the only group eager to persuade the authorities that, in the hands of certain players, medical works were obscene. While the Society was trying to put Holywell Street publishers out of business, a handful of reform-oriented medical journals began to campaign against what they called "obscene quackery." From the early 1840s, following the explosion of consulting surgeons' manuals into the marketplace, the *Lancet*, the *British Medical Journal*, the *Medical Circular*, and, in Ireland, the *Dublin Medical Press* made strident efforts to galvanize opposition to their authors. As we saw in Chapter 2, they ran investigations into the infrastructure of consulting surgeons' businesses, and published bitter exposés of their imitations, exaggerations, and, in some cases, outright frauds. However, these efforts had little effect on consulting surgeons' ability to do business. Indeed, they only became more of a fixture in the market for medical advice. Increasingly, campaigning medical journals rallied around a different charge, one that turned regular practitioners' longstanding anxiety about presenting sexual information to the public into a weapon against irregular medical practice: they claimed that consulting surgeons' manuals and advertisements were obscene.

A typical article on obscene quackery claimed that consulting surgeons represented a grave threat to public morals. Their advertisements exposed vulnerable people to allusions to sexuality without their consent, while their "vile trash" manuals were calculated to incite morbid or prurient engagement. For the good of the nation, newspaper editors *must* ban consulting surgeons' advertisements from their pages. These articles got an enthusiastic reception from medical readers. Doctors often wrote to the *Lancet* and the *British Medical Journal* to praise them for exposing "obscene quacks," to express their anxiety at the prospect of putting "an ordinary newspaper into the hands of a female . . . lest they should be shocked by the disgusting advertisements which are emblazoned on its pages," or to call for the establishment an "Association for the Repression of Quackery" or a "Society for the Suppression of Fraudulent and Obscene Advertisements," which would work to "redeem . . . the periodical press from its present position of hireling servitude to medical swindlers and obscene advertisers."[62] Campaigns against obscene quackery also gained modest support

[61] "The Law of Libel – III," *Solicitor's Journal & Reporter*, September 14, 1867, 1019.

[62] "The Disgusting Pages of the Newspapers," *Lancet*, July 30, 1842, 622–633; "Proposed Society for the Suppression of Fraudulent and Obscene Advertisements," *Association Medical Journal*, July 22, 1853, 631–633; "The Repression of Quackery," *Medical Press and Circular*, March 3, 1869, 188–189.

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in provincial newspapers, whose editors did not stop publishing consulting surgeons' advertisements, but happily attacked their rivals for doing the same.[63]

Regular practitioners may well have found consulting surgeons' manuals and advertisements offensive. However, just as newspaper editors stood to benefit from accusing their rivals of publishing indecent advertisements, charging consulting surgeons with purveying obscene material served their own interests. As Roy Porter emphasized, an accusation of quackery is the very definition of what sociologists of science have called "boundary work": applying to no particular practice, but to any form of behaviour that its wielder deems unorthodox, the term has long served as an instrument to situate certain individuals, groups, acts, or ideas outside the bounds of medicine.[64] Accusations of *obscene* quackery were a twofold strike: at once, they rhetorically situated consulting surgeons outside the bounds of legitimate medicine and outside the bounds of respectable society. More narrowly, they lent medical reform, a project to which journals like the *Lancet* and the *British Medical Journal* were devoted, new currency as an issue of public morals. Writers for these journals had long claimed that legislation to regulate medical practice was the only permanent solution to the scourge of quackery.[65] Now, they framed that legislation as essential to protecting citizens' morals as it was to protecting their bodies.

To support their claims, anti-quackery campaigners promoted a contextual view of obscenity oriented around the issue of circulation. Long-standing concerns about medicine's relationship with commerce had had a powerful effect on the ways quackery was represented in regular medicine. Transparent commercialism was positioned as a form of quackery itself, but it was also portrayed as a calling card of incompetent or dishonest practice since it went against regular medical conventions. If a medical work was advertised through placards, handbills, or cards; if it included testimonials for its author's services or directions to access them; or if its title used vernacular medical terms, the logic went, its author must be a charlatan. Arising during a period in which an encounter with a consulting surgeon's advertisement was utterly unavoidable, campaigns against obscene quackery took this argument in a slightly different direction. Instead of,

[63] See "Shameful Impurity of the Hull Advertiser's Columns," *Hull Packet and East Riding Times*, October 27, 1843, 18; "Remarks on the Present State of the Medical Profession in this Country," *Leeds Mercury*, November 2, 1844, 7; "Publications," *Daily News*, May 27, 1846, 7; "Advertisements & Notices: Medical Announcement," *Freeman's Journal and Daily Commercial Advertiser*, September 2, 1854, 1; "Immorality and Quackery," *Derby Mercury*, June 3, 1857, 8.

