Law, Self-Pollution, and the Management of Social Anxiety

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Introduction

For more than two hundred years—from the 1710s to the 1940s—Western culture experienced a profound anxiety about masturbation and its cousin, spermatorrhoea (wet dreams). The concerns began with

2. For earlier western attitudes about masturbation, see John P. Elia, History, Etymology, and Fallacy: Attitudes Toward Male Masturbation in the Ancient Western World, 14 J. Homosexuality 11 (1987) (examining Egypt, Greece, and Rome). Roman Catholic theology during the Middle Ages condemned the act of self-pollution as a mortal sin. Vernon A. Rosario, The Erotic Imagination: French Histories of Perversity 15 (1997). In the New World, the practice is rarely mentioned prior to the nineteenth century, but such evidence as there is indicates disapproval, at least when the matter was brought to public attention. See John D’Emilio & Estelle B. Freedman, Intimate Matters: A History of Sexuality in America 15 (1988)
the publication of the pamphlet Onania early in the Eighteenth Century, gained force through the following century and a half, and peaked during the Victorian and Edwardian eras. They faded after the Second World War, but linger on in popular culture in the form of an indistinct but unmistakable discomfort.

During its heyday, the anxiety about masturbation affected the lives of millions of people. Boys and girls suffered agonies of guilt and shame. Doctors, quacks, patent medicine vendors and medical manufacturers promoted therapies, drugs and devices of extraordinary ingenuity and variety. Parents eavesdropped at bedroom doors, tied their children to headboards, fastened night gloves on their hands, installed toothed rings over their genitals, and subjected them to stringent regimes of diet, exercise, and baths. Scientific opinion fully justified these measures: masturbation and spermatorrhoea were known to cause dozens of diseases and conditions including blindness, insanity, and death.

This extraordinary complex of beliefs, attitudes and behaviors found expression in the legal system. Arguments based on masturbation began to appear in judicial decisions during the post-Civil War period, increased in frequency between about 1880 and 1910, and continued sporadically through the 1930s. Judges and lawyers recognized the evil effects of masturbation, and enlisted the prevailing social and scientific consensus in the service of a variety of legal arguments. Yet although the law shared the general social anxieties about masturbation and spermatorrhoea, its role was that of a supporting actor. Despite its universally acknowledged dangers, masturbation was never made a crime. And while claims for upsetting legal arrangements because of a person’s "seminal weakness" sometimes succeeded, the law usually elected to maintain the outcome that would have resulted had arguments based on masturbation or spermatorrhoea not been put forward. American judges thereby maintained the stability of the legal system.

This article considers the anxieties about masturbation and spermatorrhoea from the standpoint of cultural-legal analysis.3 Seen from

(prosecution of Samuel Terry of Springfield, Massachusetts, in 1650 for "chafing his yard" outside the meeting house).

3. The premise of cultural-legal analysis is that law is part of culture. To understand the behavior of judges, lawyers and litigants, we need to investigate broader social concerns. Likewise, to understand the meaning of social phenomena, it is important to consider the activity of law as one important sphere of social action.

A variety of schools of thought employ cultural-legal analysis. The Law and Literature movement examines cultural issues in relating literary texts to law. Law and Society studies emphasize law's relationship with cultural phenomena. See, e.g., H. Laurence Ross, Settled Out of Court: The Social Process of Insurance
this perspective, the worries about masturbation provided an object onto which social anxieties could be displaced and thereby managed. Norm entrepreneurs who played on public fears manipulated basic cultural polarities in order to present masturbation and spermatorrhoea as objects of horror and disgust—things that needed to be expelled, if possible, from the body social.4

The broad social concern about masturbation grew out of a number of anxieties. Social conservatives feared that Western society was entering a period of decadence in which cherished institutions and values were under threat. Physicians worried that their social status (and income) would be undermined by the profession’s failure to live up to the claims on which that status was grounded. Feminists associated with the purity movement were concerned that meaningful improvements to the status of women would never actually be realized. The middle class, which was asserting claims of dominance, worried that future generations would not live up to the challenges of industrialization and progress. Each of these anxieties was managed by focus on the evils of "seminal weakness," and by careful attention to the discipline needed to correct the problem.

The anxiety about masturbation and spermatorrhoea enlisted three overlapping, but conceptually distinct, theoretical models: the religious model, the medical model, and the sociological model. The religious model, associated principally with social conservatives, employed concepts of temptation, sin and redemption drawn from traditional

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4. The felicitous phrase “norm entrepreneur” is from Cass R. Sunstein, supra note 3, at 909. I use the term to mean an individual who assumes a leadership role in attempting to change the cultural values people assign to particular social practices. For example, today, norm entrepreneurs are active in encouraging people not to wear fur coats, not to smoke, and so on.
Christian doctrine. The medical model, developed most explicitly by physicians, drew on principles of scientific inference and empirical observation. The sociological model, used primarily by purity-minded feminists, placed the problems of masturbation and spermatorrhoea within a broader social context, and emphasized the harms that these conditions imposed on women.

Lawyers and judges did not share the same anxieties that plagued social conservatives, physicians, and some feminists. The profession of law was self-confident during the period of maximum anti-masturbation sentiment. The common law enjoyed high repute as a system of rules for ordering human affairs. Judges administered a legal tradition which was venerable yet seemingly well-adapted to guide society towards a secure and prosperous future. Although the profession was not without its pressures and concerns, most lawyers were satisfied with their status. Thus, the law did not need a focus such as masturbation or spermatorrhoea in order to divert anxieties away from more worrisome topics. At the same time, recognition of masturbation or spermatorrhoea in various legal contexts threatened to upset a regime that, on the whole, appeared to be working well. Accordingly, the interest of the bench and bar was to recognize and endorse the consensus view about masturbation and spermatorrhoea, while limiting the degree to which those conditions influenced the administration of the legal system. This is, in fact, what the historical record discloses.

This paper is structured as follows. Section I distinguishes alternative, but overlapping, frameworks for understanding the negative portrayal of masturbation: the religious, medical, and sociological models. Section II examines how the culture viewed the origin, development, and treatment of masturbation and spermatorrhoea. Section III considers how the law, as a social institution, dealt with the problems. Section IV describes how the campaign faded and eventually died away during the Twentieth Century. Section V presents the theory of masturbation-control as a technique for anxiety management. I end with a brief conclusion.

I. Norm Entrepreneurs and Theoretical Models

The campaign against masturbation united three unlikely allies. First were social conservatives who hearkened back to religious values and injunctions of an earlier age. Second were physicians who claimed
that masturbation and spermatorrhoea caused all sorts of diseases.\(^5\)
Third were feminists associated with the purity movement\(^6\) who sought
to improve the lot of women.\(^7\) Paralleling to some extent this three-fold
classification of norm entrepreneurs, the attack on masturbation had a
theoretical structure based on three separate but overlapping
approaches. We can call these the religious, medical, and sociological
models. Although not sharply separated in the historical record, it is
useful to distinguish them because their underlying premises are quite
different.

*The Religious Model.* The religious model was the initial ground for
the attack on masturbation. Based in Christian doctrine, it was suspi-
cious of sexuality except when enlisted within marriage in the aid of
procreation. Sexual virtue consisted in controlling the erotic drive, espe-
cially among men, and in fulfilling the obligations of Christian chastity.
The religious model found authority in the story of Onan, the Old
Testament figure condemned by God for having “spilled his seed” on
the ground.\(^8\) Although Onan’s sin was not actually masturbation but
rather withdrawal,\(^9\) norm entrepreneurs made little of the distinction.
Onan had spilled seed, and male masturbation, involving as it does the
spilling of seed, came under the ban.\(^10\) If anything, masturbation was
worse than the biblical offense: “The act of Onan . . . was in no respect
of such a character, as to justify the use of his name, to designate the far
more obscene, and grossly sensual and unnatural act of self-pollution.”\(^11\)

*The Medical Model.* In contrast to the religious model, which was
grounded in faith and revelation, the medical model rested on scientific

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5. *See Alex Comfort, The Anxiety Makers: Some Curious Preoccupations of
the Medical Profession* 69–113 (1967)(detailing involvement of medical profes-
sionals in the campaign against masturbation).
6. *See Richards, supra note 3, at 155–71 for a critical account of the purity movement
in nineteenth century feminism.*
7. *See D’Emilio & Freedman, supra note 2, at 150, on the social purity movement.*
8. *See Genesis 38:8–11.*
9. Onan apparently wanted to avoid the duties of levirite marriage, which required a
man to marry, and provide children to, his brother’s widow if her husband died
childless. *See Claude F. Mariottini, Onan, 5 Cambridge Bible Commentary 20–21
(1992).*
10. *See Anonymous, Onania; or, The Heinous Sin of Self-Pollution, And All Its
Frightful Consequences, in Both Sexes, Considered 10, 3 (10th ed. 1724)(first
published around 1710) (“the greatest Part in the Offense lay in the act of defiling him-
self, rather than in the Neglect of his Duty”) [hereinafter Onania]. The anonymous
author of this treatise is not known, but the later authority Tissot attributes it to a
London physician, Dr. Bekkers. [S.A.D.] Tissot, Treatise on the Diseases Pro-
duced by Onanism 17 (1832).*
The author of Onania had pioneered this approach, claiming that in addition to being offensive to God, the practice caused dwarfism, fits, consumption, impotence, infertility, and diseases of the genitalia. It was a Swiss physician, Samuel-Auguste-André-David Tissot, however, who launched a full-scale medical attack on masturbation with the publication, in 1760, of the pamphlet, A Treatise on the Diseases Produced by Onanism. The remarkable success of Tissot’s work appears due, in part, to his clever transformation of the categories used to conceptualize the act of masturbation. Tissot gave a scientific flavor and authority to a debate previously conducted principally on moral terms—a change in the social conception of masturbation that affected all subsequent developments.

Unlike the religious model, which was suspicious of the sexual impulse in general, the medical model viewed sexuality as healthful and positive, so long as it was properly channeled. Male sexuality, in the form of “virility,” was a desirable feature of a healthy life. The sexual power of a man “indicate[d] with ‘marvelous accuracy’ his general physical and mental condition.” Sex was the “power of manhood” that lay behind the achievements of many men who rose to eminence in life. The sexual instinct “elevates” and “thrills one with energy.” To be a man was to be sexually potent. Conversely, to be impotent sexually

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12. For discussion of the medical model from a scientific point of view, see H. Tristram Engelhardt, Jr., The Disease of Masturbation: Values and the Concept of Disease, 48 BULL. HIST. MED. 234-48 (1974).
15. On the success of this publication, see Robert H. MacDonald, The Frightful Consequences of Onanism: Notes on the History of a Delusion, 28 J. Hist. Ideas 423 (1967). Tissot’s work was translated and distributed throughout Europe during the eighteenth century, although it encountered resistance in some quarters. In Spain the authorities initially refused to allow publication in the vernacular tongue on the ground that popular availability of the work would threaten public safety. See Enrique Perdiguer Gil & Angel Gonzalez de Pablo, Los valores morales de la higiene. El Concepto de onanismo como enfermedad según Tissot y su tardía penetración en España, 10 Acta Hispanica ad Medicinae Scientiarumque Historiam Illustrandam 131 (1990). Despite occasional impediments, Tissot’s work rapidly spread throughout the Western world and achieved a remarkable amount of prestige. It was still being cited as authority in the second half of the nineteenth century, nearly a century and a half after the initial publication of his work. See, e.g., William Acton, The Functions and Disorders of the Reproductive Organs 93 (4th ed. 1867).
was to be impotent in everything—"mentally, physically, socially, etc." 19  
"If you do not possess this virile manhood your imperative duty is to strive for its acquirement, even if necessary for the time being to sacrifice every other purpose in life," said Bernarr A. McFadden. 20 "[I]f you are not a man, you are nothing but a nonentity!" 21

As the medical model developed, it came to have two variants, the spermatic economy and nerve-shock theories. In general, the theories were not viewed as inconsistent, and most physicians endorsed both at least to some degree, although they emphasized one or the other depending on the circumstances and their own preferences. 22 Thus, one often finds aspects of both theories in the work of most writers. However, the theories offer quite different accounts for the diseases.

The theory of spermatic economy, as developed by Tissot and his followers, 23 stressed the role of seminal fluid in maintaining the body's health and vitality. 24 Semen was the most powerful of all bodily fluids—

22. Tissot, for example, was a leading advocate of the spermatic economy theory, but also endorsed a variant of nerve-shock theory, characterizing the completion of the sexual act as "nothing less than a general shock, a convulsion of all the parts, an increase of the rapidity of the movements of all the fluids," even a "kind of epilepsy" which itself caused debility and disease. See TISSOT, supra note 10, at 37.
24. Although Tissot and his followers presented this idea about the efficacy of sperm as more or less a new discovery, similar views are broadly dispersed in human cultures. In Western culture, the efficacy of sperm in the healthy functioning of the body is found in the early Greek authorities. See GEORGE R. CALHOUN, REPORT OF THE CONSULTING SURGEON ON SPERMATORRHOEA, OR SEMINAL WEAKNESS, IMPOTENCE, THE VICE OF ONANISM, MASTURBATION, OR SELF-ABUSE, AND OTHER DISEASES OF THE SEXUAL ORGANS (1858). Similar ideas are pervasive in traditional Southeast Asian medicine. See James W. Edwards, Semen Anxiety in South Asian Cultures: Cultural and Transcultural Significance, Med. Anthropology 51, 53 (Summer 1983); John Money, K. Swayam Prakasam and Venkata Narayana Joshi, Semen-Conservation Doctrine from Ancient Aruvedic to Modern Sexological Theory, 45 Am. J. Psychotherapy 9, 9–13 (1991). And the idea that male seminal fluids are efficacious in promoting health and vigor, and equally dangerous if misused, is one of the most widely-held beliefs of so-called "primitive" societies. See, e.g., HUTTON WEBSTER, TABOO: A SOCIOLOGICAL STUDY 53 (1942)(documenting various cultures' beliefs that men should have sexual intercourse with their wives during pregnancy in order that the husband's semen will invigorate the fetus); K.E. Read, CULTURES OF THE CENTRAL HIGHLANDS, NEW GUINEA, 10 Sw. J. Anthropology 1, 27–28 (1954)(efficacy of semen in sorcery).
forty times more potent than blood. Verification of the power of semen could be found in every man’s personal experience: lassitude and depression usually followed an emission of this vital fluid. The “very essence of life,” semen caused remarkable changes during adolescence, such as the development of musculature, the growth of a beard, and the deepening of the voice. Impressive as these were, they represented only the outward manifestations of a much more pervasive action. The whole body gained strength and vigor from its action. Semen even influenced moral and intellectual development. Its “healthy secretion,” said William Acton, helped to “form the character itself.”

Spermatic economy theory explained this beneficial effect as follows. Semen was manufactured in the testicles, where it was stored up until either being emitted or taken up by the blood. If absorbed, it would flow throughout the body, bathing all parts with invigorating power. If emitted through either masturbation or spermatorrhoea, it

25. Tissot, supra note 10, at v. Tissot’s ideas on the value of sperm appear derived, although by an unclear course of transmission, from traditional Indian medicine, which also emphasized the preciousness of sperm and held to the view that forty drops of blood are necessary to obtain one drop of semen. On Indian spermatic theory, see generally Alain Bottéro, Consumption by Semen Loss in India and Elsewhere, 15 Culture, Med. & Psychiatry 303, 306 (1991); Edwards, supra note 24, at 53 (forty drops of blood required to form one drop of semen); John Money et al., supra note 24, at 9–13. Similar views can be found in traditional medical concepts of China and various other cultures. Edwards, supra note 24, at 311.


27. Tissot, supra note 10, at vi–vii. The spermatic economy theory also had difficulty in explaining the effects of castration on adult men. While it was true that men castrated before puberty failed to develop beards, musculature, or deep voices, men castrated after puberty did not lose these qualities—as the lack of semen in such individuals would suggest would happen under the spermatic economy theory. Graham, supra note 11, at 22.


29. In this respect, Tissot distinguished semen from other humors that were either expelled immediately (perspiration) or stored up and expelled (urine). Semen was in a class by itself; it was never entirely expelled, but rather “perfected” and taken up by the veins. Tissot, supra note 10, at 35. Tissot admitted that medical science did not yet understand how the semen exercised its vitalizing effect once reabsorbed, but he had no doubts as to its efficaciousness. Tissot, supra note 10, at 36.

30. Spermatorrhoea generally referred to any form of involuntary spermatic loss. Howe, supra note 26, at 58. Physicians distinguished nocturnal and diurnal emissions. Nocturnal emissions were the familiar wet dreams that occurred during sleep. Diurnal emissions occurred through two mechanisms. First, semen could leak out as a result of incomplete erections incident to various forms of excitation: “during stool, at the termination of the emission of urine, during sudden motions, conversation with fe-
would be lost. Deprived of the life-enhancing supply of semen, the rest of the body would fall into disease. It was essential, therefore, that semen be saved up—hence the notion of “spermatic economy.”

