

Bodies, Knowledge and Authority in Eighteenth-Century Infanticide Prosecutions

by

Sheena Sommers
B.A. University of Victoria, 2002

A Thesis Submitted in Partial Fulfilment of the
Requirements for the Degree of

MASTER OF ARTS

in the Department of History

© Sheena Sommers, 2005
University of Victoria

All rights reserved. This thesis may not be reproduced in whole or in part, by photocopy or other means, without the permission of the author.

Abstract

During the eighteenth century, English courts began to acquit women accused of newborn infant murder in numbers not previously seen. Whereas seventeenth-century women accused of infanticide were generally found guilty by the courts, eighteenth-century trial records rely heavily upon new narratives that represent the accused as a helpless victim of circumstance. This thesis documents the way in which changing representations of accused women were related to the broader cultural shifts taking place in medicine, legal practice and gender ideology during the Enlightenment. From the community setting in which women acted as the primary arbiters of bodily truths, to the field of midwifery and the debates surrounding the new man-midwife, to the judicial sphere in which medical, legal and lay opinion came together, this work explores the contested and shifting nature of authority over the reproductive body in eighteenth-century England.

Supervisor: Dr. Sara Beam

Table of Contents

Title Page.....	i
Abstract.....	ii
Table of Contents.....	iii
Acknowledgements.....	iv
Introduction Infanticide.....	1
Chapter One The Regulation of Female Bodies: Authority, Uncertainty and Narrative Strategies.....	16
Chapter Two Transcending the Sexed Body: Reason, Sympathy and ‘Thinking Machines’ in the Debates over the Man-Midwife.....	41
Chapter Three Remapping Maternity in the Courtroom: Female Defences, Medical Witnesses and the Humanitarian Narrative.....	80
Conclusion Lasting Impressions.....	117
Bibliography.....	124

Acknowledgements

I would like to thank my supervisor Dr. Sara Beam for her help and support in this project. Her insights were always valuable and her comments enabled me to develop my ideas and push my analysis further. I would also like to thank Dr. Andrea McKenzie for sharing with me her wealth of knowledge about the eighteenth century. The history department faculty at the University of Victoria and the administrative staff likewise deserve mention for always being there to answer questions and offer support. I would also like to thank my family, friends and colleagues for their endless kindness and patience in listening to me discuss my work. Finally, I would like to thank the Social Sciences and Humanities Research Council of Canada for their generous financial support without which my research trip to England would not have been possible.

Introduction: Infanticide

During the eighteenth century, English courts began to acquit women accused of newborn infant murder in numbers not previously seen. Whereas seventeenth-century women accused of infanticide were constructed within the courtroom as ‘monstrous mothers’ *par excellence*, eighteenth-century trial records rely heavily upon new narratives that represent the accused as a helpless victim of circumstance. The history of infanticide affords insights into legal, medical and popular discourses surrounding pregnancy, birth and maternity. The criminal records used to study this crime, while concerned with relatively extraordinary events, nevertheless involved quite ordinary people.¹ These sources allow historians access to the voices of individuals who were otherwise largely unrecorded in history. Thus, while the legal context in which women accused of infanticide told their stories certainly structured how and what they might say, deposition and trial records are some of the best sources we have for investigating how eighteenth-century women spoke about their bodies and their experiences of pregnancy and birth.

Historians who study infanticide attempt to explain the dramatic decline in convictions that occurred at the beginning of the eighteenth century. This development is particularly striking in light of the fact that the law governing infanticide did not change throughout this period; thus, the court’s unwillingness to convict women accused of infanticide prevailed over the legal statute governing this crime. While this line of inquiry continues to be fruitful, this thesis is of a slightly different nature. Rather than attempting to provide a definitive explanation for the declining rates of conviction, this

¹ Laura Gowing, Common Bodies: Women, Touch and Power in Seventeenth-Century England (New Haven: Yale University Press, 2003), 12.

project instead seeks to use infanticide as a lens to explore the contested and shifting nature of reproductive knowledge and beliefs about the female body during this period.