[64] Roy Porter, *Health for Sale: Medicine and Quackery in England, 1660–1850* (Manchester: Manchester University Press, 1989), vi.

[65] See Michael Brown, "Medicine, Quackery, and the Free Market: The 'War' against Morison's Pills and the Construction of the Medical Profession, c. 1830–c. 1850," in *Medicine and the Market in England and Its Colonies, c. 1450–c. 1850*, ed. Mark S. R. Jenner and Patrick Wallis (Basingstoke: Palgrave Macmillan, 2007), 238–261.

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or in addition to, collapsing charlatanism with commercialism, they collapsed obscenity with commercialism. The "popular" form of consulting surgeons' manuals, their easy accessibility, and the ubiquity of advertisements for them were framed as clues that should apprise readers of offensive content within the manual, and framed as dangerous in their own right.

An 1850 pamphlet issued by the Union for the Discouragement of Vicious Advertisements, an anti-quackery group associated with the *Lancet*, offers a good illustration of this argument in action. The pamphlet begins by decrying the lurid content of works like *Manhood* and *The Silent Friend*. However, it rapidly shifts away from discussing the manuals' main text and images to focus on their bibliographical makeup and the ways they were distributed:

> These are publications which, with a light veil of pretended science, are designed to excite and gratify a morbid curiosity. They propose fallacious modes of illicit indulgence without the risk of the consequences that attach themselves to it. They are filled with pictures, which leave the most pernicious impression on the mind; the very tables of contents are studiously calculated to arouse dangerous ideas. The titles are skilfully worded in insinuating language, and some volumes, which contain no direct obscenity themselves, seem written principally to introduce others more fully immoral by the same author. These books are printed in such a form as to be accessible to the purses of all, and to be capable of being transmitted secretly by post to those who send the required value in postage-stamps. They are obviously addressed not to the sick alone, but to the young and unwary.[66]

According to the Union, it was not the content of these works alone that threatened the "young and unwary." Even seemingly mundane elements of the manuals, such as their tables of contents, were "calculated to arouse dangerous ideas." What made these works especially endangering in the Union's rendering, though, was their material accessibility: obscene quackery is portrayed as a kind of disease in the Union's pamphlet, inexorably creeping into domestic space. "No home is safe," the pamphlet warns its readers, "these publications may be carried, by the facility of modern transport, into each of our nurseries and kitchens, and be perused, perhaps at this moment, by some member of our households in unwary ignorance."[67]

Collapsing commercialism with obscenity was an expedient approach to attacking the consulting surgeon trade. Decrying consulting surgeons' representations of the body and sexuality in specific terms was untenable. Their manuals promoted the same ideas as works by regular medical practitioners, and used similar, and sometimes exactly the same, language to do so. Linking medical works' decency as reading material and legitimacy as science with certain methods of presentation and distribution, on the other hand, enabled

[66] "A Few Words to News-Readers" (London: W. Eglington, 1850), 1–4, 1–2. 7306.df.22, BL.
[67] "Words to News-Readers," 3.

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anti-quackery campaigners to draw a line between medical orthodoxy and medical heterodoxy rooted in commercial practice at a time when consulting surgeons' exploitation of print for commercial gain was exactly what alarmed them.

Although tales of doctors' sexual misconduct circulated in the press (and, inevitably, in the pornography trade), anti-quackery campaigners do not seem to have worried that charges of obscene quackery would arouse concern that regular practitioners were being corrupted by their own reading material.[68] They diffused this possibility by appealing to the same paternalistic model of reading that Tyrwhitt had cited to condemn Blacketer's book: a model of reading that framed women, children, and young men as vulnerable to the influences of print in ways that established professional men like themselves were not. What campaigns against obscene quackery did risk arousing was concern that regular medical authors endangered public morals. The commercial dividing line that they drew between medicine and quackery was precarious. As we have seen, the differences between regular and irregular medical book advertisements could be subtle to the uninitiated, and the regular and irregular medical works' prices and modes of distribution were often the same or similar. Arguably, if no home was safe from contamination from *Manhood*, no home was safe from the influence of works on sexual matters issued by John Churchill and Hippolyte Baillière.