These medical views on spermatic economy found a ready acceptance in popular culture. They were even considered appropriate for the young, as a form of moral instruction to guide them in the wise course of maturation and development. The President of the Chicago Theological Seminary, for example, published an open letter to his sons in which he developed the spermatic economy theory as the principal objection to masturbation:

The glands that are a part of the organs of sex . . . secrete fluids which are absorbed into the blood and there take a chief part in developing the body in its strength or . . . virility . . . As this wonderful fluid is secreted by the testes, it works its way into the blood vessels and is carried to all parts of the body, where it performs its part in building it or so furnishing it that we discover this peculiar strength, virility. And if the fluids are drawn off through the friction or rubbing of the organs, the whole body suffers the loss of the fluids that it must have in order to be made strong and able to endure strain. So here lies all the folly and sin of self-abuse; it is depriving the body of what it needs for its own strengthening. The boy who forms the habit of self-abuse is as unwise as a man would be if he were to break into his own house, rob it of its most precious goods, and throw them into the fire . . .

males, or while reading lascivious novels or songs.”  Calhoun, *supra* note 24, at 8. Second, semen could be passed during urination. Calhoun, *supra* note 24, at 8. In the view of some authorities, the loss of semen during urination was “spermatorrhoea in the genuine sense of the word,” and also the most dangerous form of the syndrome because the spermatic loss would often not be perceived until it had “developed its disastrous consequences.” Calhoun, *supra* note 24, at 9. While most reputable physicians hesitated to endorse the proposition that semen could leak out in urine (especially after microscopic examination failed to verify the theory), virtually all endorsed the thesis that spermatic leakage of whatever form was harmful to the body. E.g., James C. Jackson, The Sexual Organism and Its Healthful Management 92–94 (photo. reprint 1974) (1861).

Spermatic economy theory had much to recommend it, but it faced serious problems. It failed to explain why masturbation by immature boys presented health problems, since they had no semen to conserve. Yet everyone agreed that masturbation by young boys was harmful. The spermatic economy theory also ran into trouble with compulsive masturbation, in which boys and young men induced orgasm many times a day. In such cases, it was frequently observed that the later orgasms failed to produce semen, yet it was widely held that such habits were at least as damaging as more restrained practices.

Similar difficulties attended the spermatic economy theory when it came to masturbation by women and girls. The presence of spermatic pressure could not explain their impulse to masturbate, nor could excessive expenditure of spermatic fluid account for the adverse health effects of self-abuse in females. Some theorists dealt with this problem by comparing vaginal secretions with seminal fluid. Walling, citing the medical maxim *ubi irritatio ibifluxus* (where there is irritation there is increased secretion), observed that the “increase of the proper secretions of the female organs under habitual irritation, is enormous and extremely debilitating.” However, medical science was quite unwilling to equate the female and male secretions. Thus, spermatic economy theory never adequately explained why women have the urge to masturbate, or why gratifying that urge was harmful to their health.

Another problem with the spermatic economy theory was that it seemed to imply that the ill effects of masturbation would accompany any loss of semen, including loss incident to intercourse. Medical writers struggled with this implication of the theory. They recognized that excessive intercourse, even in marriage, was debilitating and dangerous, but they were unwilling to denounce conjugal relations *per se*, for the obvious reason that intercourse within marriage was not only natural but also essential to the survival of the species. Tissot, the first modern Western writer to address this problem, suggested that the adverse consequences of seminal loss were particularly severe when the event occurred in other than a recumbent position, and held that this was often the case with masturbation. This clearly was not a very adequate

32. As sexologist William Walling conceded, masturbation in young children “can never, of course, be attributed to the stimulation exerted on the genital organs by the presence of the spermatic fluid, for in them this secretion does not exist.” William H. Walling, *Sexology* 36 (1904).
means for distinguishing masturbation from intercourse, however, both
because a masturbator could adopt a recumbent position and because
intercourse could occur in positions other than the recumbent. As an
alternative, Tissot suggested that in masturbation the practitioner lost
vital force through perspiration, whereas in intercourse, the losses due to
perspiration were partially offset by absorption of the partner’s perspi-
ration. 36 Elsewhere, Tissot suggested that the positive mental effects of
intercourse overcame the physical harms: during intercourse, unlike
masturbation, a person experienced an “exhilaration of the mind” that
“re-establishes the strength”—especially if the connection was with a
beautiful woman. 37 Despite the creativity of these suggestions, the fact
remained that spermatic economy theory could not adequately explain
why masturbation was harmful and intercourse was not.

Spermatic economy theory also had difficulty in dealing with
spermatorrhoea. The view that any expenditure of sperm was harmful to
vitality suggested that nocturnal emissions damaged the body just as
much as seminal losses incident to masturbation. Yet, while most
authorities recognized that spermatorrhoea was dangerous, at least if the
emissions occurred too frequently, they did not believe that the adverse
health consequences were as severe as in the case of masturbation. But
within spermatic economy theory itself there was little basis on which to
distinguish the conditions.

In the absence of a spermatic explanation, the authorities resorted
to a parallel theory of masturbation based on a concept of nervous en-
ergy. The idea here was that the healthy functioning of the body
depended on the nerves not being excited to the point where the balance
of bodily functions became disrupted. Orgasm induced by masturbation
was exceptionally dangerous. 38 “[T]he nerve-shock attending the

36. See Tissot, supra note 10, at 50–51.
37. See Tissot, supra note 10, at 51.
38. In this theory, Sigmund Freud, despite his path-breaking work elsewhere, was fully in
the medical mainstream. In a draft letter to Wilhelm Fliess of 1893, Freud remarked
that:

[S]exual exhaustion can by itself alone provoke neurasthenia. If it fails to
achieve this by itself, it has such an effect on the disposition of the nervous
system that physical illness, depressive affects and overwork (toxic influ-
ences) can no longer be tolerated without [leading to] neurasthenia . . .
n neurasthenia in males is acquired at puberty and becomes manifest in the
patient’s twenties. Its source is masturbation, the frequency of which runs
completely parallel with the frequency of male neurasthenia.

substitute for the venereal act . . . breaks men down."39 Sylvester Graham, an early advocate of nerve-shock theory, described orgasm as follows:

The mental action, and the power of the imagination on the genital organs, forcing a vital stimulation of the parts, which is reflected over the whole nervous system, are exceedingly intense and injurious . . . . The general, prolonged, and rigid tension of the muscular and nervous tissues is excessively severe and violent. In short, the consentaneous effort, and concentrated energy of all the powers of the human system, to the single forced effect, cause the most ruinous irritation and violence and exhaustion and debility to the system.40

William A. Hammond, another advocate of nerve-shock theory, explained the case as follows:

when we call to mind the immense disturbance of the nervous system consequent upon the development of the sexual orgasm, the mental vertigo, the muscular convulsion, the cardiac and respiratory excitement, the resemblance which all the phenomena have to those of an epileptic paroxysm into which they not infrequently pass by an almost imperceptible graduation, we can understand how the too frequent repetition must lead not only to an extinction of the natural desire and power, but to a long train of other disorders of much greater importance to the life and health of the individual. The idea of ascribing all these deleterious results to the loss of a few drops of seminal fluid is absurd.41

Nerve-shock theory addressed many of the deficiencies of spermatic economy theory. It explained why masturbation by immature boys, women and girls caused physical harm despite the absence of spermatic loss. It clarified why frequent masturbators continued to damage their health even after they ceased to emit spermatic fluid. It dealt with the problem of spermatorrhoea, since the disruptive effects on the nervous system from wet dreams, while not insignificant, appeared somewhat less profound than the effects induced by masturbation. And it ex-

40. GRAHAM, supra note 11, at 40.
41. HAMMOND, supra note 33, at 126.
plained why some immature boys (and girls) might develop the habit in the first place, despite the absence of spermatic pressure. These individuals suffered from anatomical structures that gave them a preternatural proclivity to experience irritation in the genital region. Walling observed that "by a kind of special organic idiosyncrasy," it sometimes happened that the genitals became the "seat of abnormal sensitiveness or irritation" in the young, which could trigger "this most terrific and fatal passion." The effect was especially notable in girls: their genitals "may be constitutionally endowed with excessive predominance of action, which . . . causes them to titillate incessantly that part of those organs which is the seat of the keenest sensibility [i.e., the clitoris]. Very little girls are often thus borne along, by a kind of instinct, to commit masturbation."

Despite these advantages, nerve-shock theory faced difficulties of its own. A principal problem was that if the adverse health effects of masturbation were brought about through the convulsive spasms of sexual climax, it might seem that intercourse between husband and wife would have the same consequences. Yet the authorities who subscribed to nerve-shock theory, like those in the spermatic economy camp, were unwilling to condemn conjugal relations, at least if they were kept to a reasonably low frequency. Nerve-shock theory had an answer to this objection, however. In relations between husband and wife, the excitement of sexuality is quickly dimmed: "they become accustomed to each other's bodies, and their parts no longer excite an impure imagination." Intercourse became both less frequent and less stressful. Nerve-shock theory thus supplied a reason for why sexual relations between spouses become routine and unexciting: otherwise, they would harm their health by too-frequent or too-passionate lovemaking.

Although it may seem outlandish today, the medical theory of masturbation and spermatorrhoea, in both its spermatic economy and nerve-shock variants, was, for its time, a reasonably scientific construct. It was based on theories of sperm conservation and nervous excitation that, if not completely self-consistent, at least had a degree of internal coherence. Reputable physicians supported the theory with numerous case studies. It offered a causal mechanism that unified a "strikingly heterogeneous set of signs and symptoms." If it faced theoretical difficulties, those did not detract from its status as a scientific account.

42. Walling, supra note 32, at 36.
43. Walling, supra note 32, at 43.
44. Graham, supra note 11, at 33.
45. Englehardt, supra note 12, at 237.
Most scientific theories have weak points, and the presence of unexplained factors in the medical theory of masturbation and spermatorrhoea hardly disqualified it as bona fide science.

The Sociological Model. The sociological model appeared on the scene later than the medical and religious models. The focus of the sociological model was on general social conditions, rather than specifically on the health of individuals who fell prey to masturbation. Eliza B. Duffey, a proponent of this view, advocated female suffrage, family planning, equal legal rights for women, and equal employment in the workforce. She decried the double standard that allowed men dispensation from rules of sexual morality that were applied with great rigor to women. Her deepest concern, however, was with prostitution, which she viewed as degrading to women and harmful to society. It is from this standpoint that she approached the question of masturbation in men. Masturbating men, she believed, were likely to abandon their wives, patronize prostitutes, or commit sexual assault as an outlet for improper urges stimulated by self-abuse. Masturbation by men thus ended up harming women. Likewise, feminist physician Dio Lewis opposed masturbation because he believed that it was a precursor to debauchery and prostitution. Duffey and Lewis were members of the "purity" strand of Victorian Feminism, which viewed unfettered male sexuality as a threat to women and which concerned itself with combating prostitution and rescuing "fallen" women.

Relationships between the Models. The religious, medical, and sociological models were not sharply distinguished in the literature. Indeed, the authorities often swung from one to another without even acknowledging the transition. The models were, however, conceptually distinct. They were intermingled because of a powerful concept of the Good to which virtually all Eighteenth and Nineteenth Century authorities on masturbation subscribed. This concept united the

46. See Eliza B. Duffey, The Relations of the Sexes (1876).
47. See generally Dio Lewis, Chastity or, Our Secret Sins (1874).
48. On purity feminism, see Jane Larson, Even a Worm Will Turn at Last: Rape Reform in Late Nineteenth-Century America, Yale J.L. & Human. 1 (1997) (discussing campaign by purity feminists to increase age-of-consent in rape legislation); see also David J. Pivar, Purity Crusade: Sexual Morality and Soul Combat, 1868-1900 (1973).
49. See Graham, supra note 11, at 30-31 ("while we perform [our natural bodily functions] for the physical good of our bodies, and of our species, with the ulterior and paramount regard to the best condition of our nobler powers, we fulfill the purposes of our bodily functions with pleasure and satisfaction, and secure our permanent welfare, and our highest good.")
realms of nature, society, body, and soul. What was natural was also socially beneficial, healthful, and virtuous. Thus, the vital forces in the human body, if allowed to express themselves naturally, would preserve life and health in a way that reflected “Divine arrangements.” Writing in 1858, George R. Calhoun, a Philadelphia surgeon, offered a characteristic paean:

The sexual instinct, and the desire to propagate the species, when not perverted, is one of the most sacred passions of the human heart. In its purity ... it excites the mind of the young to the most honorable love, exalts and dignifies the character, and stimulates the ambition. It is in itself an ennobling emotion, and one which the God of nature designed for the wisest and holiest of uses. ... It lies at the foundation of the marriage tie, and enters into the very fabric of human government. ... This precious gift ... is one of the first means of promoting health of body and cheerfulness of mind. ... 

One here finds all elements of the equation: the naturalness of good sexuality (the “sexual instinct”), its beneficial effects on society (propagating the species, instilling honor and ambition in young people, building character, preserving marriages and strengthening the social fabric), its value for individual health (promoting cheerful minds and healthy bodies), and its positive influence on the soul (informing it with “purity” and “sacred passion”). Contrariwise, the Bad was a lack of all these things. The author of Onania condemned masturbation as a sin “displeasing to God,” “against Nature,” “detrimental to the Publick,” and “injurious to ourselves.” Masturbation, in other words, was evil, unnatural, socially harmful, and unhealthy. Later authors carried forward the equation between these negative attributes. As George Calhoun observed in 1858, when the sexual impulse is perverted, it “becomes a source of torture, misery, lingering disease, insanity and

50. This concept of the Good is emblematic of the philosophy of premodernism. See generally Richard J. Bernstein, Beyond Objectivism and Relativism: Science, Hermeneutics, and Praxis (1983); Richard Rorty, Philosophy and the Mirror of Nature (1979); Stephen Toulmin, Cosmopolis: The Hidden Agenda for Modernity (1990). Although the premodern construct began to break down in some circles after the Civil War, there are few hints of modernist philosophy in the late nineteenth and early twentieth century literature on masturbation.

51. Jackson, supra note 30, at 6.

52. Calhoun, supra note 24, at 3-4.

53. Onania, supra note 10, at 7, 10.
death. . . These sexual excesses undermine health, shorten life, destroy the happiness of families, incapacitate the male from the noble office of procreating offspring, and deprive woman of her holy mission of bearing children. In short, what is unnatural (perverted) is also destructive to health, bad for society, and contrary to divine law. Given these conceptions of the Good and the Bad, writers on masturbation could jump from social to medical to religious considerations and arguments without sharply distinguishing them. At the level of the Good, the religious, medical, and sociological models were merely variants in emphasis in a single approach to basic human values.

II. Origins, Development, and Treatment

The religious, medical and sociological models provided an account of the phenomena of masturbation and spermatorrhoea. They traced the conditions back to their origin, followed their development from an apparently minor annoyance to a fatal affliction, and recommended various forms of treatment.

A. Origin

Each of the three models conceived of the onset of masturbatory behavior in terms of its own framework. For the religious model, masturbation, like any sin, had its origin in temptation and weakness of the will. Standard Christian doctrine taught that mankind was subject to original sin, and therefore that all people had a propensity to vice. As moralist and physician James C. Jackson put it in 1861, “human beings are born depraved.” It was therefore not surprising that they fell into masturbation. Dio Lewis, in his book on chastity, summarized the inner workings of the masturbator’s psychology as follows:

all overt sins and crimes begin, we know, in the thoughts or imagination. A young man allows himself to conjure up visions of naked females. These become habitual and haunt him, until at last the sexual passion absorbs not only his waking thoughts, but his very dreams. Now, if his education and

54. Calhoun, supra note 24, at 4.
55. Jackson, supra note 30, at 8.
surroundings make actual intercourse impracticable, he will probably fall into masturbation.\footnote{56}

The psychology of temptation described the mental precursors to masturbation—bargaining with oneself, promising to set limits, rationalizing and minimizing, promising to do something only once and never again, and so on. All these strategies were doomed to failure, since any one who attempts to “Parley with Lust” is “already capitulat-

ing with the Enemy.”\footnote{57}

For the medical model, the cause of masturbation was treated as the etiology of any disease. Masturbation had exciting causes, in the form of immediate stimuli inducing the behavior—for example, lascivi-

ous thoughts induced by spermatic pressure or exposure to stimulating images. It also had predisposing causes, in the form of background condi-

tions that made it more likely that a person would give in to the masturbatory impulse—for example, a prior habit of masturbation, a failure of parenting, lax schooling, and so on. Moving from etiology to epidemiology, the medical model offered an explanation for how mas-

turbation took hold in particular communities. The condition frequently had its origin in some event that could be analogized to an infection.\footnote{58} J.H. Kellogg spoke in these terms when he described the effect of one child on an entire school: “the entrance of a single corrupt boy ... will speedily corrupt almost the entire membership. The evil infection spreads more rapidly than the contagion of small-pox or yellow fever, and it is scarcely less fatal.”\footnote{59}

Regardless of the model employed, all the authorities agreed that the habit of masturbation was most commonly acquired during adoles-

cence. Boys and girls took up the vice through a number of routes. Most commonly, they learned it from “evil companions.”\footnote{60} It was particularly dangerous for a boy to spend a night with another boy, especially one a few years older, “for the power of mischief possessed by the older boy is increased in proportion to his size, and, alas! his experience. If the boy be an onanist he is sure to corrupt the smaller boys of his ac-

quaintance wherever a safe opportunity presents itself.”\footnote{61} Boarding

\begin{footnotes}
\footnote{56. Lewis, supra note 47, at 27–28.}
\footnote{57. Onania, supra note 10, at 22.}
\footnote{58. See Walling, supra note 32, at 46–47 (a “contagious vice”).}
\footnote{59. J.H. Kellogg, Plain Facts for Old and Young, Embracing the Natural History and Hygiene of Organic Life 238 (1888).}
\footnote{60. McFadden, supra note 16, at 17; see also Onania, supra note 10, at 3.}
\footnote{61. Walling, supra note 32, at 13.}
\end{footnotes}
schools were fertile sources for instruction, since students frequently masturbated together. Children were also vulnerable to being corrupted by servants: "many, alas! have received their first lessons in immorality or crime from the hostler or the cook." Nannies would sometimes masturbate children in their care in order to quiet them. Even older girls would corrupt young boys if given half a chance.

