‘Not an Exact Science’: Medical Approaches to Age and Sexual Offences in England, 1850-1914

Submitted by Victoria Louise Bates to the University of Exeter as a thesis for the degree of Doctor of Philosophy in Medical History in September 2012

This thesis is available for Library use on the understanding that it is copyright material and that no quotation from the thesis may be published without proper acknowledgement.

I certify that all material in this thesis which is not my own work has been identified and that no material has previously been submitted and approved for the award of a degree by this or any other University.

Signature: .................................................................
Abstract

This thesis examines medical approaches to sexual offences in England between 1850 and 1914, with particular attention to law-making and judicial processes. It addresses two key research questions. Firstly, what was the place of medicine in shaping the law on sexual consent and in the implementation of laws on sexual crime? Secondly, can the analytical category of age be used to understand such medical roles? In addressing the first research question, the thesis shows that relationships between medicine, the law and wider society can be understood in terms of negotiation and shared pools of knowledge rather than impact. It demonstrates that medical ideas on sexual crime and sexual consent were deemed sufficiently valuable to be drawn upon widely by different groups, but they were not imposed ‘from above’ by a coherent medical profession. Medical roles thus need to be studied and understood rather than either oversimplified as ‘dominant’ or dismissed as non-existent. In addressing the second research question, the thesis argues that age has been unduly overlooked as a category of analysis in historiography. It shows that ideas about sexual crime shifted in relation to victims of different ages and that age can productively be situated in relation to other analytical categories, particularly class and gender. By moving beyond treating ‘children’ and ‘adults’ as homogeneous categories, this study opens up new ways of understanding histories of medico-legal relations and sexual crime.
# Table of Contents

List of Figures .................................................................................................................. 7
Abbreviations ...................................................................................................................... 8
Acknowledgments ............................................................................................................... 9

## Introduction
Summary of Arguments ..................................................................................................... 10
Historiographical Contexts ................................................................................................. 14
Primary Sources .................................................................................................................. 26
Thesis Structure ................................................................................................................... 42

## Part 1: Capacity and Consent

### Chapter One. ‘The Breakers that Separate Childhood from Youth’: Stages of Sexual Development

Innocence and Ignorance: Before and Towards Sexual Maturity ........................................ 47
‘Storm and Stress’: At and Beyond Sexual Maturity ............................................................ 67

### Chapter Two. ‘The Plastic Period of Development’: Ages of Puberty and Sexual Consent

Blurring the Boundaries: Puberty .......................................................................................... 84
Redefining the Lines: Sexual Consent ................................................................................... 102

### Chapter Three. ‘A Long and Weary Road’: Legal Changes in the Age of Sexual Consent

Pressure: Medicine and Morality .......................................................................................... 118
Process: Case Law and the Courts ....................................................................................... 131
Politics: Parliament, Lords and the Law ............................................................................... 140

## Part 2: Crime and the Courts

### Chapter Four. ‘To a Doctor at Once’?: Suspected Sexual Crime and Pre-Trial Medicine

How? Approaching Medical Practitioners ........................................................................... 161
Who? Choosing Medical Practitioners ............................................................................... 173
Why? Using Medical Practitioners ..................................................................................... 188

### Chapter Five. ‘Different Hues’: Medical Evidence in Court

First Appearances: The Reception and Selection of Medical Evidence ............................... 202
Interpreting Appearances: Signs of Victimhood ................................................................. 216
Chapter Six. ‘Easily to be Made and Hard to be Proved’: Trial Outcomes and Medical Evidence ........................................................................................................ 242
The Decision-Making Body: Judges and Petty Juries ................................................. 244
The Sexual Body: Genital Signs and Chastity ............................................................... 254
The Resisting Body: Bodily Signs and Consent ........................................................... 266

Conclusion .................................................................................................................. 276

Bibliography .............................................................................................................. 280
Manuscript Primary Sources ....................................................................................... 280
Printed Primary Sources ............................................................................................ 282
Published Secondary Sources .................................................................................... 293
Unpublished Secondary Sources ................................................................................ 338