Initially, anti-quackery campaigners simply aimed to convince newspaper editors to stop publishing consulting surgeons' advertisements.[69] Their efforts were spectacularly unsuccessful: irregular medical advertisements represented a significant and reliable stream of income that newspaper editors did not want, and in many cases could not afford, to lose. The law became an increasing focus of campaigns against obscene quackery in this context, following events in 1853 and 1854 which saw local authorities charge three figures connected with travelling anatomical museums with displaying obscene models under the Vagrancy Acts: Joseph Woodhead, the owner of Woodhead's Museum, in Sheffield; J. W. Reimer, the owner of Reimer's Anatomical Museum, in Hull; and James Lang, a demonstrator at Henry's Anatomical Museum, in Barnsley.[70] Lang pled guilty to exhibiting "indecent representations of the human body," and was released on the condition that he close the museum.[71]

[68] On the doctor figure as an increasing fixture of pornographic literature, see Coral Lansbury, "Gynaecology, Pornography, and the Antivivisection Movement," *Victorian Studies* 28, no. 3 (1985): 413–437.

[69] "Is It Possible to Redeem the Newspaper Press from its Servitude to Fraud and Obscenity?" *Association Medical Journal*, August 12, 1853, 697.

[70] "Magisterial Proceedings: Indecent Exhibition," *Sheffield Independent*, December 31, 1853, 8; "Henry's Anatomical Museum," *Association Medical Journal*, March 17, 1854, 255; "Local and Other News," *Leeds Intelligencer*, February 25, 1854, 5.

[71] "Henry's Anatomical Museum," *Association Medical Journal*, March 17, 1854, 255.

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Reimer was found guilty, but only fined a nominal 2*s* 6*d* – less than the cost of three tickets to his museum – because the magistrate was convinced that the museum had "educational potential."[72] Woodhead was fined ten shillings and moved his museum to London, where his models had been displayed without complaint in the 1851 Great Exhibition at the Crystal Palace, only to be fined again for displaying "filthy, obscene, and indecent figures."[73]

The sources of the complaints against these museums were never made public. Reports only indicate that "some individuals" were offended by what they saw and decided to report it to the authorities.[74] However, Woodhead claimed that medical men conspired to bring charges against him in London, and it is not unlikely that medical men were the complainants in some, and even all, of these cases. As Alan Bates has demonstrated, public anatomical museums were enormously popular in the early 1850s, selling up to a million tickets a year. Bates argues that their sheer popularity galvanized opposition to them among medical practitioners even before they started advertising medical services: what had once looked like a welcome means of promoting medical expertise was beginning to look like an unwelcome challenge to it.[75] Even if they were not the source of the complaints against the museums, it is significant that medical practitioners contributed to efforts to shut them down. In all of these cases, local doctors testified against the defendants, claiming, as one practitioner did in the Lang case, that their displays "were calculated to excite the erotic [*sic*] desires of the people, and . . . make a profit by pandering to those desires."[76]

Apprised of the Vagrancy Acts' efficacy as a mechanism for shutting down public anatomical museums, anti-quackery campaigners began to consider obscenity law as a means of combating the consulting surgeon trade. Campbell's introduction of the Obscene Publications Bill during the summer of 1857 attracted close attention from writers for the *Lancet* and the *British Medical Journal*. While some of these writers viewed the bill's introduction ahead of legislation for medical reform as evidence of misplaced government priorities, others urged their colleagues to embrace it as an instrument to suppress quackery.[77] Like the Vagrancy Acts, the Obscene Publications Bill did not cover advertisements in newspapers. However, if it was passed, a complaint could enable the police to seize consulting surgeons' manuals. If a magistrate deemed them obscene, they would be destroyed, and their authors could be prosecuted for obscene libel. The popular weekly *Punch*, which

[72] A. W. Bates, "Anatomy on Trial: Itinerant Anatomy Museums in Mid Nineteenth-Century England," *Medical History* 9, no. 2 (2016): 192.
[73] Bates, "Anatomy on Trial," 193.
[74] "Obscene Exhibitions," *Dublin Medical Press*, April 26, 1854, 14.
[75] Bates, "Anatomy on Trial," 199. [76] "Magisterial Proceedings," *Sheffield Independent*, 8.
[77] "It Would Be Difficult," *Lancet*, August 8, 1857, 146.