In this thesis, I will widen the framework used to investigate this crime in order to examine the way in which the changing representations of accused women within the courtroom were related to, and paralleled, the broader cultural shifts taking place in medicine, legal practice and Enlightenment notions of gender and sexual difference. This work documents three separate, yet overlapping, domains in which reproductive knowledge was discussed, debated and disseminated. From the community setting in which women acted as the primary arbiters of bodily truths in cases of suspected pregnancies, to the field of midwifery and the debates surrounding the new man-midwife and, finally, to the judicial sphere in which medical, legal and lay opinion came together, this work explores the contested and shifting basis of authority in matters concerning the eighteenth-century female body.

Early work on infanticide came out of the emerging field of social history and the history of crime and generally focused heavily upon documenting the incidence of prosecution for infanticide with a quantitative analysis of the legal records. The first monograph devoted entirely to this crime, by Peter Hoffer and N.E.H Hull, provided a significant amount of statistical information regarding the rate of prosecution for infanticide and an extensive detailing of the socio-economic profile of the women accused.² The explanatory framework guiding much of this early work involved an analysis of the social and economic factors surrounding the circumstances of the accused. The social stigma attached to illegitimate pregnancy and the dire circumstances facing an

² Peter Hoffer and N.E.H. Hull, Murdering Mothers: Infanticide in England and New England, 1558-1803 (New York: New York University Press, 1981), 3-31, 95-111.

unwed mother were put forth as the primary motivations for this crime and, subsequently, became the key line of inquiry for historical studies of infanticide.³

Much of this early work, while important to the developing field of early modern female criminality and the history of crime more generally, tended to ignore the rich narratives of trial records in favour of quantitative data. More recent work on this topic has shifted the focus and begun to ask new questions about what these trial records reveal of other dimensions of early modern life.⁴ Recent studies of infanticide have provided insight into numerous fields of research, including not only the histories of crime and the operations of the judicial system, but also the regulation of sexual morality within communities, the shifting conceptions of gender and motherhood and the literary and fictional representations of child murder, to name but a few.

The importance of the body as a source of knowledge and the shifting basis of authority in reproductive matters has, however, received less attention from historians interested in this crime, with the important exceptions of Laura Gowing and Mark Jackson.⁵ Both of these authors have documented the centrality of the body to the investigation and prosecution of infanticide. Gowing's work provides insight into the

³ See, for instance, R.W. Malcomson, who argues that the situation of the mother provided the rationale for infanticide and that under certain circumstances, this may have seemed to be the "only appropriate action" (Malcomson, "Infanticide in the Eighteenth Century," in *Crime in England 1550-1800*, ed. J.S. Cockburn [New Jersey: Princeton University Press, 1977] 205.) See also, Hoffer and Hull, *Murdering Mothers*; James Kelly, "Infanticide in Eighteenth-Century Ireland," *Irish Economic and Social History* 19, 5 (1992): 5-26.

⁴ For a collection of works see, for example, *Historical Perspectives on Child Murder and Concealment, 1550-2000*, ed. Mark Jackson (Aldershot: Ashgate, 2002) and *Writing British Infanticide: Child Murder, Gender and Print 1722-1859*, ed. Jennifer Thorn (Newark: University of Delaware Press, 2003). Other examples include: Laura Gowing, "Secret Births and Infanticide in Seventeenth-Century England," *Past and Present* 156 (1997): 87-115; Josephine McDonagh, *Child Murder and British Culture 1720-1900* (Cambridge: Cambridge University Press, 2003); Deborah Symonds *Weep Not for Me: Women, Ballads, and Infanticide in Early Modern Scotland* (Pennsylvania: Pennsylvania State Press, 1997); Marilyn Francus, "Monstrous Mothers, Monstrous Societies: Infanticide and the Rule of Law in Restoration and Eighteenth-Century England," *Eighteenth-Century Life* 21, 2 (1997): 133-156.

⁵ Gowing, "Secret Births"; Mark Jackson, *New-born Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England* (New York: Manchester University Press, 1996).

role of women in the regulation of other women's bodies within the community.

Jackson, on the other hand, highlights the importance of the infant's corpse in infanticide proceedings. Drawing upon their work, I seek to connect the shifting authority over the body in infanticide prosecutions to the larger trends occurring in Enlightenment thought. By detailing women's expertise and authority in the community, as well as the advent of male practitioners in the field of midwifery and legal proceedings, this project will explore how certain claims to knowledge about the body and reproduction were legitimated while others were increasingly rendered suspect. Using infanticide trials to explore these shifts will allow my conclusions to be grounded in the actual operations of the judicial system. The transformation of authority over the body during this period had concrete effects on the way in which women accused of infanticide were represented and prosecuted within the courtroom.