Masturbation did not need to be taught by others. A person could pick up the habit by himself or herself, simply by consuming erotic literature and pictures—materials that all authorities agreed were readily available. William Acton expressed the prevailing consensus: "when I see children in possession of such books, and left to find out what the gratification means which they there read of, I tremble for the consequences, feeling assured that, with child-like imitative powers, they will sooner or later wish to realize those sensations.

Masturbation could also develop without outside stimulation or instruction. Boys were particularly prone to developing the habit by accident because of their external genitalia. They might experience an erection simply as a natural response to a stimulus, such as the need to urinate. In such a condition of "abnormal excitation," the risks were tremendous: "the least accidental touch, or even an involuntary me-

62. See Hammond, supra note 33, at 56-57. In some cases, the practice seems to have been used as a remedy for boredom. Tissot recounts a case in which a "whole school" indulged the practice in an effort to "dissipate the ennui and keep themselves awake during the lectures on scholastic metaphysics." See Tissot, supra note 10, at 48.

63. One wrote that "[w]here I terminated my studies, we assembled often in parties of twelve to fifteen to indulge this fine practice." Walling, supra note 32, at 38. The results were catastrophic: of the entire group, only two escaped a frightful death. See Walling, supra note 32, at 38.

64. Walling, supra note 32, at 13. The idea that domestic servants frequently taught their young charges to masturbate is a staple of the Victorian literature. See, e.g., Graham, supra note 11, at 42 ("servants, and other laboring people of loose morals"); Samuel Gregory, Facts and Important Information for Young Women, on the Subject of Masturbation 45 (1845); Kellogg, supra note 59, at 239-40.

65. Lewis, supra note 77, at 182; Walling, supra note 32, at 36. In one case, nurses masturbated a boy in order to cure "inveterate priapism," thus imparting a "well-nigh fatal lesson... through the insane attempts at relief." Walling, supra note 32, at 37.


67. This cause was noted from the beginning of the assault on masturbation, although the author of Onania viewed "Ill-Books" and "Lascivious Discourses" as causes, not only of masturbation, but of all sorts of concupiscence. Onania, supra note 10, at 10. See also, e.g., Graham, supra note 11, at 76 ("lewd books" and "lascivious images" are "principal agents in this work of mischief"); Kellogg, supra note 59, at 181 (obscene literature among the fertile causes of unchastity).

68. Jackson, supra note 30, at 50.
chonical movement, may very easily lead to a most frightful and devouring passion.”

In many cases, children fell into corruption because of irritation in the genital region. Girls, in particular, often came to masturbate by this means. Especially in girls of nervous temperament, adhesions between the clitoris and the clitoral hood could lead to a “habit which, if untreated, may become permanent and exert a most injurious influence . . .” The physiological causes of female masturbation also included constipation, anal fissures, vaginal catarrh, cystitis, and kidney stones. For boys, the problematic anatomical structure was the foreskin. Some authorities believed it was particularly dangerous if a boy possessed a tight or elongated foreskin, which might contribute to the excessive accumulation of smegma. As one authority observed, “the constant contact of the prepuce with the most sensitive part of the organ [i.e., the glans] increases its sensibility. The secretion is retained, and accumulates, often becoming hardened. In this manner, irritation is set up, which occasions uncomfortable feelings, and attracts the hands to the part.” Phimosis—adhesions between the foreskin and glans—also could induce masturbation, again because of irritation that invited handling of the organ.

Because masturbation could be induced by means of genital irritation, it could begin in early childhood. One child started to masturbate at five, “lost his reason at eleven” and died at sixteen. A physician in Louisiana treated a two-year-old girl, while Dio Lewis reported even younger cases. One writer described a “confirmed masturbator” at eighteen months! The authorities agreed that such cases of infant masturbation were disturbingly common.

Some suggested that a propensity to masturbate ran in families. In 1894, a visiting surgeon at Charity Hospital in New Orleans reported

69. Walling, supra note 32, at 36.
70. Rowland G. Freeman, Circumcision in Masturbation in Female Infants, 70 AM. J. OF OBSTETRICS & DISEASES OF WOMEN & CHILDREN 315 (1914).
71. Freeman, supra note 70, at 316 (comments of Dr. Jacobi).
73. Kellogg, supra note 59, at 241–42.
74. See W.M. Donald, Circumcision as a Therapeutic Measure, 16 MED. AGE 292, 293 (1898).
75. Walling, supra note 32, at 37.
77. Lewis, supra note 47, at 183.
78. Walling, supra note 32, at 36.
on the case of a young girl suffering from an obscure nervous condition attributed to self-abuse. The doctor noted that the child's mother and grandmother had both fallen victim to the vice, the latter having died in an insane asylum from a condition "induced, it is thought, by masturbation." The clear implication was that the child's condition was somehow inherited from her female ancestors. Others believed that the propensity to masturbate—like the tendency toward sexual indulgence of any sort—passed from parents to children by means of the parents' behavior. Parents who indulged excessively in sexuality, even within the marital relationship, were likely to have children with overdeveloped "amative faculties."

In some cases, masturbation was a workplace hazard. During the mid-Nineteenth Century, an epidemic spread among female garment workers. It turned out that pedal sewing machines caused a vibration that could stimulate the genitals. Supervisors roamed factory floors listening for runaway sewing machines.\(^8\) But their efforts were not particularly effective. A publication from 1866-67 reported on the grim results among French seamstresses. One patient, who had been in good health prior to entering the work force, was forced to quit after a year because of "fatigue, lassitude, pains, etc., superinduced by the venereal excitement incident to setting the machine in motion."\(^9\) Two hundred of the five hundred women on the shop floor were affected.\(^4\) In England, too, seamstresses suffered "palpitation[s] of the heart, severe pains in the back, supraorbital headaches, eye problems, and general debility," due to "immoral habits, which had been induced by the erethism which the movement of the legs evoked."

**B. Development**

Whatever its origin, a habit of masturbation, once begun, followed a predictable and tragic course. For the religious model, that pattern was one of falling into sin. The Devil made all sorts of arguments to encourage the practice. Those who valued their reputation reasoned that no one would ever know; those who coveted worldly goods imagined that

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80. Duffy, *supra* note 76, at 168. The surgeon performed a clitoridectomy on the girl, who reportedly was completely cured.
they would lose nothing; those who were fearful took comfort that they risked little.\(^{86}\) Once giving in to the temptation, however, they forfeited everything. Even if they rationalized that they had committed only a trifling sin, they could have no innocence to boast of afterwards. As the author of *Onania* put it, “the barrier that fenc’d their chastity is broke, and the Enemy to Purity and Holiness makes daily Inroads, and ravages through every Passage of the conquer’d Soul.”\(^{87}\) Eventually, the sin “become[s] habitual,” so that the sinner is completely given over to wantonness, obscenity, and shame.\(^{88}\) At this point, he is only “one Step from everlasting Destruction.”\(^{89}\)

The medical model saw masturbation as an addictive process. Masturbation fed on itself: “every fresh indulgence helps to forge the chains of habit, and, too late the truth dawns on [the practitioner] that he is, more or less, ruined for the world.”\(^{90}\) Writing in 1879, Allen Hangenbach, a physician at Cook County Hospital in Chicago, identified two stages in the disease. First, the patient commenced masturbating, but retained sufficient mental and volitional capacities to stop. If the patient continued, however, he would progress to a second stage where reform was impossible.\(^{91}\) William Acton held similar views. During the early stages, he said, the disease was treatable, but if the process was not caught in time, the “downward course may be very rapid and fatal.”\(^{92}\) At this point, the victim was in a hopeless condition: “the habit of solitary sin, learned and contracted at school, and not discontinued even in later and more mature years” ultimately became “the one absorbing and uncontrollable passion of life.”\(^{93}\) Death or insanity were the only possible outcomes.

For the sociological model, the development of masturbation also followed a pattern of increasing severity over time. Feminists of the social purity school believed that masturbation by men stoked the sexual urge and loosened the restraints on behavior. Sooner or later, they believed, masturbating men would act out sexually against women, either

86. *Onania*, supra note 10, at 22.
89. *Onania*, supra note 10, at 29.
91. See Allen W. Hagenbach, *Masturbation as a Cause of Insanity*, 6 J of Nervous & Mental Diseases 603, 607–08 (1879).
by abandoning their wives for other women, by patronizing prostitutes, or by committing rape or other sexual crimes.

Regardless of the model employed, all authorities agreed that the incidence of the solitary vice was high.\(^9\) Most boys were known to masturbate, and many girls also.\(^9\) The actual level of masturbation was impossible to measure, but its widespread incidence could be observed from the diseases that it was known to cause.\(^9\) Since these diseases were extremely common, masturbation must be common also. As early as 1876, one researcher quipped that ninety-nine percent of men and women masturbated and the other one percent lied.\(^7\)

The authorities agreed that the earliest physical changes due to masturbation showed up in a person’s appearance. This view dates from the treatise Onania, whose author stated: “if we turn our eyes on licentious Masturbators we shall find them with meagre Jaws, and pale Looks, with feeble Hams and legs without Calves, their generative faculties weaken’d if not destroyed in the Prime of their Years; a Jest to others and a Torment to themselves.”\(^9\)

Indulgence in the solitary vice also induced behavioral changes: masturbators might display bashfulness, boldness, mock piety, or confusion, and might smoke, bite their nails, or wet the bed.\(^10\)

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94. See, e.g., HowE, supra note 26, at 62. (“A very large majority of human beings of both sexes engage in the practice from early childhood”). The authorities were unanimous as to the prevalence of the vice. See, e.g., GRAHAM, supra note 11, at 43 (seven of ten boys are familiar with the practice by age twelve); S.B. WOODWARD, HINTS FOR THE YOUNG IN RELATION TO THE HEALTH OF BODY AND MIND 17 (1856) (“a more common and extensive evil, in youth of both sexes, than is commonly supposed”).

95. See AUGUSTUS K. GARDNER, CONJUGAL SINS AGAINST THE LAWS OF LIFE AND HEALTH 70 (1870); JACKSON, supra note 30, at 60; WALLING, supra note 32, at 42 (“enormous” numbers of girls masturbated).

96. See JACKSON, supra note 30, at 61 (1861).


98. COMFORT, supra note 5, at 73.

99. See Jefferis & Nichols, supra note 31, at 154. Unacknowledged, but remarkably similar, were the views of traditional Indian Ayurvedic medicine, which saw signs of seminal loss in patients who “have sunken eyes with rings around them, a lifeless look, hollow cheeks and a colorless withered face prematurely aged, looking forty when they are only twenty-five.” Bottero, supra note 25, at 305; Money et al., supra note 24, at 9–13.

100. MICHAEL ET AL., supra note 14, at 161.
appetite could also signal masturbation, especially if the person craved rich or spicy food. William H. Walling pointed to the masturbator’s “downcast, averted glance, and the disposition to solitude.” William Acton described the masturbating boy as one “careless in dres [sic] and uncleanly in person,” who “shuns the society of others, creeps about alone, [and] joins with repugnance in the amusements of his schoolfellows.” As some authorities recognized, these behavioral changes reflected, at least in part, the psychological distress that a habit of masturbation created in the victim. As one sufferer exclaimed, “For oh, sir, I am one of the most unhappy and most afflicted of men.... In my youth I was guilty of the fearful sin of masturbation, and through it I know I have ruined myself both in this world and in the world to come. All my symptoms are clearly traceable to this cause.” Another moaned, “I would be castrated at once; but, doctor, it is too late; of course it is. There is nothing left for me now but a madhouse or suicide. Doctor, speak out like a man: would you not advise me to blow out my brains?”

A habit of masturbation appeared, sooner or later, in the anatomical condition of the practitioner. A peculiar stiffness in gait could be a signal. Masturbating girls were likely to be flat-chested, masturbating boys weak and bony. Most tellingly, as might be expected, the genitals were a giveaway. The ducts opening to the urethra were enormously swollen in masturbators. The veins of the penis were “enlarged and tortuous,” while its skin was a “dull yellow color, with a tendency to wrinkle.” The penis was likely to be thinner and smaller than usual, and cold to the touch. The testicles were “soft and flabby.” Among females too, a habit of masturbation could be detected from close examination of the genitals. The clitoris of some masturbators became

102. Walling, supra note 32.
103. Acton, supra note 15, at 48–49. Acton viewed these physical symptoms as manifestations of loss of spermatic fluid through masturbation: “the large expenditure of semen, has exhausted the vital force of the incontinent, and has reduced the immature frame to a pitiable wreck. Acton, supra note 15, at 49.
105. Hammond, supra note 33, at 187.
106. Lewis, supra note 47, at 166.
109. Howe, supra note 26, at 33.
110. Howe, supra note 26, at 68.
111. Howe, supra note 26, at 37–38.
grotesquely elongated, while the labia minora “resembled the ears of a small spaniel.”

Physical descriptions of masturbators tended to emphasize the predominance of the left. Masturbators slept on their left side. Their penises were bent to the left. Their left testicles hung lower. This emphasis on the left was not coincidental. In the West, as in many cultures, the right side is associated with goodness, virtue, and health, while the left partakes of defilement, deviance, and disease. By stressing the priority of the left among masturbators, the authorities reinforced the image of the habit as polluting.

The early physical signs of masturbation were but precursors to much more serious problems. Tissot held that the practice caused tuberculosis and nervous disease, among other disorders. Benjamin Rush, a physician and signer of the Declaration of Independence, called attention to poor eyesight, epilepsy, and memory loss. Sylvester Graham, perhaps the most encyclopedic chronicler, believed that masturbation caused appetite disturbance, dyspepsia, languor, debility, diarrhea, colic, hemorrhoids, purulent discharges, poor circulation, emaciation, heart spasms, aneurysms, asthma, hacking cough, hoarseness, consumption, hemorrhage, apoplexy, jaundice, diabetes, calculi, ulceration of the urethra, bile, blisters, sores, pimples, fistulas, loss of muscle tone, palsy, distortions of the spine and chest, tooth decay, numbness, impairment of the senses of taste, smell, and hearing, blindness, epilepsy, paralysis, weakness of attention, memory loss, confusion, anxiety, fear, despair, loss of will power, depression, madness, impotence, withering of the genitals, sleep disorders, nocturnal emissions, and death. To masturbation, in short, was attributed an astonishing variety of maladies, to the point where “[a]lmost every disease and symptom of disease known to

112. Howe, supra note 26, at 41–42.
114. Howe, supra note 26, at 68.
115. Howe, supra note 26, at 69.
117. Michael et al., supra note 14, at 159.
118. Michael et al., supra note 14, at 159. Rush was also famous as an opponent of slavery and capital punishment, and an avid advocate of bleeding as a cure for many maladies. Douglas Starr, Blood: An Epic History of Medicine and Commerce 22–23 (1998).
the human race" was directly or indirectly associated with the solitary vice.\textsuperscript{120}

A common tenet was that masturbation, if indulged too frequently, produced impotence or "lost manhood."\textsuperscript{121} A masturbator would, over time, resort to more and more libidinous and unnatural fantasies as older, less vivid images lost their power to excite.\textsuperscript{122} Eventually, such a man might come to prefer fantasy to reality, and so, becoming impotent to women, would "abandon[] himself to his fatal habit, knowing [that] the almost limitless resources of his imagination [would suffice] in providing excitations to his desires."\textsuperscript{123} An even more serious consequence of masturbation was physiological impotence, in which the sexual faculties were rendered inoperative altogether.\textsuperscript{124}

Masturbation was known to cause mental and emotional problems. It enfeebled the intellect and induced idiocy in persons of previously normal intelligence. It provoked suicide on the part of sufferers whose self-loathing reached the depths of despair.\textsuperscript{125} Most commonly of all, it induced insanity.\textsuperscript{126} There was little hope in such cases. Even when watched constantly or restricted by "pinions . . . and manacles,"\textsuperscript{127} these pathetic victims could not be stopped from the "constant, daily, and I might say almost hourly recurrence of the practice."\textsuperscript{128}

\begin{itemize}
  \item \textsuperscript{120} Jefferis & Nichols, \textit{supra} note 31, at 152.
  \item \textsuperscript{121} \textit{Comfort}, \textit{supra} note 5, at 79–81.
  \item \textsuperscript{122} See \textit{Hammond}, \textit{supra} note 33, at 26.
  \item \textsuperscript{123} \textit{Hammond}, \textit{supra} note 33, at 26.
  \item \textsuperscript{124} \textit{Hammond}, \textit{supra} note 33, at 26.
  \item \textsuperscript{125} \textit{Acton}, \textit{supra} note 15, at 95. Such individuals labored "under the impression that they have committed the unpardonable sin—have sinned against the Holy Ghost—and that a future world presents no hope of joy or happiness for them, as they are excluded from it by their past conduct . . . ." \textit{Acton}, \textit{supra} note 15 at 100 (quoting Ritchie, \textit{An Inquiry into a Frequent Cause of Insanity in Young Men}).
  \item \textsuperscript{126} \textit{Acton}, \textit{supra} note 15, at 95 (that insanity is a consequence of this habit, is now beyond a doubt). S.B. Woodward, the Superintendent of the Worcester (Massachusetts) Lunatic Asylum, voiced the prevailing consensus: "No cause is more influential in producing insanity, and in a special manner perpetuating the disease, than masturbation." \textit{Woodward}, \textit{supra} note 94, at 26. Symptoms of masturbatory insanity included idiocy, ravings, delusions, melancholia, voices in the head, paranoia, and, a "deplorable, hopeless, disgusting fatuity." Every insane asylum had its masturbators, who could readily be identified by their "pale complexion," "emaciated form," "slouching gait," "clammy pallor," "glassy or leaden eye" and "averted gaze." \textit{Woodward}, \textit{supra} note 94, at 28.
  \item \textsuperscript{127} \textit{Graham}, \textit{supra} note 11, at 62.
  \item \textsuperscript{128} \textit{Woodward}, \textit{supra} note 94, at 28.
\end{itemize}
Women, too, suffered distinctive health problems from masturba-
tion, although in the view of some authorities, these were less severe
than the parallel harms to men. As one New Orleans physician ob-
served in 1855, "many diseases, [such] as leucorrhoea, uterine haemorrhage, falling of the womb, cancer, functional disorders of the
heart, spinal irritation, palpitation, hysteria, convulsions, haggard fea-
tures, emaciation, debility, mania—many symptoms called nervous—
un triste tableau, have been referred to masturbation as the cause." One particularly troubling symptom was nymphomania, in which "the
most timid girl is transformed into a termagant, and the most delicate
modesty to a furious audacity which even the effrontery of prostitution
does not approach."