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counted several ex-medical men among its staff and often reported on medical debates, promoted these views to the public, going so far as to deem a crackdown on consulting surgeons the "chief case for Campbell's Act."[78]

On the eve of the Act's passage, anti-quackery campaigners pressed the Society for the Suppression of Vice to prosecute consulting surgeons. The *Lancet* argued that there was "abundant ground to warrant the interference of the Society." "Worrying the Holywell-street vendors is good sport enough," the journal coaxed, "but scarcely more successful than lopping off the heads of a Hydra . . . Surely [obscene quackery is] more deserving of [the Society's] attention, as being calculated to engender that miserable depravity of mind which induces men to purchase the poison vended by traders in obscene publications."[79] The Society did not acknowledge the *Lancet*'s words. Months passed, and a parade of cheap medical works passed through the courts. The *Lancet* and its allies stepped up their appeals. By the winter of 1857–8, *Punch* was equating consulting surgeons with Holywell Street publishers, dubbing them "Holywell Doctors" and "Holywell quacks," and arguing that they were as, or more, dangerous to public morality as men like William Dugdale:

> A clean sweep has been made of Holywell Street. The obscene pigeons have been turned out of the dirty dove-cotes. But while the pigeons have been vexed, censure spares the crows. The rookery of the quacks is undisturbed, and their vile and lying advertisements still pollute the country newspapers and some of the London journals, and lie upon the tables of fathers of families to afford Sunday reading to their sons and daughters. To go through Holywell Street or not was optional; but it is impossible to avoid seeing that which is thrust under one's nose. The Society for the Suppression of Vice is evidently afflicted with partial blindness.[80]

The Society ignored these appeals.

[78] "The Chief Case for Lord Campbell's Act," *Punch*, August 22, 1857, 73. According to *The Curran Index to Nineteenth-Century Periodicals* (Research Society for Victorian Periodicals, 2002-), www.curranindex.org/, Percival Leigh, who studied medicine at St. Bartholomew's Hospital, wrote most of *Punch*'s stories on obscene quackery, including this article; "Quacks of Advertising Columns," *Punch*, October 3, 1857, 144; "Downing-Street and Holywell-Street," *Punch*, November 7, 1857, 188; and "Quack! Quack! Quack!" *Punch*, December 5, 1857, 227. For more on *Punch*'s relationship with medicine, see Richard Noakes, "Punch and Comic Journalism in Mid-Victorian Britain," *Science in the Nineteenth-Century Periodical: Reading the Magazine of Nature*, ed. Geoffrey Cantor, Gowan Dowson, Graeme Gooday, Richard Noakes, Sally Shuttleworth, and Jonathan R. Topham (Cambridge: Cambridge University Press, 2004), 91–122.

[79] "The Action against Kahn, of Coventry Street, for Extortion: Suppression of Obscene Quackery," *Lancet*, August 15, 1857, 175.

[80] "Quack! Quack! Quack!" *Punch*, 227. See also "Quacks of Advertising Columns"; "Downing-Street and Holywell-Street"; "Medical Annotations," *Lancet*, November 7, 1857, 478; [Henry Silver], "A Good Opening for Quacks," *Punch*, January 2, 1858, 7; [Henry Silver], "A Queerer for the Quacks," *Punch*, May 5, 1860, 187.

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The campaign against obscene quackery temporarily died down around the passage of the 1858 Medical Act, which finally gave "legally qualified Medical Practitioners" statutory recognition.[81] The Act established a General Medical Council to form and maintain a public register of qualified medical practitioners, monitor standards for medical training, and de-register practitioners found guilty of committing criminal acts or engaging in unprofessional conduct. For years, medical reformers had claimed that such legislation would eradicate quackery. However, the Medical Act was not designed for this purpose, and it quickly proved to be an ineffectual instrument for it. Many general practitioners could not afford to pay fees to be included in the Medical Register, which meant that it did not list many medical men who would have been considered "regular." And practitioners who practised medicine in ways that offended their colleagues often declined to register themselves, which left them free to practice as they wished. It was possible to prosecute such practitioners for falsely claiming medical qualifications or using titles such as "surgeon" or "physician" in advertising material. However, they could easily dodge a guilty verdict by purchasing a foreign diploma. Some irregulars didn't bother to purchase one, resigning themselves to paying the maximum five-pound fine for committing the offence in the event they were prosecuted.