Historians interested in the body, gender and sexuality have given ample attention to the eighteenth century. This period has often been viewed as a key moment in the transformation of attitudes towards gender and the body in English society. Lodged between the hierarchically organized organic cosmos of the seventeenth century and the rational universe of the later Enlightenment, the eighteenth century has tended to be viewed as a period of relative flux, informed by a variety of competing and overlapping discourses that allowed for a certain amount of freedom and flexibility within the categories of gender and sexuality. In comparison to the rigidity associated with nineteenth-century gender constructions, for instance, the eighteenth-century has been

depicted by historians as something of a gender-bending haven.⁶ Notions of femininity and masculinity were contested throughout this period and beliefs about the body were likewise in flux.⁷ This flexibility or instability, however, simultaneously contributed to certain crisis in gender relations and to the subsequent emphasis on the need to redefine and police the borders of appropriate masculine and feminine behaviour.⁸ Changing conceptions of the individual during this period and *his* place within the social order, broadly speaking, worked to destabilize earlier understandings of the body and sexual difference.

As the traditional basis for authority waned, the laws of nature increasingly provided the reference point needed for discussions of social and political organization. The mechanical models of nature put forth by the philosophers of the seventeenth century not only offered a new model for understanding the universe, but also influenced conceptions of the body and its functions. Eighteenth-century investigations into the body's make-up came to see the body as a machine of flesh governed, like all things, by universal laws.⁹ As such, medical practitioners increasingly believed that knowledge about the body, like investigation into the natural world, could best be acquired through the methods of scientific experiment and objective inquiry, rather than through reliance upon experiential or textual authority. The emphasis on scientific investigations into the

⁶ For a collection of essays pertaining to the flexibility of eighteenth-century gender norms see for example Lewd and Notorious: Female Transgression in the Eighteenth Century, ed. Katharine Kittredge (Ann Arbor: The University of Michigan Press, 2003).

⁷ Gill Perry and Michael Rossington, "Introduction," in Masculinity and Femininity in Eighteenth-Century Art and Culture, ed. Perry and Rossington (Manchester: Manchester University Press, 1994), 14.

⁸ Kittredge, "Introduction," Lewd and Notorious, 6. See also Thomas Laqueur, Making Sex: The Body and Gender from the Greeks to Freud (Cambridge, Mass. Harvard University Press, 1990); Joanna Hodge, "Subject, Body and the Exclusion of Women from Philosophy," in Feminist Perspectives in Philosophy, ed. Morweena Griffiths and Margaret Whitford (Indianapolis: Indiana University Press, 1988): 152-168; Roy Porter and Dorothy Porter, Patients Progress: Doctors and Doctoring in Eighteenth-Century England (Cambridge: Polity Press, 1989), 173.

⁹ Roy Porter, Flesh in the Age of Reason (New York: W.W. Norton and Company, 2003), 50.

workings of the body tended to displace older ways of acquiring knowledge, excluding those individuals lacking medical and scientific education from laying claim to knowledge of the body and reproduction. These changes had an impact on legal proceedings for infanticide. By mid-century, male medical professionals replaced female midwives as key trial witnesses.

Despite the shifting basis of authority expounded within the medical and scientific community, the physical indicators offered up by the body were often ambiguous. Throughout this period, there existed a wide range of possible ways to interpret the body's signs. Authority was highly contested and the notion that objective investigation led to greater truths was by no means unanimously upheld. Arguments in favour of female midwives, for instance, continued to maintain that women's intuitive understanding and shared experience were more important to the practice of midwifery than extensive anatomical learning.¹⁰ A multiplicity of languages and modes of knowing co-existed and individuals drew upon a variety of dialogues to explain and make sense of the body and reproduction. Thus, while the ability to speak from a place of authority about these matters increasingly became the preserve of educated medical professionals, reproductive knowledge consisted of a fairly flexible group of beliefs and a multiplicity of discourses existed to explain and interpret the workings of the body.