Even refraining from masturbation was not enough, if the person
had once practiced it. As Sylvester Graham observed, "although the
practice may be abandoned, or give place to connubial commerce, and,
by proper measures, the pernicious effects may in some degree, be over-
come—yet through life, the early offender will, to a greater or less[er]
extent, experience the penalties of his transgression." Most commonly,
men would suffer spermatorrhoea induced by their prior indulgence. So
collected were some men about this prospect that they believed semen
was leaking out in urine or stool. Desperate men begged to be castrated.
Medical opinion gave these patients some cause for concern. Most physicians believed that masturbation could indeed induce sper-
matorrhoea, and many entertained the possibility of seminal leakage in
urine or stool.

It was not lost on informed observers that some people mastur-
bated yet remained healthy. The authorities were unanimous that this
was an illusion. It was foolish for anyone to think that they might es-
cape, for the effects, if slow and insidious at first, were inevitable.
Continue, and doom was sealed: "

Let no one delude himself with the false assumption that he
can be exempt from this universal law. There can be no possible
exception! Those who persist will surely die the most horrible

129. See Gardner, supra note 95, at 70; Howe, supra note 26, at 67.
130. Duffy, supra note 76, at 166–68.
131. Howe, supra note 26, at 108–09; Walling, supra note 32, at 46.
132. Graham, supra note 11, at 62.
133. See Hammond, supra note 33, at 140–42.
134. See, e.g., Hammond, supra note 33, at 175; H.C. Sharp, The Severing of the Vasa
Deferentia and its Relation to the Neuropsychopathic Constitution, N.Y. Med. J., 411,
413 (March 8, 1902).
of all deaths; and those who practice the most limited and most occasional acts of onanism will surely be punished in proportion to their crimes.\footnote{Walling, supra note 32, at 40.}

Those who seemed to avoid punishment were only fooling themselves, for sooner or later their sins would catch up with them: they were likely to fall victim to "some grave chronic disease" and would never live to old age.\footnote{Walling, supra note 32, at 40.}

Masturbators who cured themselves of the habit and managed to avoid its damaging sequelae, at least temporarily, might still pass the consequences to their offspring. Even if the children did not inherit a compulsion to masturbate, they could be afflicted by problems such as dyspepsia and bad teeth.\footnote{Lewis, supra note 47, at 175–76.} Joseph W. Howe explained that in masturbators, the seminal fluid was "thinner, more watery, of a pale yellowish white color, and contains fewer spermatozoa than it does in a healthy condition . . . . This defective seminal fluid is sure to give to the foetus the seeds of weakness and decay which are ready to germinate with the first exciting cause."\footnote{Howe, supra note 26, at 92–93.} Thus a parent of a defective child had only himself (or herself) to blame for the tragic consequences.

Masturbation imposed harms on society even beyond the level of the family. Eliza B. Duffey, operating within the sociological model, held that if a man masturbated, the consequence was to excite the prurient interests: "[t]he more these desires are stimulated, the stronger they become, until any refusal of gratification will seem to result in serious disorders of the procreative organs."\footnote{Duffey, supra note 46, at 181.} Thus masturbation led men to seek an inappropriate outlet for their sexual drives—behavior that was harmful to women because it caused men to abandon their wives, patronize prostitutes, or commit sexual assaults.\footnote{The idea that masturbation was a precursor to prostitution was very widespread. The ideas found conventional expression in Europe, for example, in the work of Philipp Carl Hartmann (1773–1830), a leading Viennese authority on medicine. Hartmann, expressing the conventional view, warned parents to be vigilant against nurses and housemaids prematurely arousing the sexual drive in children, and warned that such arousal could lead the victim to pursue the "purchased lust" of prostitution, the "black vice" of the age. See Zvi Lothane, In Defense of Schreber: Soul Murder and Psychiatry 143 (1992).} For Duffey, the only effective remedy was to "stop the demand, that is all."\footnote{Duffey, supra note 46, at 188 (emphasis in original).}
among other things, that young men must not masturbate. Feminist physician Dio Lewis held similar views. Like Duffey, he believed that the extinction of prostitution required men to gain mastery over "habits of selfish sexual indulgence." His violent opposition to masturbation was directed at the goal of preserving the "measureless amount of vital force [i.e., semen] now so pitifully squandered in mere debauchery" and turning it to "good account in blessing and uplifting this world of man." Masturbation could even harm the political economy of the state. Sylvester Graham developed such an argument grounded in early Nineteenth Century constitutional theory. In a republican form of government, he said, it was necessary to engage in "continual effort in qualifying men." Civic republicanism demanded that citizens display "individual virtue and integrity" in order to ensure that the will of the majority does not overwhelm the guarantees of the Constitution and the rights of the individual. Accordingly, the education of the young in virtue was of primary importance. But young men who engaged in masturbation would not display civic virtue. Rather, they were likely to renege on their social responsibilities, act in a selfish or thoughtless manner, and fail to educate themselves or to perform the duties of responsible citizens. A working republican form of government, in short, required citizens who did not masturbate.

C. Treatment

Treatment took four forms: prevention, detection, cessation, and rehabilitation.

Prevention. The authorities agreed that the most effective treatment for masturbation was prevention. The rationale was that once a child had started to masturbate, it was extremely difficult to break the habit. The vice would descend into a spiral of degradation, until the child became a "confirmed" onanist for whom little could be done. The practitioner might vow to quit masturbating at adulthood, but such a strategy would be fruitless. As purity campaigner Anthony Comstock proclaimed,

142. Lewis, supra note 47, at 320.
143. Lewis, supra note 47, at 320.
144. Graham, supra note 11, at 8.
145. Graham, supra note 11, at 8.
146. Graham, supra note 11, at 9.
Ah! silly boy, the shackles of habit you will never be able to throw off by your own unaided strength. The longer indulgence continues, the weaker you become to will and do against the force within. The standard of self-respect is being constantly lowered, and the will weakened. The time to stop is before you begin.147

A first step in prevention was to warn of the dangers of the practice: medical and moral authorities had to alert the public generally of the risks, and parents or other authorities had to caution children specifically. As masturbation anxiety grew during the Nineteenth Century, warnings about the dangers to children increased markedly in frequency.148 These warnings carried a degree of discomfort, because they required the responsible party to allude to topics that a natural prudishness would leave unspoken. Anti-masturbation writers often found it expedient to address the fact that they were touching on sensitive subjects. Usually they excused the apparently prurient content on the ground that unless the subject was exposed to the light of day and addressed clearly, it would never be rooted out. As William H. Walling put it, "nothing but a sense of inexorable duty, in the hope of effecting a radical reform by awakening the alarm of parents and teachers to the enormous frequency and horrible consequences of this revolting crime, could induce the author to enter upon the sickening revelation."149 He advised his readers that

those who shall seek in our pages the gratification of a libidinous curiosity, will be disappointed, but, better still, they will be scared! Their terror will prove eminently salutary, for, in describing the evils of sexual excesses and unnatural practices, we point with the finger of authority which they dare not despise, at the deplorable consequences involved—consequences which none may escape.150

Despite these disclaimers, some authorities devoted themselves to detailed descriptions of the vice and its consequences—descriptions ostensibly designed to induce a sense of horror in the reader that would

149. WALLING, supra note 32, at 34.
150. WALLING, supra note 32, at 9.
serve to induce continence, but which were often explicit to the point of prurience. The popular interest in these pamphlets and books may have been due as much to their gruesome descriptions of the outcomes of masturbation and sexual excess as to the wish to learn medical information. A particularly vivid case is William A. Hammond's *Sexual Impotence in the Male and Female*, published in 1887, which described cases of transvestitism, orgiastic sex, homosexuality, fetishism, sex with children, and sado-masochism that might have made de Sade blush.

If warning the adult public was problematic, alerting children was even more so. Many parents saw their children as innocent and refused to believe that they could become masturbators. They worried that informing a child about masturbation, even in the context of a stern lecture about its dangers, would only spark curiosity about sexual matters, and thus stimulate the child to experiment with the very vice that the parents wished to prevent. These concerns were heightened because the authorities insisted that children be instructed as early as possible. On this point, however, the authorities were unbending. They universally counseled parents to override prudishness and to speak frankly. If a child did not hear about masturbation from a parent, he or she was sure to learn it from a schoolmate, nurse, or family servant, or to develop the habit by accident. Moreover, their children might come to see masturbation as more attractive because it would seem a sort of "forbidden fruit."

However unpleasant the task of informing children, the authorities counseled its urgent necessity. It was every parent's duty to intercede with a "few earnest, timely words" that could prevent a habit that would otherwise be "well-nigh unconquerable in its thraldom [sic]." To avoid the topic was tantamount to neglect. As William H. Walling put it, "[f]rom false notions of delicacy, with a prudery as astonishing as it is criminal, the parents and guardians of boys refrain from all allusion to the subject, while in their hearts they must realize the imminence of the danger." A common recommendation was that parents provide advice about masturbation in the context of general in-

151. See *Hall*, *supra* note 93, at 369.
152. Two of the most prurient of the anti-masturbation tracts were *McFaddenn*, *supra* note 16, and *Walling*, *supra* note 32.
153. The prurient content of the campaign against masturbation, which was unspoken but unmistakable, tends to substantiate Foucault's thesis that the prohibitions on masturbation actually served to sexualize society's approach to the human body. M. Foucault, *The History of Sexuality: An Introduction* (1978).
struction in the laws of sex. Young people were bound to be curious about the “facts of life,” not because they were depraved, but because of a normal desire to learn about sexuality. It was, accordingly, entirely appropriate for parents to instruct them. In order not to over-stimulate young listeners, the facts of reproduction could be presented in a context of all living things, starting with microbes and moving on to plants and animals—an approach to sex education that lingers on today in the cliché about the “birds and the bees.”

In addition to warnings and education, it was wise for parents and school authorities to provide an environment that deterred the habit. Very young children could be sent to bed wearing a “night-dress made with legs or drawers closed tight, so that no mischievous handling is possible.” Sleeping arrangements were important: if possible, two children should not be allowed to spend a night in the same bed, and certainly no child should sleep with a nanny. Hydro-therapeutic remedies were recommended, including cold baths, sitz baths, wet caps, foot baths, and sponge baths. Exercise was a valuable deterrent, if taken in moderation. The authorities further recommended strict observance of a regimen including fresh air and bland foods. Sylvester Graham advised as the most efficacious antidote to masturbation a diet consisting principally of farinaceous food, including “good bread, made of coarsely ground, unbolted wheat, or rye meal.” Graham’s own flour was one such food. Wise parents who implemented all these

157. See Kellogg, supra note 59.
158. Worries about masturbation were particularly heightened for boarding schools in which children were placed in close proximity at night without pervasive adult supervision. School authorities gave deep thought to the problem, and attempted to reassure parents that they were doing everything possible to prevent the practice. Particularly influential was a book by Clement Dukes, the physician at the elite Rugby School in England, whose attack on masturbation emphasized the vital necessity of prevention both in the home environment and at school. See Clement Dukes, The Preservation of Health as Affected by Personal Habits 150–56 (1884).
159. Lewis, supra note 47, at 184.
161. See, e.g., Acton, supra note 15, at 33; Jackson, supra note 30, at 97; Lewis, supra note 47, at 34.
162. But the wrong kind of exercise could be fatal: children could become confirmed masturbators as a result of apparently innocent behaviors such as sliding down banisters or exercising on ropes or parallel bars at the gymnasium. See Howe, supra note 26, at 66.
163. See, e.g., Lewis, supra note 47, at 34–43. The recommended diet appeared to depend, in part, on cultural factors. American authorities strictly warned against the danger of alcohol, see Graham, supra note 11, at 73.
164. Graham, supra note 11, at 72.
recommendations could at least rest assured that everything possible had been done to prevent the development of evil habits in their offspring.

Detection. The next step in treatment, in the event that efforts at prevention were unsuccessful, was to detect whether the suspect was, in fact, engaged in masturbation. This was not always a simple task. People were ashamed of masturbating, and believed—probably rightly—that their friends, neighbors and family would not view their habit with approval. Thus, masturbators rarely advertised their proclivities, but on the contrary sought to conceal them.165

The first job of the guardian or physician was to ferret out the truth. Parents were advised to watch nannies to ensure that they were not instructing their charges in the solitary vice.166 As to the children themselves, they could not be “too strongly suspected.”167 Parents were advised to scrutinize them minutely, especially just after retiring to bed and just before rising.168 If the child seemed to fall into a profound slumber quickly, or if his or her hands were inside the bedclothes, this was cause for alarm.169 Parents were instructed to “interrogate” children,170 check bed linens,171 and examine genitalia.172 It was a good idea to throw off the covers in order to catch a child in flagrante.173 An adolescent’s behavior and appearance also came under review. A pimply face, a downcast gaze, a hunched posture or a furtive gait were all reliable indications of the vice.

Parents who were unable to prove a case of masturbation against their children could turn to more sophisticated forensic measures. In 1913, Bernard Kaufman, a California doctor, published one such strat-
Kaufman advised that if a girl was suspected of masturbating, she should be made to urinate into a sterile container and then given yeast to play with in the evening. She should then be put to bed without washing her hands, "using a shortened nightgown" (apparently to provide easy access to masturbation). In the morning, the girl should provide another urine sample. A physician could then compare the samples under a microscope. If yeast was absent in the first but present in the second, this was "proof positive" of masturbation.  

Physicians were also adept at inducing confessions from suspects brought before them for interrogation. This matter had to be treated carefully, and was the cause of much thought in the medical profession. Doctors used the techniques of open-ended questions ("have you anything to say to me?"), requests for disclosure ("please give me your confidence"), empathy ("I see you are unhappy"), claims to understand the problem already ("I know perfectly well all about your troubles"), guilt-trips (your mother "made me promise not to allude to such a thing"), leading questions ("where did you learn the habit?"), and promises of benefit ("I am sure my advice will be a godsend to you, but you must be frank, and let me know the exact nature of your trouble"). Such techniques, if suitably employed, would almost always suffice to induce the necessary confession.

Treatment. Once a person had been found to masturbate, the emphasis shifted to treatment. From the religious point of view, the treatment for masturbation, as for any sin, was prayer, repentance, and mortification.  

It was helpful if the subject could be filled with a profound revulsion against the habit and an earnest desire to avoid repeating it. The sinner had to experience unfeigned sadness and remorse. These emotions, moreover, had to be permanent, rather than merely temporary. The sinner had to turn away from the sin altogether, renouncing not only the crime itself, but also all impurities that led up to it. If the repentance was genuine, the sufferer had a chance, at least, at redemption and restoration.

175. Kaufman, supra note 174, at 772.
176. All these are from a report of a single patient interview, in Lewis, supra note 47, at 172–73.
177. Onania, supra note 10, at 25.
178. Onania, supra note 10, at 53.
179. Onania, supra note 10, at 54.
180. Onania, supra note 10, at 56.
From the medical perspective, treatment required prompt intervention once a habit was detected. Anthony Comstock, with characteristic zeal, described this duty as follows: "When parents, from the marks of dissipation or otherwise, have reason to suspect the vicious practice of the child, it is their duty to set aside all feelings of false modesty and win that child's confidence, and help apply a remedy." If the parents were able to speak with a child and obtain his or her confidence, the child might be induced to stop the evil habit early enough that no serious long-range effects would follow. Parents might also consider a visit to a physician. In many cases, the patient's confession, coupled with the physician's stern but empathetic warnings, would be sufficient to cure the problem.