As medical reformers began to recognize that the Medical Act could not suppress the consulting surgeon trade, screeds against obscene quackery surged back into the medical press.[82] The surgeon Francis Burdett Courtenay's melodramatic exposé *Revelations of Quacks and Quackery* (1865), first published as a series of reports in the *Medical Circular*, warned parents that if their daughters sent away for a consulting surgeon's manual, "irreparable moral contamination" would ensue.[83] The *Lancet* claimed that "vile quack advertisements" had led to the suicide of a young man in Kent. The "books to which they refer contain every element of pruriency, of vile suggestion, and of cunning terrorism which can work upon the mind," it cried.[84] The general outline of these arguments was not novel. Irregulars had been accused of damaging minds and morals for a long time. However, anti-quackery campaigners made their accusations in ever more brutal terms, framing consulting surgeons and, increasingly, the owners of public anatomical museums as sexual predators and shadowy anarchists. Now, their

[81] See M. J. D. Roberts, "The Politics of Professionalization: MPs, Medical Men, and the 1858 Medical Act," *Medical History* 53 (2009): 37–56 for further details about the passage of the Medical Act and its perceived deficiencies.

[82] "Has the Medical Act Failed as Regards the Suppression of Illegal Practices?" *BMJ*, May 26, 1860, 400–401.

[83] Frances Burdett Courtenay, *Revelations of Quacks and Quackery: A Series of Letters by "Detector" reprinted from "The Medical Circular*," 3rd ed. (London: Baillière, Tindall & Cox, 1865), 26.

[84] "Purification of the Press," *Lancet*, January 28, 1865, 101.

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works did not simply weaken public morals or set off hypochondria. They fostered "loathsome debauchery," violence, and social disorder.[85]

In 1860, local authorities charged William and Louis Lloyd, the owners of a public anatomical museum in Leeds, with displaying models "dangerous to public morality." The Lloyds' defence that their anatomical models were educational was rejected, and they were destroyed on the grounds that they were "utterly useless for any scientific object" and "pandered to the worst passions of human nature."[86] Five years later, Reginald Rudd, described as "a medicine vendor," was charged with distributing obscene books in Bolton. Rudd's solicitor argued that "everything recorded in the publications might be met with in medical books," but agreed that they "had unquestionably a degrading effect."[87] Rudd was only fined twenty shillings, but campaigning medical journals framed this and the Lloyd case as important precedents that portended sweeping action against consulting surgeons under Campbell's Act.[88] They were wrong. Eight years after the Lloyd case, the *Lancet* was still calling on the police and the Society for the Suppression of Vice to do their duty, and lamenting obscenity law's weak enforcement.

Several issues impeded organized action against consulting surgeons under obscenity laws during the 1850s and 1860s. One was that anti-quackery campaigners were unwilling to act themselves. (It is notable that most charges against irregulars on the grounds that they were displaying or distributing obscene material during this period were under the Vagrancy Acts, which cost complainants little time or money.) Instead of taking the law into their own hands, they aimed to persuade others to prosecute consulting surgeons. However, there was not much practical support for such a project. The General Medical Council refused to admit proprietors of "unseemly" exhibitions into the Medical Register, and removed prominent consulting surgeons from it: in 1863, Robert Jacob Jordan was struck off the Medical Register for "conduct unbecoming of a physician," and Samuel La'Mert was struck off for publishing an "indecent and unprofessional treatise."[89] However, neither the Council nor any other major medical institution supported prosecuting such practitioners for distributing of obscene material.

[85] "The Museum Nuisance," *Lancet*, August 27, 1864, 243.
[86] "The Week," *BMJ*, January 7, 1860, 15.
[87] "Suppression of Quackery," *Lancet*, November 4, 1865, 518.
[88] I have found reports of only two other cases in which people were charged for selling or displaying indecent medical works during this period. See "The Late Serious Charge against a Doctor of Medicine," *Illustrated Police News*, September 14, 1867, n.p. and "Indecent Quack Publications," *Lancet*, July 18, 1868, 99.
[89] Lesley A. Hall, "'The English Have Hot-Water Bottles': The Morganatic Marriage between Sexology and Medicine in Britain since William Acton," in *Sexual Knowledge, Sexual Science: The History of Attitudes to Sexuality*, ed. Roy Porter and Mikulas Teich (Cambridge: Cambridge University Press, 1994), 351–353.