Rather than stressing any monolithic authority or consensus, in this thesis I have attempted to explore this ideological flexibility and to highlight the complicated and competing dialogues surrounding bodily knowledge. Those individuals excluded from the increasingly standardized language of science, as well as from education in anatomy and midwifery, continued to draw upon their own experiences, stories and traditions, and

¹⁰ John Stevens, Man-Midwifery Exposed (London: William Horsell, 1849), 4-5

to speak with confidence about their own bodies and the bodies of others. I want to explore both the creative agency of individuals involved in interpreting and narrating their experiences and understandings of the body, as well as to document the transformations in medical discourse and legal practice that worked to de-legitimize these more informal interpretations.

Infanticide and the Law

Before outlining this project in more depth, I want to briefly address the nature of the law governing newborn infant murder and some of the reasons for its enactment. The flexibility of the body's signs that I have been discussing so far plagued legal proceedings for infanticide throughout the eighteenth century. In the highly ambiguous arena of secret births, definitive truths about the body—about what was possible and what was not—were almost impossible to come by. It was precisely the inherent uncertainty surrounding these cases, the secrecy and privacy of the crime itself that had helped to justify the implementation of a particularly draconian statute against infanticide. In 1624 the Act to Prevent the Destroying and Murdering of Bastard Children was enacted in England. The statute stated specifically that any unmarried woman

Be[ing] delivered of any issue of her body, male or female, which being born alive, should by the laws of this realm be a bastard, and that she endeavour privately, either by drowning or secret burying thereof, or any other way, either by herself or the procuring of others, so to conceal the death thereof, as that it may not come to light, such case the said mother so offending shall suffer death as in the case of murder, except such mother can make proof by one witness at the least, that the child (whose death was by her so intended to be concealed) was born dead.¹¹

¹¹ 21 James I, c. 27 (1624), *Statutes at Large*, VII, ed., Danby Pickering (Cambridge, 1763), 298.

The severity of the legal statute effectively placed the burden of proof upon the defendant as it made the “concealment of the delivery of an illegitimate child who was stillborn or later found dead” proof positive of infanticide unless there was one witness who could proclaim that the infant had not in fact been born alive.¹² The wording of the statute worked to counter some of the evidentiary difficulties involved in ascertaining proof of murder in cases of secret births as women were charged for concealment of pregnancy rather than murder.¹³ While the reasons for the enactment of this statute at this particular moment are certainly many, there is evidence to suggest that as the sixteenth century drew to a close, parish officials were facing heightened pressure from communities to “find and punish bastardy among the poor.”¹⁴ Before the 1580s, for instance, there is little evidence of infanticide indictments in England and even less evidence of any case law.¹⁵ According to Hoffer and Hull, however, indictments for infanticide rose dramatically during the last quarter of the sixteenth century.¹⁶ The Poor Law of 1576 seems to have exacerbated the situation of unmarried, pregnant women, for it aimed at punishing parents of bastard children who “defrauded the parish” of its ability to help the truly “deserving poor.”¹⁷ The ability of the new poor law statutes to alleviate the financial burden of bastards on parishes was, however, always contingent upon the “successful identification and punishment of bastard-bearers by the communities in which they lived.”¹⁸ Concealment of illegitimate pregnancies represented a threat to the moral and economic order of the community as bastard infants quickly became a burden

¹² Jennifer Thorn, “Introduction,” in Writing British Infanticide, 27.

¹³ J.M. Beattie, J.M. Crime and the Courts in England, 1660-1800 (Princeton: Princeton University Press, 1986), 113.

¹⁴ Hoffer and Hull, Murdering Mothers, 18.

¹⁵ Publishing History, O.B.P.

¹⁶ Hoffer and Hull, Murdering Mothers, 17.

¹⁷ Hoffer and Hull, Murdering Mothers, 7.

¹⁸ Mark Jackson, New-born Child Murder, 31.

upon the parish registrar. Once an illegitimate child was born, it belonged to the parish unless the paternity of the infant could be established. The new system of poor relief through taxation rendered the mothers of bastards in particular open to “the accusations and hostility of rate-paying neighbours.”¹⁹ It was not unheard of for overseers to bribe pregnant women to go elsewhere to deliver their children in order to relieve the community of responsibility for the child’s maintenance.²⁰