For older masturbators, various self-help remedies were available. In Germany, students formed support groups in which they publicly swore off the degrading vice. Offenders were called before executive committees and subjected to punishments for proven lapses. Societies of this sort were not common in the United States, but self-control efforts were ubiquitous. These measures included avoiding spicy foods, getting frequent exercise, and following a regime of sitz baths, sponge baths, or other hydrotherapeutic remedies. Another self-help treatment was to attack the lascivious thoughts that preceded masturbation. Practitioners were advised to engage in introspection and to break off trains of thought that were heading in an improper direction. One popular technique was to prepare cards on which the patient noted topics for thought and contemplation, often reminding him or her of emotional moments in his or her life. When a bad thought occurred, the patient could draw out the cards and focus on suggested topics in order to divert the mind from its lustful track. This effort of mind worked even

181. Comstock, supra note 147, at 145.
182. See Comstock, supra note 147, at 145.
184. See Schwarz, supra note 183, at 984.
185. Some of these tracts were by recognized medical authorities and were couched in sober and scientific terms. Others, however, were less restrained. Some allegedly scientific treatises on sexual matters probably did more to stimulate sexual indulgence than to deter it. Some of these latter items came under legal scrutiny. See, e.g., United States v. Clarke, 38 F. 500 (E.D. Mo. 1889)("Dr. Clarke's Treatise on Venereal, Sexual, Nervous, and Special Diseases").
186. See Lewis, supra note 47, at 37–40.
in sleep, so that a person suffering from nocturnal emissions could train himself to wake up when lascivious thoughts appeared in a dream.¹⁸⁷

The authorities were divided about whether a man plagued by masturbation should seek sexual outlet with a woman as a means for avoiding the habit. Some advised masturbators to marry or take a mistress.¹⁸⁸ Others rejected this course as medically contraindicated and immoral because the patient was likely to continue the practice and because children born to a masturbator were likely to be defective.¹⁸⁹ Those who opposed intercourse as a cure believed that continence was a superior approach. They held that the irritability and deprivation experienced by continent men were themselves principally caused by the sufferer’s prior incontinence. For those who had consistently held themselves to a high standard of sexual purity, continence was not particularly painful. Moreover, for those who had not previously been continent, but who wished to attain purity in mind and body, precautions were readily available to prevent a repetition of the “seminal plethora which is the cause of the irritability.”¹⁹⁰

When self-help did not work, other remedies were available. Patent medicines purporting to control masturbation and spermatorrhoea were marketed at apothecary shops and general stores, or through the mails.¹⁹¹ Entrepreneurs hawked these cures both through imaginative advertising and “anatomical museums” that would vividly display wax models of the horrific consequences of masturbation along with prurient images of monster births and the ravages of venereal disease.¹⁹² All sorts of ingenious devices for curbing masturbation and spermatorrhoea were available. These included “a genital cage that used springs to hold a boy’s penis and scrotum in place and a device that sounded an alarm if a boy had an erection.”¹⁹³ Another device, known in Britain as the “American remedy,” consisted of a “ring of common metal, with a screw passing through one of its sides, and projecting into the centre, where it had a button extremity . . . to be applied to the ‘part affected’

¹⁸⁸. See, e.g., Timothy Haynes, Surgical Treatment of Hopeless Cases of Masturbation and Nocturnal Emissions, 109 Boston Med. and Surgical J. 30, 30 (1883)(advice for men); Howe, supra note 26, at 110.
¹⁸⁹. See, e.g., Haynes, supra note 188, at 130.
¹⁹¹. Acton, supra note 15, at 51.
¹⁹³. Lesley A. Hall, supra note 93, at 368–69.
at bed-time.”\textsuperscript{195} Apparently by means of this device, the adult could tighten the screws around the boy’s penis so that any enlargement of the organ would cause pain. Other devices included chastity belts\textsuperscript{196} and night gloves with abrasive surfaces in the palms and fingers.\textsuperscript{197}

For spermatorrhoea, an equally imaginative arsenal of remedies was available. One such invention, the “electric monitor,” consisted of a penile ring connected to an electric belt around the abdomen, which was in turn connected to a battery. When the user experienced a nighttime erection, the result was “a violent shock” which awakened the sleeper “in time to prevent an emission.”\textsuperscript{198} Another device was a ring with sharp teeth on the inside, which was placed around the penis at night. J.H. Mayes described a successful treatment with these rings in an article published in the \textit{Charleston Medical Journal} in 1854.\textsuperscript{199} A patient had sought advice for spermatorrhoea. After an unsuccessful course of treatment with “Morse’s Invigorating Cordial,” a patent medicine, the patient agreed to try a spermatorrhoea ring. Mayes reported that:

the first week of its use he could scarcely sleep at all, being awakened every few [minutes] by the teeth of the ring piercing his flesh; sometimes waking in a fright, dreaming that some serpent had seized him by the organ. The interruption to the seminal discharges, however, was almost complete the first week; and, from that time . . . he has been constantly wearing the ring at nights, with a complete exemption from the disorder.\textsuperscript{200}

Physical restraints were employed for masturbators who could not or would not control the practice. Masturbating boys were placed in strait-jackets or “fastened by ropes or chains to rings in the wall.”\textsuperscript{201} In one case of compulsive masturbation, the patient was treated as follows:

the penis and scrotum were blistered, so that he could not touch them, but he still managed to complete the act by rub-

\textsuperscript{195} The Spermatorrhea Imposture, 2 The Lancet, 537 (1857), \textit{quoted in} Hall, \textit{supra} note 93, at 368.

\textsuperscript{196} COMFORT, \textit{supra} note 5, at 99–100.

\textsuperscript{197} State v. Church, 98 S.W. 16, 19 (Mo. 1906).

\textsuperscript{198} Howe, \textit{supra} note 26, at 264.

\textsuperscript{199} J.A. Mayes, Spermatorrhoea, \textit{Treated by the Lately Invented Rings}, 9 Charleston Med. J. & Rev. 351 (1854).

\textsuperscript{200} Mayes, \textit{supra} note 199, at 352–53.

\textsuperscript{201} Sylvanus Stall, \textit{quoted in} COMFORT, \textit{supra} note 5 at 96.
bing the perineum with his fingers. His hands were tied behind his back, but this was also unsuccessful, for the next day he was seen to slide down to the foot of the bed, and rub his perineum against the foot piece. He was finally tied hand and foot to the bed, so that he could not move a muscle. This plan of course could not be continued, and whenever he was released in order to change the bed clothes, or to perform some other necessary duty, his hands almost instantly sought the neighborhood of his genital organs. He was sent subsequently to an asylum as incurable.\textsuperscript{202}

Restraints were not limited to boys. C.D.W. Colby, writing in 1897, described the case of a seven-year-old girl who had been taught to masturbate at an orphanage. Her foster parents, upon discovering her habit, did everything in their power to cure her:

the parts had been kept thoroughly cleansed; she had been made to sleep in sheepskin pants and jacket made into one garment, with her hands tied to a collar about her neck; her feet were tied to the footboard and by a strap about her waist; she was fastened to the headboard, so that she couldn’t slide down in bed and use her heels; she had been reasoned with, scolded, and whipped, and in spite of it all she managed to keep up the habit.\textsuperscript{203}

She was finally cured by being encased at night in a harness constructed of iron wire, with the legs and armpits protected by sheep’s wool, and a canvas jacket fitted over the frame, laced up the back, and strapped over the shoulders.\textsuperscript{204}

Physicians attempted a variety of medical and surgical interventions for serious masturbation cases. Some advocated bleeding the genitals with leeches, apparently on the view that masturbation could be caused by congestion of blood in the affected parts.\textsuperscript{205} Others cauterized the urethra.\textsuperscript{206} Galvanic therapy was employed, by means of an electrode attached to a wire inserted into the urethra.\textsuperscript{207} Some doctors recommended passing

\textsuperscript{202} Howe, supra note 26, at 98.
\textsuperscript{203} C.D.W. Colby, Mechanical Restraint of Masturbation in a Young Girl, 52 N.Y. Med. Record 206 (1897).
\textsuperscript{204} Colby, supra note 203 at 206.
\textsuperscript{205} See Howe, supra note 26, at 269.
\textsuperscript{206} See Comfort, supra note 5, at 103; Acton, supra note 15 at 201.
\textsuperscript{207} Hammond, supra note 33, at 202.
an instrument up the rectum to press on the seminal vessels. Another common remedy was to pass a bougie (a long, thin rod) up the urethra. Physician Homer Bostwick described how he used this device on a patient who had consulted him for seminal emissions in 1845. "I examined the urethra," he wrote, "and had considerable difficulty in passing the bougie, but succeeded after he had taken one or two warm baths, and had several times used fomentations to the perinaeum." When the instrument finally entered the bladder, the patient suffered "excruciating pains, shooting through to the loins, and the spasmodic contractions of the sphincter and accelerator urinae muscles held the instrument almost as firmly as though it had been in a vice." The treatment, although apparently agonizing, was a complete success: the patient subsequently wrote Bostwick a letter of profuse thanks for "all the happiness you have conferred on me."

Among the most effective remedies for men was infibulation—the fastening of the prepuce over the glans to deter erection. Often the prepuce would be sewn to a ring too small to admit passage of the glans; in other cases, the physician would dispense with the ring and simply create a sling by passing sutures through the prepuce on either side of the glans. Louis Bauer, a Saint Louis physician, described how he treated a patient who had come to him asking to be castrated because of nocturnal emissions. Bauer "transfixed the prepuce by two silk slings, and directed [the patient] to fasten them in front of the glans penis on going to bed" with the object of waking the patient "by pain when the penis should get in a state of erection." Bauer reported that the treatment succeeded in preventing seminal emissions, although it was necessary to renew the slings at "new places in the prepuce as the old ones threatened to cut through." Among the advantages of infibulation was that the procedure prevented all sorts of sexual emissions,

208. ACTON, supra note 15, at 198. See Howe, supra note 26, at 264 (disapproving the treatment).
209. ACTON, supra note 15, at 201.
211. Quoted in Gilbert, supra note 210, at 229–30.
213. See Schwartz, supra note 190, at 984.
214. Louis Bauer, Infibulation as a Remedy for Epilepsy and Seminal Losses, 6 St. Louis Clinical Rec. (1879).
216. Bauer, supra note 214, at 165.
including both masturbation and spermatorrhoea, and that it could be made difficult for a patient to circumvent.

More invasive surgical procedures for masturbation and spermatorrhoea were also employed. Timothy Haynes, a physician in Concord, New Hampshire, reported in 1883 that he had successfully treated three hopeless masturbators by surgical resection of the spermatic ducts. H.C. Sharp of Jeffersonville, Indiana, utilized a similar procedure on a nineteen-year-old boy. He reported a complete success: although the procedure did not destroy the sexual urge, it equipped the patient with the "will to resist." Castration was also an option. Many physicians resisted this approach as too extreme, but a few found it to be meritorious. Joseph W. Howe advised that if baths, tonics, and electrical treatments didn't work, the "patient should be castrated without delay." Indeed, castration alone might not suffice, since the patient could still ejaculate for a period of time, so it was also necessary to place the "parts in such a condition as to prevent them from being handled." If these measures failed, Howe saw no objection to "removing the whole of the external genital apparatus.

Girls who had by virtue of masturbation induced in themselves illnesses such as convulsions, hysteria, or epilepsy were sometimes subjected to clitoridectomy as a remedy. The leading British advocate of clitoridectomy, Isaac Baker Brown, reportedly performed this operation on an "enormous number" of women. The practice of clitoridectomy never received mainstream support among British or American doctors, and Baker Brown was eventually disgraced.

219. Howe, supra note 26, at 265. See also Jonathan Hutchinson, On Circumcision as Preventive of Masturbation, 2 Archives Surgery 267, 268 (1890–91) ("measures more radical than circumcision would, if public opinion permitted their adoption, be a true kindness to many patients of both sexes").
220. Howe, supra note 26, at 265.
221. Howe, supra note 26, at 265.
222. See Comfort, supra note 5, at 101–02.
223. Duffy, supra note 76, at 167.
ideas, however, were not completely discredited. As late as 1894, surgeons were attacking the clitoris in an attempt to prevent masturbation. One American doctor reported a course of treatment starting with cauterization of the organ, moving on to surrounding it with silver wire sutures, and finally, when these measures failed, excision. Another doctor, in 1897, advised clitoridectomy for an apparently hopeless case of masturbation, but upon being refused permission by the foster parents, removed the clitoral hood instead.

Towards the end of the Nineteenth Century, physicians began to recommend and practice circumcision as the preferred remedy for male masturbation and spermatorrhoea. Circumcision corrected two conditions thought to encourage masturbation in very young children. First, if the prepuce was too long, a child would need to retract it and thus get into the habit of manipulating his genitals, a sure precursor to masturbation. Second, if the prepuce adhered to the glans the boy might experience irritation leading to involuntary erection and consequent development of masturbatory habits. By eliminating these risks, circumcision reduced the danger of future moral contamination. Its popularity increased dramatically after physicians began to employ it as a prophylactic measure within a few days of birth.

Rehabilitation. In addition to treating masturbation itself, physicians addressed themselves to the wide variety of conditions and diseases that the practice brought on. One of the most important such problems, from the standpoint of rehabilitation, was impotence, or "lost manhood." Persons suffering from masturbation-induced impotence could turn to a rich inventory of quack remedies that purported to restore virility at home. Men were easy prey to hucksters both because of their desperate wish to restore their "lost manhood" and because of their "regrets and remorse for ... past offences." Quack practitioners included "mesmerizers, clairvoyants, 'natural healers,' anatomical museums, layers on of hands, faith-curers, etc." A variety of galvanic devices were available to restore virility, including "Pulvermacher's World Famed Galvanic Belt" and the "Electric Life Invigorator." Patent medicines were

225. See Comfort, supra note 5, at 102.
226. See Colby, supra note 203.
227. See generally Miller, supra note 72.
230. See Miller, supra note 72.
231. Hammond, supra note 33, at 131.
232. Hammond, supra note 33, at 131.
233. See Hall, supra note 33, at 373.
big sellers. Typical was a product known as "vitality pills," for the "disorders resulting from either self-abuse or sexual excesses." Purportedly concocted of an extract of "healthy young bulls," this remedy would certainly take the patient "from the midnight of despair into the sunshine of hope and happiness." So ubiquitous were these patent medicines that several states imposed criminal penalties for advertising remedies claiming to restore "lost manhood" or to cure problems due to self-abuse.

Medical techniques for treating lost manhood included acupuncture in which "needles from two to three inches in length [were] passed through the perineum into the prostate gland and the neck of the bladder . . . . the testicles and the spermatic cord." Galvanism was widely used. Physicians inserted electrodes into the bladder and rectum or applied wet electrified sponges to the spine, the perineum, the testicles and the penis. The goal of such treatment was to "bring into action as many cells as will produce a decided sense of discomfort to the patient." When the entire penis was affected, the physician was advised to induce a "considerable discomfort if not actual pain." Physicians also used static electricity for treatments, with the patient being placed naked on an insulated platform and sparks being induced to pass between charged metal balls with the affected organ placed between.

III. Law

Popular and scientific concerns about the hazards of masturbation and spermatorrhoea found their way into the law. Lawmakers shared the prevailing social beliefs about the harmful and degrading consequences of masturbation. Common law judges agreed that masturbation was "unnatural" and that it caused all sorts of mental and physical problems, including impotence, hallucinations, and insanity. In

234. See Mo. Drug Co. v. Wyman, 129 F. 623, 628 (1904).
235. See Mo. Drug Co., 129 F. at 628.
237. Engelhardt, supra note 12, at 245.
238. HAMMOND, supra note 33, at 200.
239. HAMMOND, supra note 33, at 202.
240. See e.g., Schultz v. Schultz, 293 S.W. 105 (Mo. 1927).
Although the law did not prohibit solitary masturbation, it did sanction masturbatory behavior involving more than one individual. For example, it was rather clearly established that a person could be punished for masturbating another person. Such conduct—typically prosecuted when it occurred between men, or between a man and a boy—was held to fall within the category of crimes against nature, and prosecuted under statutes that declared such behavior to be a form of sodomy or sexual perversity. Some state laws concerned themselves with the teaching of masturbation. Because the authorities agreed that a principal route to masturbation was instruction by others, it was appropriate for the law to punish those who irresponsibly sought to pass their vice on to the innocent. Thus, we find statutes imposing criminal sanctions for instructing others in the art of "self-pollution."

Aids to masturbation came under official ban in the form of the Comstock Laws, which, inter alia, prohibited the use of the mails for the transmission of writings that induced self-abuse. Devices to aid masturbation also came under legal proscription: a Massachusetts law of 1879, still on the books in 1940, declared it a crime to sell, lend, give away, or exhibit an "instrument or other article intended to be used for self-abuse." Presumably, this law was directed principally at items such as dildoes or vibrating massagers.

As concerns about the secret vice became increasingly salient, attorneys used actual or purported masturbatory habits as evidence to establish, or avoid, legal liability of clients. The criminal law was a fruitful source of such arguments. In rape cases, the prosecution often introduced expert testimony that the victim experienced penetration (either a ruptured hymen or vaginal stretching). Towards the end of the Nineteenth Century, it became a standard defense technique to cross-examine the prosecution's expert witness on whether the observed

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244. See Schas v. Equitable Life Assurance Co., 166 N.C. 55 (1914) ("there was evidence that the insured had been afflicted with a nervous disease resulting from self-abuse, which increased in its intensity until he died").

245. See, e.g., State v. Brazell, 269 P. 884 (Or. 1928).

246. See, e.g., Young v. State, 141 N.E. 309 (Ind. 1923) (discussing the Indiana statute at issue, "whoever entices, allures, instigates or aids any person under the age of twenty-one years to commit masturbation or self-pollution, shall be deemed guilty of sodomy").


physical changes could have been due to masturbation. The experts would nearly always admit that the symptoms could have been caused by self-abuse. Particularly diligent defense counsel might then pursue the advantage by obtaining the further concession that masturbation was common among young women—thus enhancing the probability that the physical symptoms were the result of something other than rape.

Habits of masturbation by the complainant might also be used to impeach her credibility and to prejudice the judge or jury against her. In Lankford v. State, the defendant appealed from a conviction for incest with his daughter. In reversing the conviction, the court of appeals noted that "there is evidence that [the girl] was given to masturbation and had been for a long time. This she admitted, and also evidence that long continued masturbation produces weakness of the mind, weakness of the body, and sometimes insanity in some form or other, and especially produces hallucinations in which the masturbator would imagine things occurred which in fact did not occur." The complainant, in other words, was suspected of confabulation as a consequence of persistent onanism.