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There was also little support for prosecuting consulting surgeons under obscenity laws outside the medical community. "The 'fine line of demarcation' … between us and them," as one medical writer put it, presented a difficult roadblock.[90] While anti-quackery campaigners framed consulting surgeons' publications and advertisements as fundamentally different from those of legitimate medical practitioners, many people did not perceive meaningful differences between them. Cataloguing medicine's wars with itself, the *Saturday Review* quipped that medical men "avow that their object is to clear the profession of quacks … before we assist them in their undertaking, we should like to know, in common with a large part of the public, what it is they include in their definition of quackery."[91] Relatedly, many people were skeptical of the claim that consulting surgeons' publications endangered public morals. It is difficult to interpret its silence in the face of endless entreaties from the *Lancet*, but it is plausible that the Society for the Suppression of Vice considered it neither necessary nor desirable to prosecute consulting surgeons since they warned people against sexual vice in such strident terms. And finally, many people did not think that obscenity laws applied to medical works, even though medical works had been seized and condemned under them. In a yet another skirmish involving Woodhead's Museum, Bates notes, authorities in Derby called the museum "disgusting and demoralizing," but did not think they had any legal power to shut it down.[92]

The 1860s drew to a close with the stink of failure, at least for the groups examined in this chapter. Several public anatomical museums shut down around 1857, possibly out of fears that the Obscene Publications Act would be used against them. Yet, others appear to have benefitted from the notoriety of being called obscene, and the consulting surgeon business continued to thrive.[93] And while the Holywell Street trade was seriously diminished by the end of the 1850s, a new kind of trade in sexual material – trafficking in some of the same products, and some that anti-vice crusaders considered even worse – was flourishing. At the same time, to the consternation of legal experts, there remained no consensus about what the term "obscene" meant in a court of law. Campbell's refusal to define the term in his bill may have been meant to facilitate the Society for the Suppression of Vice's fight against the Holywell Street trade, but it fostered a great deal of confusion.

## The Circumstances of the Publication

In 1868, the legal meaning of the term "obscene" was resolved, after a fashion, with a ruling in the trial *R*. v. *Hicklin*. The *Hicklin* case surrounded *The Confessional Unmasked*, a pamphlet first published under a pseudonym in 1836

[90] "Medical Parasites," *Lancet*, August 3, 1861, 127.
[91] "Doctors and Quacks," *Saturday Review*, July 10, 1858, 30.
[92] Bates, "Anatomy on Trial," 195. [93] Bates, "Anatomy on Trial," 200.

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that purported to expose the "Depravity of the Romish Priesthood." An evangelical group called the Protestant Electoral Union – whose founders included the solicitor Charles Hastings Collette, soon to be the new secretary of the Society for the Suppression of Vice – had issued 25,000 copies in 1865.[94] The *Confessional* was deliberately shocking: adopting a common structure in pornographic literature, its author arranged passages culled from various Roman Catholic theological manuals in order of sexual explicitness, beginning with fairly tame questions that priests might put to the young about courtship and ending with answers to questions about specific sex acts, such as whether a husband might "introduce his —— into the mouth of his wife."[95] Whether the Union aimed to protest state tolerance for Roman Catholicism or, as Mullin has suggested, make a steady stream of income from those who recognized the pamphlet's utility as a sex manual, it promoted the *Confessional* in towns with large Catholic populations and set off a "sectarian, political, and regional uproar."[96] In 1867, authorities in Wolverhampton charged Henry Scott, a metalworker who had been selling the pamphlet for a shilling, with distributing obscene material. A drawn-out legal skirmish ensued, and the case ended up on the Queen's Bench in 1868.