Whether or not women were actually committing infanticide more frequently or whether communities, overseers and legal authorities were merely beginning to pay more attention to these cases is almost impossible to ascertain due both to the nature of these particular crimes and to the lack of systematic evidence before the late seventeenth century. Nevertheless, by way of allowing for a conviction without a witness—thus, preempting the claim of stillbirth—seventeenth-century courts and legal theorists seem not only to have understood that such cases were particularly difficult to prosecute but also to have been facing a growing pressure from communities to do so.²¹ While in England the system of poor relief may certainly have had an impact on the increasing prosecution of infanticide, the severity of this statute was not unlike those operating in other European countries.²² As such, a connection between a general hardening of gender roles in post-Reformation Europe and the subsequent emphasis on policing female sexuality can be drawn to explain the rising prosecution of this crime.²³ As women’s roles were increasingly defined by marriage and motherhood in advice literature and religious

¹⁹ Jackson, *New-born Child Murder*, 31.

²⁰ Anthony Brundage, *The English Poor Laws 1700-1930* (Hampshire: Palgrave, 2002), 15.

²¹ Francus, “Monstrous Mothers,” 133.

²² Shari L. Thurer, *The Myths of Motherhood: How Culture Reinvents the Good Mother* (Boston: Houghton Mifflin Company, 1994), 180.

²³ See Lyndal Roper, *The Holy Household: Women and Morals in Reformation Augsburg* (Oxford: Clarendon Press, 1989); Merry Wiesner, *Women and Gender in Early Modern Europe* (Cambridge, Cambridge University Press, 1993), 21-25; Gowing, *Common Bodies*, 12.

sermons, those women suspected of having killed their illegitimate children became increasingly the target of judicial prosecution in England and the continent.

The nature of the English act was designed to implement a division between married and single women who were suspected of murdering their newborn infants. After 1624, a married woman could not commit infanticide as designated by this particular law. Married women were tried for murder, which required a much higher standard of proof to obtain a conviction than the requirements of the 1624 Statute. Before this act was passed, there is evidence that mothers of illegitimate and legitimate infants had been tried in equal numbers. In the first twenty years after its passage, however, 70% of Essex assize court convictions were against those to whom the statute did apply, compared to only 30% where the statute did not directly apply.²⁴ Thus, while married women were certainly sometimes brought in before the courts, they were generally immediately acquitted or tried under common law.²⁵ The connections between the enactment of the poor laws—reflecting in part the increasing concern within communities about bastard-bearers—and the designation of a statute designed specifically to target unmarried women, suggests that concern for the children—the victims of the crime—was, at most, only one of a variety of competing factors involved in the rising rates of prosecution.

While the 1624 statute was not overturned until 1803, after about 1715 English courts became increasingly unwilling to utilize the statute in the way it was intended.²⁶ An unwillingness to convict women accused of infanticide is apparent across other European states with convictions declining quite dramatically throughout the eighteenth

²⁴ Hoffer and Hull, *Murdering Mothers*, 24.

²⁵ Jackson, *New-born Child Murder*, 15.

²⁶ Beattie, *Crime and the Courts in England*, 118-119.

century.²⁷ While a variety of reasons have been put forth by historians to explain the declining rates of convictions, including changes in legal practice, increasing sympathy for the plight of the accused and the romanticization of motherly love—issues which I will address in more detail in chapter three—my interest in these trials, as I have mentioned, extends beyond this specific concern. The shifting authority in matters of the body and reproduction had an important impact on the way in which illegitimate births were understood and prosecuted during this period. Eighteenth-century medical witnesses increasingly validated women’s defences for infanticide, creating highly sympathetic narratives that worked to exonerate the accused from responsibility for her actions.

Sources and Methods

The court transcripts I have used come from the Old Bailey Proceedings as well as the Northern Circuit Assize Depositions. I have examined 190 Old Bailey trials from 1674-1800.²⁸ The Northern Circuit depositions consist of three sample decades, 1720-1730, 1760-1770 and 1790-1800, for a total of 60 cases. While trial testimony and witness statements are anything but unmediated accounts of experience, they nevertheless offer historians one of the best avenues for exploring the ways in which people made sense of their experiences and constructed themselves and their stories within the courtroom. These documents, while created within the context of legal procedures and

²⁷ Tracey Rizzo, “Between Dishonour and Death: Infanticide in the Causes Célèbres of Eighteenth-Century France,” *Women’s History Review* 13, 1 (2004), 10. See also, Symonds, *Weep not for me*; Susanne Kord, “Women as Children, Women as Childkillers: Poetic Images of Infanticide in Eighteenth-Century Germany,” *Eighteenth Century Studies* 26, 3 (1993): 449-466; Rublack, *The Crimes of Women*.