A habit of masturbation also became a staple of the insanity defense. Evidence that the defendant engaged in self-abuse was probative of insanity because of the nearly universal consensus that masturbation could destroy the reason. In State v. Meyers, the issue was whether the accused was competent to stand trial. Physicians who had treated the defendant for "disease resulting from masturbation" testified that "his


251. Lankford, 222 S.W. at 568.

252. See, e.g., United States v. Faulkner, 35 F. 730 (N.D. Tex. 1888)(regarding a defendant who pled insanity to a charge of distributing pornographic materials through the mail, claiming that his "secret vice" of "abuse" and "self-pollution" had destroyed his reason); People v. Dugger, 54 P.2d 707 (Cal. 1936)(regarding defendant who pled insanity based, in part, on his "long history of self-abuse"); Morris v. State, 255 S.W. 744 (Tex. Crim. App. 1923)(regarding defendant who sought to introduce evidence of his habit of masturbation to substantiate insanity defense); People v. Scott, 88 N.E. 35 (N.Y. 1909); State v. Barker, 115 S.W. 1102 (Mo. 1909); State v. Church, 98 S.W. 16 (Mo. 1906)(holding defendant's excessive masturbation did not establish insanity); Commonwealth v. Cressinger, 44 A. 433 (Pa. 1899); Hurst v. State, 46 S.W. 635 (Tex. Crim. App. 1898).

253. 12 S.W. 516 (Mo. 1889).
mind had been seriously impaired, if, indeed, he had not been rendered insane, by the practice of that vice." The trial court refused to credit the testimony, but the court of appeals held this to be error and reversed.

Evidence of masturbation, however, usually did not rescue criminal defendants under the insanity plea. For starters, proving the defendant's masturbation often presented difficulties, especially when the defendant himself did not take the stand. Doctors could, and did, testify that the defendant had come to see them for treatment, but such testimony, while probative of a problem with masturbation, also indicated that the defendant was sane enough to desire a cure. Physicians, moreover, were likely to testify that the defendant appeared sane when he or she sought treatment. Neighbors, friends, cellmates, or eyewitnesses might testify to acts of masturbation, or to confessions given in confidence, but such evidence would not be particularly probative. Sometimes the testimony was little more than speculation—as in Commonwealth v. Bond, where a witness testified that he knew the defendant to be a masturbator from his "looks."

Courts usually held that while masturbation may have weakened the defendant's mind or will, it did not render him incapable of knowing right from wrong or appreciating the nature of his actions. An example is Cornell v. State. On appeal from a conviction for murder, the report of the case observed that

254. Meyers, 12 S.W. at 516.
255. See, e.g., People v. Tuzekewitz, 43 N.E. 548 (N.Y. 1896); State v. Schaefer, 22 S.W. 447 (Mo. 1893).
256. See, e.g., State v. Harrison, 15 S.E. 982 (W. Va. 1892) (regarding a physician who had treated defendant for masturbation, testifying that he was afflicted with a form of insanity called "melancholia"; jury rejected the insanity defense).
257. See, e.g., Fischer v. State, 18 S.W. 90 (Tex. Ct. App. 1891) (discussing a physician who treated defendant for masturbation who testified that he had no appearance of insanity but only appeared confused and embarrassed, and that the disposition of a masturbator is generally harmless.) That the defendant may have appeared abashed or confused was no indication of insanity: most patients presented this way because of the guilt and shame associated with the topic. As one physician testified, masturbation patients "approach the subject with a good deal of regret—seem troubled—their countenance indicates largely their situation—they are backward—they approach the subject by degrees—they have expressions of unhappiness, based upon the fact of their having lost their manhood." Coyle v. Commonwealth, 164 Pa. 117 (1884). Thus, if the defendant appeared to the physician as an "abject despairing man," this was not unusual, and certainly no grounds for inferring insanity. Coyle, 164 Pa. 117.
258. 48 N.E. 765 (Mass. 1897).
259. 80 N.W. 745 (Wis. 1899).
Upon the trial of the issue of insanity, much evidence was offered, which, however, went little further than to disclose a somewhat weak-minded man, without malice or ill temper, addicted to drinking at various intervals in his life, and through many years addicted to self-abuse, but with the ordinary powers of understanding and reasoning as to his acts, and of guiding his conduct by his will. \(^{260}\)

To like effect is *Hurst v. State*, \(^{261}\) where the court observed that:

> [d]oubtless, from self-abuse the intellect of appellant had become more or less weakened, and he was thus rendered morbidly sensitive, and liable to take offense in regard to matters that would not thus affect one whose faculties were entirely normal and healthy. But there is nothing suggesting that his will power was broken down, or that . . . [he] was incapable of resisting an impulse to do the wrong. \(^{262}\)

Masturbation played a role in numerous matrimonial actions. Some parties sought to introduce evidence of a spouse’s habit of masturbation to establish, or at least provide support for, their grounds for divorce. An early case in this line was *Edgecombe v. Edgecombe*, decided by an Illinois court in 1863. \(^{263}\) The wife sought an annulment on grounds of non-consummation. Medical inspectors appointed at the wife’s petition found nothing wrong with the husband’s genitals, pronouncing them “fully competent to perform their functions.” However, the experts concluded that the husband, then twenty-nine years old, had been the “subject of fits since he was five years of age,” that he had “practiced excessive self-abuse, masturbation,” and that he had continued to do so even after his marriage. \(^{264}\) The fits, according to the experts, were not in themselves sufficient to explain the husband’s apparent “lack of virile power.” The more likely cause was “self-abuse.” \(^{265}\) It was widely known, the court said, that masturbation, “if carried to any great extent, induces an aversion to the female sex.” \(^{266}\) Despite this recognition of the evils of masturbation, the court refused to grant the

\(^{260}\) 80 N.W. at 746.

\(^{261}\) 46 S.W. 635 (Tex. Crim. App. 1898).

\(^{262}\) 46 S.W. at 637.

\(^{263}\) The case is described in *Griffith v. Griffith*, 55 Ill. App. 474, 480 (1894).

\(^{264}\) *Griffith*, 55 Ill. App. at 480.

\(^{265}\) *Griffith*, 55 Ill. App. at 480.

\(^{266}\) *Griffith*, 55 Ill. App. at 480.
annulment on the ground that, given the parties' short (eighty-seven day) cohabitation, there was no proof that the husband's impotence was permanent.267

As social and medical concerns about masturbation intensified, the courts became less charitable towards masturbating husbands. *Griffith v. Griffith*268 is a case in point. The wife sought a divorce after less than two months of marriage, claiming that after the nuptials she discovered that her husband had been “addicted to self-abuse or masturbation,” and that the “practice of this vice had so injuriously affected his sexual functions as to destroy his capacity and his desire for sexual intercourse.”269 Expert testimony showed that the husband’s “parts of generation” were of “normal size,” that his “secretions [were] healthy and virile,” and that he was “capable of having an erection.”270 However, “through long-continued indulgence in self-abuse,” he had “become so perverted in mind and body as to deprive him of the present desire and ability to perform the act of coition with his wife.”271 The Illinois Supreme Court upheld the decree of divorce. Declining to rehash the testimony in the case, on the ground that it was “filthy and revolting in the extreme,” the court held that because the husband did not exercise “moral restraint over himself,” he was to be considered naturally impotent even though he was capable of normal erection and emission.272

When the husband was not impotent, disaffected wives had more difficulty enlisting a husband’s habit of masturbation in the service of a divorce petition. In *Dahnke v. Dahnke*, the wife sought an annulment, claiming that her husband had a loathsome skin condition, didn’t bathe, and was “given the practice of masturbation.”273 The court rejected the petition on the ground that these allegations, even if true, did not meet the legal standard of extreme cruelty. To similar effect is the leading case, *Wood v. Wood*.274 Oliver Wendell Holmes, then a Justice on the Massachusetts Supreme Judicial Court, there held that masturbation by a husband in the presence of his wife, while perhaps foolish, disgusting and wicked, was not sufficient in itself to provide grounds for divorce. Holmes observed that the husband had not compelled the wife to remain in the room while he masturbated, and that such “purely self-

268. 44 N.E. 820 (Ill. 1896).
274. 6 N.E. 541 (Mass. 1886).
regarding conduct,” which was “not forced upon even the knowledge of
the wife otherwise than by the usual intimacy of matrimony,” did not
constitute cruel and abusive treatment. 275

Spouses faced additional problems when their adversary denied the
masturbation. In such cases, the petition was likely to fail for lack of
proof, given the difficulties in establishing masturbation by extrinsic
evidence. In Huff v. Huff, 276 for example, the wife alleged that the hus-
band engaged in the “unnatural and disgusting” habit of masturbation.
The court discounted her claims, however, on the ground that the
masturbation had not been conducted in her presence, and the husband
stoutly denied the allegations. In Crandall v. Crandall, 277 it was the hus-
band who sought a divorce on the ground that the wife was a “victim of
the practice of self-abuse.” The court held that the husband had failed
to prove the wife’s masturbation, and refused to grant the divorce.

Masturbation also came into play in divorce actions if either spouse
had publicly accused the other of engaging in self-abuse. In Meinel v.
Meinel, 278 a particularly nasty case, the husband sought dissolution of
the marriage based on “indignities to the person.” He testified that his
wife had accused him of “committing self-abuse,” and claimed that her
statements caused him great shame and embarrassment. The appellate
court held that the evidence adduced by the husband was too vague to
warrant the granting of a divorce. However, it did not dispute that a
spouse’s unfounded accusations of masturbation would constitute
grounds for divorce. Thus, a spouse who told others of a partner’s
masturbatory habits might find those statements used to his or her det-

timent in a subsequent petition to dissolve the marriage.

Masturbation could provide ammunition for estranged spouses
outside the context of petitions for divorce or annulment. In District v.
Brown County, 279 a wife had obtained a legal separation from her hus-
band, a 42-year-old farmer with a regular job and an otherwise good
personality, on the ground that he was “emotionally unstable with re-


275. 6 N.E. 541 (Mass. 1886).
276. 80 S.E. 846 (W. Va. 1913)
279. 9 N.W. 2d 510 (Minn. 1943).
husband had no continuing sexual access to his wife, his uncontrollable desires might lead him to attack other women.

In some cases, a spouse would seek a strategic advantage by admitting to masturbating. In X v. X,\textsuperscript{280} a late case, a husband alleged that his wife refused to have sex with him. He informed the court that his frustration had reached such a state that, much against his preference, he was compelled to masturbate, thus endangering his health. Here, the husband’s masturbation was brought forward in order to induce sympathy for his plight and to substantiate the extreme nature of the wife’s denial of sexual relations.

Allegations of self-abuse could trigger litigation for defamation of character. In Anonymous, an eighteen-year-old girl brought an action for slander against a young man who claimed she had committed an “act of self-pollution.”\textsuperscript{281} The court agreed that the defendant deserved to be punished, but held that the law did not provide a remedy. For the matter to be actionable as slander \textit{per se}, it would have to involve an accusation that the plaintiff had committed an indictable offense. However repulsive the alleged conduct may have been, it was not a crime. Thus recovery could only be had on proof of special damages. These the plaintiff failed to show. She did establish that her father had promised to buy her a silk dress, and had withdrawn the promise upon hearing the defendant’s accusation. However, the father also proclaimed his absolute belief in his daughter’s innocence. Since the father did not believe the statements, special damages were not proven, and the plaintiff’s action failed.

Masturbation played a role in commercial cases. In \textit{Schas v. Equitable Life Assurance Soc’y},\textsuperscript{282} the defendant refused to pay out on a policy of life insurance. Defendant claimed that the decedent had fraudulently failed to disclose in the application for insurance that he was addicted to masturbation. The jury disagreed and awarded the widow a recovery. On appeal, the court agreed that constant indulgence in masturbation could, indeed, be a serious disease that would have to be disclosed on an insurance application. The court observed that the jury had found that the decedent was in good health at the time of the insurance application, and reasoned that this finding implied that the insured could not have been addicted to masturbation. The result: the widow received the insurance proceeds.

\textsuperscript{280} 47 A.2d 470 (Del. 1946).

\textsuperscript{281} 1875 WL 10647 (N.Y. Cr. App. 1875).

\textsuperscript{282} 87 S.E. 222 (N.C. 1915).
Habits of masturbation also came into play in contests over conveyances of property. In *Drier v. Gracey*, the purchaser's representative sued to set aside a deed. The evidence showed that the purchaser was "not bright," "peculiar," prone to "blue spells," and, at least before marriage, "addicted to the habit of self-abuse." Nevertheless, the court found that he was not wholly lacking in intelligence and that he had sufficient capacity to effect a valid conveyance. In *Verdery v. Savannah, Fla. & W. Ry. Co.*, a decedent's estate sued a railroad, which claimed title by virtue of adverse possession. The evidence showed that the defendant's possession of the property had been open, notorious, and continuous for the requisite period. The plaintiff, however, established that the title-holder was intermittently insane. A physician called by the plaintiff testified that he was frequently deranged, and that the "cause of the derangement, existing at the time this physician was treating him, was self-abuse." The court held, in a case of first impression, that the statute of limitations had run, notwithstanding the decedent's intermittent insanity, because his lucid intervals lasted long enough to satisfy the statute when added together. Judgment was therefore granted to the railroad.

The result was different in *Parkhurst v. Hosford*. This was a suit to set aside a conveyance of real property on grounds of imbecility. The physician who committed the defendant to a hospital stated that his problem was "religious enthusiasm" and "self-abuse." The court invalidated the conveyance as having been obtained by undue influence from a person of weak mental capacity.

Viewed as a whole, the judicial reaction to claims of masturbation across the range of cases where these claims arose appears to have been grounded in concerns about public policy. In matrimonial cases, for example, a decision allowing dissolution of a marriage based on masturbation could undermine the entire system of fault-based divorce, given the ubiquity of masturbation. Moreover, courts appeared to suspect that claims of offense at a spouse's masturbation were often concocted for litigation purposes, since spouses rarely behaved during the marriage as if the partner's masturbation were grounds for terminating the marriage. Nonetheless, although claims of masturbation rarely succeeded in

283. See, e.g., *Schultz v. Schultz*, 293 S.W. 105 (Mo. 1927) (regarding a will contest).
284. 169 N.W. 835 (Mich. 1918).
285. 9 S.E. 1133 (Ga. 1889).
287. 21 F. 82 (D. Or. 1884).
determining the result of divorce actions, the possibility that a spouse would make such an allegation undoubtedly carried settlement value, given the shame and embarrassment that would follow in the community if it became known that a friend or neighbor was alleged to be a habitual masturbator.

Similar concerns for public policy appear to lie behind the courts’ frequent failure to sustain an insanity defense for masturbation. Single incidents of self-abuse, or even a continuing pattern, could not be sufficient to establish insanity without expanding the defense beyond all bounds. Further, because masturbation occurred in secret, criminal defendants could always claim that they were in the grip of masturbatory insanity. Courts (and juries) were unwilling to weaken the criminal justice system by giving too much credence to self-abuse as probative of insanity.

In the business cases, too, we can detect other social policies at work. Because masturbation was a vice practiced in secret, a party’s habit could not easily be detected by a counter-party. Thus, recognition of changes in legal status based on masturbation would introduce an undesirable element of risk into business transactions. Moreover, for the same reason of secrecy, it was open to litigants to claim, after the fact, that they (or their predecessors in interest) were afflicted with the habit and were consequently incapable of manifesting consent to a conveyance. Because masturbation was so common, there was a real danger of opportunism by parties attempting to avoid deals that had turned out badly. Commercial certainty would be disrupted. Not surprisingly, we find the courts in such cases generally rejecting claims of incapacity based on masturbation.

IV. Transition to the Modern Period

After the turn of the Twentieth Century, the campaign against masturbation began to fade. Drastic remedies such as infibulation fell out of favor. The focus of the Edwardian period was less on devising extreme remedies for masturbation, and more on instructing the young about its dangers. Over time, even these warnings became muted in
tone and eventually died out. Meanwhile, circumcision became the treatment of choice for masturbation. By the 1920s, physicians were circumcising huge numbers of boys. And because the procedure was performed at birth, parents grew less anxious about monitoring their children for masturbatory symptoms later on in life—even though there was no evidence that circumcised boys masturbated less frequently than uncircumcised ones.

Masturbation lost much of its grip on the Western imagination.

The downfall of the orthodox consensus about masturbation and spermatorrhoea was due, in part, to the influence of leading sex researchers, who increasingly questioned whether masturbation was, in fact, as harmful as had once been thought. Havelock Ellis pioneered the attack on old ideas in his *Studies in the Psychology of Sex*, published in 1899. Sigmund Freud also raised questions about masturbation. Although he subscribed to the prevailing opinion that the practice caused neurasthenia in adults, he viewed auto-eroticism as a natural stage in infant development. In Freud’s system, masturbation was no longer a horrifyingly alien or unnatural practice, but rather a normal, although primitive, incident of psychosexual maturation.