The defence claimed that the *Confessional* could not be obscene because it was a religious work. This argument was widely ridiculed in the press: picking "out every foul passage" from theological manuals and selling "them in a penny pamphlet to boys in the streets," the *Pall Mall Gazette* cried, rendered them unfit for their original purpose.[97] According to Mullin, the outcry forced the new Lord Chief Justice, Alexander Cockburn's, hand. He ruled for the prosecution, declaring, "I think the test of obscenity is this, whether the tendency of the matter charged as obscenity is to deprave and corrupt those whose minds are open to such immoral influences, and into whose hands a publication of this sort may fall."[98] In outlining this "test of obscenity," Cockburn made history: the *Hicklin* test, as it became known, became the standard legal method of determining obscenity in Britain, the United States, and most British colonies for nearly a century, influencing the outcome of obscenity trials all over the world.[99]

As Mullin has emphasized, Cockburn's test of obscenity was formulated to address a difficult and unanticipated local predicament.[100] However, as this chapter is shown, it also addressed a decade of debate in Parliament, among legal experts, in the courts, and in the press about what kinds of material

[94] See Mullin, "Unmasking *The Confessional Unmasked*," 477.
[95] Quoted in Mullin, "Unmasking *The Confessional Unmasked*," 475.
[96] Mullin, "Unmasking *The Confessional Unmasked*," 476–477.
[97] "The Legality of the 'Confessional Unmasked,'" *Pall Mall Gazette*, July 13, 1867, 10.
[98] Regina v. Hicklin, *Law Reports 3: Queen's Bench Division* (1868), 371.
[99] While the *Hicklin* standard was replaced in most of these countries in the 1950s and 1960s, it remained the standard in India until 2014. See Indian Penal Code, "Sale, etc, of obscene books, etc.," section 292:1.
[100] Mullin, "Unmasking *The Confessional Unmasked*," 472.

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obscenity laws covered. By the mid-nineteenth century, as one writer for the *Solicitor's Journal & Reporter* suggested, it was difficult for many experts to view common-law understandings of obscenity as covering anything other than pornographic material. The photographs that Adolphus Henry Judge advertised as erotic were clearly created with "lewd" or "licentious" intent.[101] Medical and theological works were not. But the print world of the mid-nineteenth century was a complex and convoluted one, a world in which sexual discourse was constantly being broken down, stitched together, reframed, and redistributed in new ways. For different reasons, anti-quackery campaigners and some members of the judiciary had argued that how a publication was sold, and to who, mattered. In defining obscenity not in relation to authorial intent but in relation to audience – "into those whose hands a publication of this sort may fall" – Cockburn's test of obscenity affirmed those arguments.

It is important to recognize that in practice, however, Cockburn's test of obscenity did not rest on a work's audience, not precisely. What those who sought to apply the test, including Cockburn himself, relied on was an idea of readership or potential readership, grounded in analyses of various features of a work's commercial context: who had published it, how much it cost, where and how it had been advertised, how it had been distributed, and so on. Cockburn made his test's reliance on these kinds of contexts more explicit earlier in the case when he addressed the issue of "necessarily" obscene works: like a theological manual or a legal textbook, a "medical treatise, with illustrations necessary for the information of those for whose education or information the work is intended, may, in a certain sense, be obscene, and yet not the subject for indictment," he declared, "but it can never be that these prints may be exhibited for any one, boys and girls, to see as they pass. The immunity must depend upon the circumstances of the publication."[102] Cockburn suggested that certain forms of advertisement and distribution legitimately served medical needs, that others did not, and that a judge could tell the difference.

The formulation of the *Hicklin* test of obscenity marked a crucial turning point in the history this book traces. In practice, it made medical works obscene no more than the Holywell Street raids had. Many authorities continued to be skeptical of the idea that medical works were covered under obscenity laws, even when they were cheap, popular works that could easily fall into the hands of young and female readers. However, alongside the 1858 Medical Act and regular practitioners' increasing efforts to professionalize their own print culture, the test created a more stable framework for arguing that medical works were obscene in court. This had a significant impact on trade in medical works on sexual matters. Sellers were intermittently prosecuted under

[101] "The Law of Libel – III," *Solicitor's Journal & Reporter*, 1019.
[102] Regina v. Hicklin, *Law Reports 3*, 367.

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obscenity laws as part of efforts to combat quackery, pornography trafficking, fraud, and political organizing, and the circumstances of their works' publication and distribution were used to argue that they were obscene. These actions helped fuel myths about censorship that were applied to sell sexual knowledge in its material form and as a programme of scientific enquiry.

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