As the Twentieth Century progressed, sex researchers increasingly acknowledged that masturbation was not necessarily harmful unless

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291. See Miller, supra note 72.
292. See Miller, supra note 72.
293. See Miller, supra note 72.
294. See Miller, supra note 72.
taken to excess. Some advanced the view that the principal damage of masturbation was not the practice itself, but rather the guilt it induced. Some even suggested, at least in private, that occasional masturbation could be efficacious at relieving sexual tension, as long as it was not indulged in for pleasure. The Kinsey Report, published in 1948, was a watershed: it found that masturbation is ubiquitous in young men, and failed to identify any adverse health effects. The 1957 edition of Benjamin Spock’s Baby and Child Care adopted a tolerant attitude toward infantile masturbation, advising parents not to warn a child about the dangers of masturbation, both because the warnings were not true, and because it was wrong to put “deep fears” into the child’s mind. Masters and Johnson, writing in 1966, endorsed Kinsey’s findings, denounced as “superstition” the purported link between masturbation and mental illness, and decried the emotional pain that unfounded fears of masturbation caused for many young men. Today, the official position of most scientists and medical professionals is that there is nothing unhealthy about masturbation, as long as it is not done so much as to harm the organ and as long as the practice is not a symptom of underlying pathology. Some even recommend masturbation as an aid to better sexual technique, a safe outlet for sexual tensions, a means to relieve menstrual cramping, or even a form of self-pleasuring that is enjoyable and valuable in its own right.

295. See Hall, supra note 93, at 378.
296. See Hall, supra note 93, at 378.
300. Spock, supra note 297.
303. See Bill Gottlieb, The Seven Habits of Highly Effective Lovers, Men’s Health (Sept. 1, 1998)(recommending masturbation as the “perfect way” to learn to delay orgasm and recommending that men switch hands in order to “master a new stroke”).
304. See J. Kenneth Davidson, Sr. & Nelwyn B. Moore, Masturbation and Premarital Sexual Intercourse Among College Women: Making Choices for Sexual Fulfillment, 20 J. of Sex & Marital Therapy 178, 195 (1994). Nurses are advised to take actions—such as ensuring privacy in hospital rooms—to facilitate patient masturbation. See Lidster & Horsburgh, supra note 302 at 24.
Meanwhile, outside the medical and scientific field, free thinkers began to advance the opinion that there was, in fact, nothing wrong with masturbation per se. Bertrand Russell, with his usual wit, expressed the modern view in his book Education and the Good Life.\textsuperscript{306} "Left to itself," Russell said, "infantile masturbation has, apparently, no bad effect upon health, and no discoverable bad effect upon character; the bad effects which have been observed in both respects are it seems wholly attributable to attempts to stop it."\textsuperscript{307} Although the noted philosopher's views led a New York court to declare him unfit for a professorship at City College in 1940,\textsuperscript{308} the notion that masturbation was harmless was destined to become mainstream opinion within a few years.

Today, memories of the campaign against masturbation mostly take the form of a dim recollection that at one time the practice was supposed to cause blindness or insanity. Nevertheless masturbation remains, curiously, a "never-ending source of guilt and shame."\textsuperscript{309} Not all authorities concur in the view that masturbation is harmless. The Catholic Church condemns the practice and requires believers to confess and do penance if they have given in to the urge. The Vatican's Declaration on Sexual Ethics rejected modern views about masturbation and reiterated the Church's traditional stance:

Whatever the force of certain arguments of a biological and philosophical nature, which have sometimes been used by theologians, in fact both the magisterium of the Church—in the course of a constant tradition—and the moral sense of the faithful have declared without hesitation that masturbation is an intrinsically and seriously disordered act.\textsuperscript{310}

Even outside the bastion of Roman Catholic doctrine, discomfort over masturbation remains pervasive despite decades of sex education stressing the harmlessness of the practice.\textsuperscript{311} Many seem to feel that they

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311. See, e.g., Davidson & Moore, supra note 304, at 179–81; J. Kenneth Davidson, Sr. and Carole Anderson Darling, Masturbatory Guilt and Sexual Responsiveness Among
should not masturbate, and that the only acceptable rationale for masturbation is as a substitute for sex with another person. A real man should be able to control his masturbatory urges—he should, in the words of a classic Seinfeld episode, be “master of his domain.” Those who are not masters of their domains, such as the hero of Philip Roth’s Portnoy’s Complaint, seem incompetent, foolish, and out of control. They are likely to feel guilty, depressed, or infantalized. Men hide their masturbation from their wives and lovers. The topic is rarely even discussed in sex education classes. Public disdain is embodied in derisive slang: “jerk off” “wank off,” and so on. In England, the authors of a National Survey of British Sexual Attitudes and Lifestyles were unable to ask questions about masturbation because of the distaste and embarrassment such questions caused to respondents. In short, as the authors of a survey of American sexuality recently remarked, masturbation even today “remains in the shadows.”

Events in popular culture illustrate enduring discomfort with the practice. Such attitudes erupted after Pee Wee Herman (Paul Reubens) was arrested for “exposing” his private parts (i.e., masturbating) in an adult theater in July 1991. Particularly damaging to Reubens was a picture of him after his arrest, looking like the stereotypical “pervert” at a pornographic movie. CBS immediately canceled his television show for children, Pee Wee’s Playhouse. When the editors of the Oakland Tribune queried their readers about whether the show should have been canceled, they received an outpouring of spite against the disgraced co-


312. See Shere Hite, The Hite Report on Male Sexuality 591 (1981); Michael et al., supra note 14 (masturbation “has the taint of sexual failure, a practice engaged in by those without the social skills or desirability to find a sexual partner”). In fact, the data show that people with sexual partners are significantly more likely to masturbate than people without partners. Michael et al., supra note 14, at 164–66.


315. See Michael et al., supra note 14, at 167 (between 25 and 41 percent of men and 14 and 47 percent of women felt guilt feelings about masturbation, depending on the frequency of the practice).

316. See Hite, supra note 312, at 592.

317. See Hite, supra note 312, at 596.

318. See Davidson & Moore, supra note 304, at 179.


321. Michael et al., supra note 14, at 158.
median. Gloria Borgstadter of Castro Valley said “I would have boycotted CBS if they had not [canceled the show]. What child needs this kind of a hero?”

Michelle R. Friese of Hayward, California fulminated, “[w]hat he did was not only disgusting but illegal as well. What he does in the privacy of his home is one thing, but to allow him to continue to be a person whom our children identify with is wrong, wrong, wrong!”

Marie Belli of Oakland, California asked, “[w]hy start a defenders’ club for the geek? He knew the consequences. It’s his fault that he didn’t listen to his conscience.”

Cultural dismay about masturbation came to the fore again when Joycelyn Elders, President Clinton’s Surgeon General, suggested that masturbation is a part of human sexuality and should perhaps be taught in schools as part of the fight against AIDS. President Clinton responded to an outpouring of public outrage by cashiering Dr. Elders—causing an additional firestorm. Press coverage of this imbroglio further illustrated the shadowy character of masturbation in popular culture. National Public Radio felt it necessary to warn listeners to All Things Considered that the program would be using the “M” word, and a Minneapolis morning radio show opted for the less offensive “self-pleasuring.”

President Clinton himself was not, in the end, immune from the sting of popular attitudes. The Starr Report, in the course of its exposé of the President’s sexual adventures, noted that after one incomplete encounter with Monica Lewinsky, he was observed masturbating in a White House bathroom. Many readers of the report may have shared the view of one editorial page writer who complained that the Leader of the Free World had engaged in “an infantile regression to masturbation—not even mutual masturbation.”

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323. Should Pee-Wee Herman’s Career Be Over?, supra note 322.
324. Should Pee-Wee Herman’s Career Be Over?, supra note 322.
325. Should Pee-Wee Herman’s Career Be Over?, supra note 322.
328. Rios, supra note 327.
329. See H.R. Doc. No. 105-310, at 41 n.25 (1998) (“after the sexual encounter, she saw the President masturbate in the bathroom near the sink”).
V. Masturbation, Spermatorrhoea, and the Management of Social Anxieties

What explains the campaign against masturbation? In this section, I suggest that the phenomenon served the purpose of channeling and displacing social anxieties. By directing attention towards the frightening, but ultimately manageable topic of seminal loss, the campaign alleviated anxieties that might otherwise have proven overwhelming, both for society in general and in particular for the three groups of norm entrepreneurs identified above.

Let us first present a model of anxiety.331 Like fear, which causes the body and mind to respond to an immediate threat, anxiety alerts the individual to more remote dangers. Anxiety signals that something is not in order, that boundaries are not being properly maintained, so that the individual or society will not be well-equipped to respond to a threat when it does appear. Anxiety is experienced as a fear of nothing in particular because the threats against which it operates have not yet ripened into present dangers. The discomfort of anxiety insists that the deficit be attended to—much as a baby’s cry annoys and thereby commands attention from caregivers. While anxiety serves a positive purpose within the life of a person or a culture, it can sometimes become overwhelming. Some potentially threatening things are unknown; others are known but cannot be defended against. In such cases, anxiety cannot be alleviated by actions that remedy the defect in defenses. Instead, it remains as a persistent condition. A rational strategy, in such cases, is for the individual or group to displace the anxiety onto some object that permits its management in ways that are not debilitating.

I believe that masturbation and spermatorrhoea provide this kind of displaced object. By worrying about these conditions and exercising constant vigilance against their occurrence, individuals and groups were

331. Discussion on the topic of anxiety is vast, encompassing aspects of, inter alia, religion, see, e.g., Soren Kierkegaard, Fear and Trembling (1968); philosophy, see, e.g., Martin Heidegger, Being and Time (John Macquarrie & Edward Robinson trans., 1962); Jean-Paul Sartre, Being and Nothingness: An Essay on Phenomenological Ontology (Hazel E. Barnes trans., 1956); and psychology, see, e.g., Joseph Breuer & Sigmund Freud, Studies on Hysteria, in The Standard Edition of the Complete Psychological Works of Sigmund Freud 117 (James Strachey ed., 1962); D. H. Barlow, Anxiety and its Disorders: The Nature and Treatment of Anxiety and Panic (1988); Eugene E. Levitt, The Psychology of Anxiety (1967). For purposes of this paper, it is not necessary to investigate the religious, philosophical, or psychological subtleties of the condition.
able to avoid feeling discomfort about other matters that would have been even more troubling.

Social Conservatives. For conservatives, the worry was that modern society was in the midst of a headlong slide into materialism, humanism, and agnosticism. Basic values were under threat. The chief culprit for these changes was the loss of religious faith and the growing secularization of culture. Conservative activists pointed to disquieting statistics in support of this view. Church attendance was falling, and many who came did so for non-religious motives. Agnosticism was on the rise, sparked in part by the multiplication of religious sects whose doctrines were impossible to harmonize. As William H. Walling observed in 1904, “the disintegration of the prevalent forms of religious belief, the rapid multiplication of sects, the increase in the ranks of intellectual skeptics, the fashionable detractions from, and perversions of, the Holy Scriptures, ... may well cause alarm.” America was producing a “generation of infidels” even worse than the Pagans of old, “who had, at least, their positive sciences of philosophy, and their religion such as it was, to oppose which was a criminal offense.” Epitomizing the views of many social conservatives was Anthony Comstock, whose Society for the Suppression of Vice conducted a vigilante campaign against the distribution of indecent literature during the late Nineteenth Century. The prudish Comstock referred to masturbation only in euphemisms (“secret practices of most foul and revolting character,” “secret vices,” “vicious practices”), but his meaning was unmistakable. For Comstock, as for many other conservatives, masturbation and other sexual behaviors contributed to the breakdown of the social order.

There is no force at work in the community more insidious, more constant in its demands, or more powerful and far-reaching than lust. It is the constant companion of all other crimes. It is honeycombing society. Like a frightful monster, it stands peering over the sleeping child, to catch its first thoughts on awakening. ... The peace of the family is wrecked, homes desolated, and society degraded, while it curses more and more each generation born into the world.

332. Walling, supra note 32, at 10–11.
333. Walling, supra note 32, at 11.
334. Walling, supra note 32, at 10.
335. Comstock, supra note 147, at 132.
For conservative norm entrepreneurs, the particular locus of social breakdown was in childhood. Modern educational methods in particular came in for criticism. In the words of William H. Walling, "[i]nreligion and infidelity are progressing pari passu with the advance guards of immorality and crime, and all are fostered, if not engendered, by the materialistic system of instruction, and the consequent wretched training at home and on the play-ground."

The family also was under threat. As one Indiana judge remarked in 1885, "[t]he moral worth of every community rests with the family. It is the source from which comes the ever-flowing current that brings with it lessons of probity and chastity. With that fountain-head corrupted, decay and overthrow will surely follow."

Another source of anxiety, from the standpoint of some conservatives, was the perception that the role of women was changing for the worse. William H. Walling, writing in 1904, observed that the "heresy" of "Women's Rights" was well advanced:

"[s]et in motion by a singular class of advocates, it would almost seem to have become epidemic. As though dissatisfied with the irksome lullaby and the wearisome routine of household duties, hosts have joined the invading forces, and now their conventions, their speeches, their special organs, and their sophistical catch-words have assumed so great proportions that they really seem on the verge of securing political prominence."

Recognition of women's rights would result in the worst sort of social ills: women would become "unsexed" and "degraded," while a "new and alarming element of discord" would be introduced into a society already "well-nigh ruined . . . by the singular customs of the times."

Physicians. For physicians, the anxieties that were managed in the campaign against masturbation were related to the status of the profession. Surgery made significant strides in the Nineteenth Century with the discovery of anesthetics (nitrous oxide, ether, and chloroform), antisepsis (carbolic acid), and asepsis (sterilization). Medicine, however,

336. WALLING, supra note 32, at 11.
337. Thomas v. State, 2 N.E. 808, 809 (Ind. 1885).
339. WALLING, supra note 32, at 31.
lagged far behind. Physicians applied leeches to suck their patient’s blood, prescribed endless bathing rituals (sitz baths, sponge baths, cold baths, half-baths, plunge baths, foot baths, dripping sheets, pail douches, towel washing, wet caps, wet sheets, etc.), administered electric shocks to diseased organs, and examined bumps on the skull for signs of disease. They prescribed countless drugs, many of them poisons (e.g., mercury and arsenic). None of this did much good, and some was harmful. And if Nineteenth Century medicine was unable to cure most physical diseases, it was even less able to address mental problems.  

The inability of medical doctors to cure many patients caused understandable concern within the profession. One Fellow of the Royal Society declared, “if there was not a single physician or surgeon, manmidwife, chemist, apothecary, druggist, or drug on the face of the earth, there would be less sickness and less mortality than now prevail.” Another physician observed that “ninety-nine out of every hundred medical facts are medical lies; and medical doctrines are, for the most part, stark, staring nonsense.” Oliver Wendell Holmes, Sr., was equally caustic, observing that pharmacology appeared to be based on the “miserable delusion . . . that whatever is odious or noxious is likely to be good for disease.”

The very specificity of the remedies advocated by physicians was itself a mark of the insecurity pervading the profession. The practice of medicine bordered on shamanism. Authorities insisted on remedies that needed to be followed to the letter, without providing any clear explanation for why these procedures made sense in terms of underlying theory. Medical textbooks of the times were replete with “bizarre, esoteric pieces of therapy, each one to be performed exactly as laid out and learned (since none of them made any intrinsic sense) by rote.” James Jackson wrote in 1861 that physicians of his day were “strenuous in their advocacy of the doctrine that there are specifics for all diseases; a

341. E.H. Hare observes that mental problems were formerly explained, in the popular mind, with interpretations based on evil spirits or witches; with the decline of these beliefs, there was no satisfactory alternative explanation for mental illness. E.H. Hare, Masturbatory Insanity: The History of an Idea, 108 J. MENTAL SCI. 1 (1962).
342. See Freddy Mortier, Willem Colen & Frank Simon, Inner-Scientific Reconstructions in the Discourse on Masturbation (1760–1950), 30 PAEDAGOGICA HISTORICA, INT’L J. HIST. EDUC. 817, 827 (1994) (“confronted with diseases against which he was powerless, the physician became a victim of his new status”).
343. JACKSON, supra note 30, at 120 (quoting Dr. James Johnson).
344. JACKSON, supra note 30, at 120.
345. JACKSON, supra note 30, at 121 (quoting Oliver Wendell Holmes, Sr.).
knowledge of which can be established a priori, and the application of which can be advised with as much certainty, previous to a knowledge of the actual conditions under which the deranged system labors.

Beneath this emphasis on exactitude, we can deduce the presence of a deep-seated insecurity about the fundamental ability of medicine to cure disease.

Related to the failure of Nineteenth Century medicine to develop a firm and clinically efficacious scientific footing was a second anxiety-producing condition: the chaos that prevailed within the profession. Competing approaches were vying for supremacy and status in a vicious internecine war. Schools enjoying some degree of credibility during the Nineteenth Century included the phrenological, allopathic, homeopathic, hydropathic, galvanic, botanic, and eclectic approaches—among others. As one English physician observed, "I have sought the different schools of medicine; and the students of each hinted, if they did not assert, that the other sects killed their patients." This lack of professional consensus was disturbing enough in itself. Even more distressing, however, was the license it provided for charlatans and quacks who competed for the business of established physicians and who cast the entire profession into disrepute. Quacks differed from reputable physicians largely in their means of attracting patients, rather than the scientific validity of their cures. They brought physicians face to face with the limitations of their own profession and the fact that despite their claims to expertise, they really had little idea of what was causing the symptoms they were treating.

Masturbation and spermatorrhoea provided physicians with a closed system that conveniently dealt with these anxieties. Because a great many people masturbated, the physician’s diagnosis often seemed substantiated by the patient’s own experience. Indeed, the physician’s perspicacity must often have seemed extraordinary because patients frequently had told no one of their secret habit. If a patient were not currently masturbating, the diagnosis could still be confirmed because most people had at least experimented with the habit during adolescence. Because the medical model viewed the adverse effects of masturbation as continuing after the practice had ceased, the patient’s current complaints could be caused by a habit long abandoned. Even if a patient never masturbated, the physician could still claim a correct diagnosis because, in all likelihood, the patient would at least suffer wet

347. JACKSON, supra note 30, at 122.
348. JACKSON, supra note 30, at 122.
349. JACKSON, supra note 30, at 122.
dreams, the hallmark of spermatorrhoea. And, of course, the physician could always conclude that the patient who denied masturbation was lying.

Further bolstering the closed system were the wide range of symptoms attributed to seminal loss. Given the medical profession’s claims about the widespread incidence and manifold sequelae of the condition, virtually any presenting problem could sustain a diagnosis of masturbation. The physician could institute a treatment that had the appearance of being scientific, and, because it was often painful, conveyed to the patient that something important was being done to take care of his or her condition. In the end, as Arthur Gilbert notes in his perceptive treatment, the patient “either recovered, in which case both doctor and patient congratulated themselves, or he worsened or died, and the doctor could argue that the case was too far advanced for treatment or that the patient had succumbed to his evil habit again. Either way the physician’s conscience was clear.”

Feminists. Like social conservatives, social purity feminists believed that, as Eliza B. Duffey expressed it, “something is radically wrong in our social system.” Urbanization and industrialization, while offering material benefits to many, had actually reduced the freedom and advantages of women as compared with their role in colonial society. Much of the feminist movement of the Nineteenth Century was, accordingly, an attempt to gain back advantages that had once been enjoyed by women but that had been lost with the advent of industrialization. Feminists of the last half of the Nineteenth Century fought for reforms that would restore those advantages and protect women from male sexual exploitation—prohibition, women’s suffrage, and measures to eliminate prostitution, for example. But these reforms were not realized during the peak of the anti-masturbation campaign. Meanwhile, urbanization and industrialization, which had created many of the adverse conditions affecting the lives of women, were seemingly unstoppable in their force. Feminists in the last half of the Nineteenth Century, accordingly, had good reason to feel anxiety about the success of the entire feminist project.

350. See Morrier, Colen & Simon, supra note 342, at 827 (“in an attempt to give meaning to the absurd, masturbation was proposed as the explanation for the most diverse incurable diseases of youngsters”).
352. Duffey, supra note 46, at 15.
One response of post-Civil War feminism to these anxieties was to seek a form of social and sexual purity in American society, in which sexual relations within marriage were romanticized and sexual relations outside marriage demonized.\textsuperscript{354} Purity feminists shared with social conservatives a concern about pollution of the social fabric stemming from unrestrained sexual practices. They sought to reinforce traditional gender roles and reacted violently against proponents of “free love” and sexual license.\textsuperscript{355} They saw an ideal of womanhood as under threat. Some of these feminists used concerns about male masturbation as a proxy for worries about male sexual, economic, and spiritual exploitation that radically undermined the traditional ideal of womanhood. By attributing a great deal of male sexual misconduct to masturbation, they were able, to an extent, to cabin and control anxieties that might otherwise have been overwhelming and demoralizing.\textsuperscript{356} While masturbation was certainly a danger worth worrying about, and extremely difficult to stomp out, at least it was limited in its field of activity and potentially susceptible to control through proper education and vigilance.

The Middle Class. The disease of masturbation was seen as a special scourge of the middle classes.\textsuperscript{357} It was “in our High Schools, Academies, and Colleges” that the problem was particularly prevalent.\textsuperscript{358} The authorities warned about the dangers of idle and sedentary life—sleeping in feather beds, engaging in frivolities such as balls, parties, and “theater-dancing,” spending too much time indoors, eating rich foods, getting too little exercise, wearing tight-fitting clothing, and reading sentimental literature.\textsuperscript{359} Many remedies for masturbation—such as vigorous exercise and a simple diet—reinforced the idea of self-pollution as a disease of the middle class: they appeared intended to recreate in the life of the sufferer some elements of a simpler material existence.

\textsuperscript{354} See Pivar, supra note 48.
\textsuperscript{355} See Richards, supra note 6.
\textsuperscript{356} Other anxieties were channeled into the projects of eradicating prostitution and militating for national prohibition. See Richards, supra note 6.
\textsuperscript{357} The middle class roots of masturbation anxiety have been noted in the literature. See, e.g., Stengers and Van Neck, Histoire d’une Grande Peur: La Masturbation 27 (1984); Peter Cominos, Late-Victorian Sexual Respectability and the Social System, 8 Int’l Rev. Soc. Hist. 18 & 250 (1963)(discussing the connection between masturbation anxiety and middle class values of thrift and saving); Arthur N. Gilbert, Doctor, Patient, and Onanist Diseases in the Nineteenth Century, J. Hist. Med. 217, 224 (1975); R.P. Newman, Masturbation, Madness, and the Modern Concepts of Childhood and Adolescence, 8 J. Soc. Hist. 1, 1 (1975).
\textsuperscript{358} Woodward, supra note 94, at 63.
\textsuperscript{359} Woodward, supra note 94, at 64.
\textsuperscript{360} See, e.g., Gregory, supra note 64, at 56–57, 64–66.
Eighteenth and Nineteenth Century masturbation narratives underscored the middle class nature of masturbatory illness. The tragic protagonist in these stories is nearly always a young person of good background and bright prospects. The family would usually be prosperous enough to employ servants and send their children away to school—hence the concern about young people being instructed in the art of masturbation by nannies or schoolmates. Despite all the advantages of an enriched childhood, the victim of masturbation would be ruined by his or her tragic failure to resist temptation. As Massachusetts physician F.A. Burdem expressed it, many who “commenced life with more than an ordinary share of natural ability” and who “gave high promise of being ornaments to the world,” had become, because of masturbation, “moping, slavering idiots of the lowest order, or inmates of some insane asylum.”361 S.B. Woodward also emphasized the good backgrounds of his patients: one was a “respectable young gentleman,” another the “brother [of a] physician,” still another a “graduate of one of the New England Colleges”—all brought low by masturbation.362 William H. Walling echoed the theme, decrying the “numberless instances” of youths “who stood high in their classes, and ranked quite as intellectual prodigies up to or a little beyond the age of puberty,” who failed their initial promise.363

The motif of failed promise found expression at the level of society: Western culture as a whole was in danger of becoming like one of these masturbating adolescents. The masturbation narratives were, in a sense, the opposite of another popular genre, the rags-to-riches story in which a young person of humble birth makes good by virtue of hard work, discipline and courage. In the masturbation narrative, the young person is born with all the advantages of a comfortable background, and falls into fatuity and failure because of a lack of discipline and resolve. The authorities endlessly marked the contrast between the seemingly unparalleled wealth and scientific achievements of advanced Western society, on the one hand, and the tendency of its youth to revert to primitive habits, on the other. The very successes of industrialization paradoxically threatened to spark regression to behaviors of rude people, such as

363. Walling, infra note 32, at 41.
pagans and savages. Masturbation was, accordingly, a grave threat not only to the practitioner, but to civilization itself.

These middle class anxieties appear to reflect concern that the advantages on which the middle class based its claim to social dominance would not prove enduring. Masturbation phobia expressed and channeled the fear that the next generation would prove unworthy to the task—that instead of contributing to the commonweal, they would become a "charge on society," and "weaklings of our race." The luxurious lifestyle of the white-collar worker would soften the young and reduce their fitness to carry on the social project. And the problem went beyond the masturbator himself or herself. It passed on to future generations. In the words of one authority,

> when a boy injures his reproductive powers, so that when a man his sexual secretion shall be of an inferior quality, his offspring will show it in their physical, mental, and moral natures. So you see that even a young boy may prepare the way to visit upon his children that are to be, the results of vices and sins committed long years before they were born.

These broader anxieties about the deterioration of the race and the inadequacy of the middle class to meet the challenges of the future were managed by being displaced onto the topic of seminal discharge. Fear of masturbation came to symbolize these anxieties, but also served to manage them. For while no one could guarantee that the middle class would meet the challenges of the future, any person could, in theory at least, control a small part of the problem by restraining his or her urge to masturbate, or by zealously enforcing the taboo against masturbation by his or her children. The deliberate avoidance of masturbation—in common with the avoidance of excessive sexual indulgence of all sorts—

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364. William Walling obliquely refers to pagan or witch-like practices when he condemns "wise women" who would apparently apply folk techniques of fondling the genitals of young children to quiet them. WALLING, supra note 32, at 36.

365. As one missionary in Tahiti observed in 1799, "The men that are not wealthy in cloth, hogs or English articles, wherewith to purchase a wife, must go without one; and this leads them to practice the great crime of onanism to an excessive degree, and renders them unfit to cohabit with women; but all their vices of this nature are too shocking to be related." ROBERT I. LEVY, TAHITIANS: MIND AND EXPERIENCE IN THE SOCIETY ISLANDS 113 (1973).

366. See STENGERS, supra note 357, at 13 ("l'élément destructeur des sociétés civilisées").

367. M'Cassy, supra note 171, at 342.

368. SYLVIANUS STALL, WHAT A YOUNG BOY OUGHT TO KNOW (1897), quoted in COMFORT, supra note 5, at 93.
acted as a sort of spiritual discipline which strengthened a person and reinforced his or her self-esteem. It required constant attention and vigilance.\textsuperscript{369} In the words of William Acton, "what is the use or object of a trial but to \textit{try}, to test, to elicit, strengthen and brace, whatever of sterling, whatever of valuable, there is in the thing tried?"\textsuperscript{370} If people tried hard and exercised discipline and control over this one matter of masturbation, they could feel better about the much more threatening prospect of failure of the entire middle class project.

\textit{The Law}. Finally, let us return to the role of the legal profession in the anti-masturbatory campaign. We have seen that the law played a supporting role in the drama. Substantial numbers of masturbation cases did come into the legal system, and judges and lawyers readily accepted the prevailing wisdom about the dangers of the practice. Yet, although arguments based on masturbation sometimes prevailed, this was fairly uncommon. More frequently, as we have seen, the law elected to maintain the outcome that would have been reached had issues of masturbation not entered the picture. Why did the law react this way?

In part, the law's restrained treatment of masturbation and spermatorrhoea can be traced to practical and technical considerations. Spermatorrhoea, which in the view of many authorities was nearly as dangerous as masturbation, could not easily be addressed legally. By definition, spermatorrhoea was involuntary. One did not choose to experience a wet dream. The sanctions of the law, which were usually addressed to the will, would have little effect over a condition such as this. Thus, legal proscription could not deal effectively with this aspect of the problem of seminal loss.

Masturbation, unlike spermatorrhoea, was at least partly subject to the will, and thus the law could have, in theory, a greater purchase on this practice. But people were already trying not to masturbate—as manifested by the millions of dollars being spent on physicians, quacks, and patent medicines. In the case of masturbation, the deterrent effects of the law were perhaps questionable because victims of the practice were already motivated to quit, and could not.

Associated with the doubtful deterrent effects of a legal prohibition was the ambiguous moral status of the masturbator. The culture generally

\textsuperscript{369} See \textsc{Jackson}, supra note 30, at 7 ("[O]f all the \textit{vices} which government, society, and individual parents, have to combat, there are none demanding such constant attention and such unwearied vigilance to keep them restrained and within decent boundaries, as those which find their home and resting-place in the undisciplined and unrestrained excesses of the sexual passions").

\textsuperscript{370} \textsc{Acton}, supra note 15, at 54.
expressed profound disapproval of the practice. Yet masturbators were rarely condemned outright. They were more to be pitied than blamed, and were rarely held entirely responsible for the condition into which they had fallen. Because people did not choose to masturbate, but rather displayed a weakness of will through indulgence, they were not as culpable as people who committed other destructive acts, such as murder or theft. Imposing the full force of legal condemnation against such people seemed harsh and excessive.

Masturbation, moreover, was thought to carry its own sanctions. The masturbator hardly needed to be punished by the law, since a habit of masturbation would inevitably manifest itself in horrifying medical problems. The body seemed to have its own methods for exacting justice against those who abused it through masturbation, just as it did for other forms of self-abuse such as alcoholism. Since biology had already supplied more-than-adequate punishments for the behavior, legal sanction appeared, in a sense, supererogatory.

Even if the law elected to prohibit masturbation, enforcement would pose a problem. Masturbation was the quintessentially private act. Few people would willingly acknowledge practicing it. Even in physicians' offices, patients resisted confessing their behavior. If the law came in to prohibit masturbation, the secrecy would only increase. Moreover, those persons most likely to discover a person's masturbatory habits were unlikely to cooperate with the authorities in a prosecution: they would usually be a boy's or girl's parents, siblings, or other family members. If masturbation were made a crime, in short, it would rarely be detected, and even if detected, rarely prosecuted because of the lack of firm evidence.

Finally, masturbation, as a vice practiced against oneself, did not fall within the normal domain of legal regulation. It was a matter more for a person's religious beliefs and moral conscience. For the law to prohibit masturbation would be to intrude into a realm traditionally reserved for other institutions. As time progressed, the role of churches as guardians of conscience began to fade, but—at least in the case of masturbation—the medical profession filled the vacuum. By the beginning of the Twentieth Century, masturbation was no longer so much a matter between a person and his or her minister or priest as a topic to be addressed by a family physician. But this transfer of authority between the religious and medical professions did not enhance the role of law.

Beyond these technical considerations, the law's participation in the masturbation campaign reflects the status of the legal profession. As members of the middle class, judges and lawyers shared the overall social concerns about the deterioration of the race, the threat of
primitivism, and the failure of the middle class project of industrialization and progress. But as a professional class, these individuals were not subject to the specific anxieties that afflicted physicians, feminists, and social conservatives. During the time of peak masturbatory anxieties—the last half of the Nineteenth Century—the legal profession in the United States enjoyed high status and success. Elite law firms were sharing in the wealth and status of the emerging corporate class. Legal education was beginning to be professionalized with the institution of three-year, postgraduate training. The common law appeared well-adapted to guiding the culture into a bright and prosperous future. Christopher Columbus Langdell and his project of "legal science" promised to identify the consistent themes of the law and thus to cement its social status further. The disruptions of the Progressive Movement were years in the future, and the Legal Realist attack on the fundamental premises of the common law was not even imagined. The law, in short, did not share the anxieties that affected other groups during the heyday of the anti-masturbation campaign. Instead, it was identified, at least in the elite segment of the bar, with a self-confident, imperialistic, expansionary notion of progress. Accordingly, the legal profession did not find it necessary to enlist fears of seminal loss—or any other substitute object—as means for deflecting and managing anxieties that would otherwise have proved overwhelming. It is for this reason, among others, that the law did not take a leadership role in attempts to control the solitary vice.

Conclusion

This paper has explored the long-lasting cultural concern about masturbation and its cousin, spermatorrhoea, from the standpoint of cultural-legal analysis. I argue that the concerns about these conditions served the function of deflecting, and thereby managing, deeper social anxieties. For the middle classes, the worry was that the next generation would not be able to sustain progress towards civilization and prosperity, and therefore that the foundations of the middle class’s claims to social dominance would be undermined. For social conservatives, the concern was that basic moral and religious values were under attack, and that schools and the family were failing to protect against this threat. For purity feminists, the anxieties were that social impediments to improving the status of women would be overwhelming, that meaningful changes would never take place, and that an ideal of female purity in American culture was under assault. For physicians, the fear was that medicine’s claim to high status and income would be undermined by the fact that physicians did not understand disease and could not cure it.

Masturbation and spermatorrhoea provided a convenient outlet for these anxieties. Because these conditions were so widespread as to be nearly universal, they appeared to justify the fears that these various groups were experiencing. By magnifying the threat from these conditions, the society could disguise deeper anxieties that could not themselves be managed. Although masturbation and spermatorrhoea were themselves the cause of intense anxieties, the discomfort people felt from these threats was less overwhelming than the pain that they would have experienced had they been in more direct contact with the deeper underlying fears. Because masturbation and spermatorrhoea were, in theory at least, subject to the will of the individual, they offered the prospect that their dangers could be controlled and even overcome through diligent attention to the discipline necessary to achieve self-control and continence. By trying to avoid masturbating, or by seeking to prevent masturbation in children, people could feel better about the world into which they were thrown.

The social concern about masturbation and spermatorrhoea was managed and directed by norm entrepreneurs, especially social conservatives, physicians, and feminists. These individuals enlisted three conceptual approaches in the service of their arguments: the religious, medical, and sociological models. Whatever the model employed, these
activists portrayed masturbation as an object that needed to be expelled from the body social.

The law played a role in this social phenomenon. Judges and lawyers fully shared the overall consensus that masturbation and spermatorrhoea were evil and dangerous. Arguments based on masturbation appear with some frequency in the case reports. Masturbation was put forward by unhappy spouses as providing grounds for dissolution of marriages, provided the basis to challenge wills or conveyances on the ground of lack of capacity, and bolstered claims of insanity as a defense to criminal prosecutions. The law also directly attacked certain activities associated with masturbation: it banned erotic materials that could be used as an aid to masturbation, sanctioned those who instructed others in the art, and condemned masturbation of one person by another.

However, the law was not a leader in shaping or enforcing social attitudes and policies about masturbation and spermatorrhoea. The relative passivity of the law appears due to two factors. First, masturbation and spermatorrhoea threatened to upset the reliability and predictability of the law, given that these conditions were universally acknowledged to be extremely widespread. Second, the law was not subject to the professional or ideological anxieties that troubled feminists, physicians, and social conservatives. Because it did not need to enlist masturbation and spermatorrhoea as displaced objects for professional anxieties, the law found it most expedient to limit the effect of these conditions on the actual application of legal rules.