²⁸ The Old Bailey records from 1670-1699 reveal just over twenty cases coming to trial each decade. The records are, however, incomplete until 1720. From 1720-1729, there were twenty-five cases brought to trial, with prosecution declining by a few cases in each subsequent decade. By the last decade of the century, only five cases of infanticide were tried at the Old Bailey.

practice, also draw upon shared cultural beliefs and assumptions. Testimonies told within the courtroom were shaped both by the operations of legal procedures and by the requirements of narrative coherence.²⁹ Individual stories were at once part of a larger narrative culture and the product of the creative agency of individuals attempting to frame their stories in ways that made sense to both themselves and to others. My use of these trials, therefore, is simply a means to look at the cultural dialogues used to understand the body and to narrate experiences of illegitimate births, rather than to access the truths of individual experiences.

In chapter two, I have drawn upon a selection of eighteenth- and early nineteenth-century published sources dealing with the advent of the man-midwife. While the nature of the debate is fairly self-referential (the authors refer often, if not exclusively, to each other), and while it is difficult to gage the exact extent of the circulation of these texts, many of them were republished frequently in new editions into the late nineteenth century, suggesting that some of them, at least, were fairly accessible and popular works. Midwifery manuals themselves generally sold well during this period and the keen interest in reproductive topics suggests that many of these same issues would likely have been discussed and debated in other contexts.³⁰ These works reveal debates taking place within the medical community and highlight, therefore, a specific realm in which reproductive knowledge was created and contested.

²⁹ Throughout most of the eighteenth century these records were geared towards a popular rather than legal audience. After 1679 the Old Bailey records were to be reviewed by the Mayor before publication. By 1778, these published transcripts were being used by the City's Recorder as a formal record, forming the basis of the Recorder's report to the King (*Publishing History of the Proceedings from their Inception to 1834*. [The Old Bailey Proceedings Online](http://www.oldbaileyonline.org/proceedings/publishinghistory.html#value), Project Directors Tim Hitchcock and Robert Shoemaker, implemented by the Humanities Research Institute, University of Sheffield and the Higher Education Digitization Service, University of Hertfordshire, 2003). <http://www.oldbaileyonline.org/proceedings/publishinghistory.html#value> [May 15th, 2005].

³⁰ Elaine Hobby, "Secrets of the Female Sex: Jane Sharpe, the Reproductive Female Body and Early Modern Midwifery Manuals," *Women's Writing* 8, 2 (2001), 201.

Chapter Breakdown

This work is divided into three main areas of investigation: the community, the medical establishment and the courtroom. Each of these domains is representative of a particular realm in which knowledge about the body and reproduction was formulated, disseminated and discussed. In chapter one, I examine the lead up to newborn infant murder trials and the conflicts and accusations that arose between women within the community. The role of respectable neighbourhood women in the regulation of single women's bodies was particularly important to the successful investigation and exposure of secret births. While recent work has tended to focus on the ambiguity involved in diagnosing pregnancy in the early modern period, I suggest in this chapter that women's invocation of notions of physical uncertainty can also be seen as a strategic manoeuvre designed to counter the attempted exercise of power by other members within their community. Accused women were active participants in these conflicts and challenged communal interpretations of their condition by drawing upon notions of physical uncertainty and/or offering alternative explanations for the signs of their bodies. The way in which women described the process of labour and the body of the child will likewise be explored in this chapter, with an emphasis upon the ambiguous status occupied by illegitimate infants. Women's descriptions of the child as nothing more than a substance expunged from the body will be discussed and situated within the broader context of early modern notions surrounding birth and childhood.

In the second chapter, I discuss the debates concerning the advent of the male midwife in England. These debates are particularly illustrative of the ideological flexibility surrounding bodily knowledge. Rigid gendered distinctions between public

and private in matters of sex and reproduction were only beginning to take root during this period. Arguments in favour of both male and female midwives could, for instance, utilize similar assumptions about the body, nature and sexual difference to justify competing claims. Despite this overlap, one can nevertheless detect the presence of two competing modes of knowing—one that highlighted experience and similitude as the basis for authority and another that upheld medical education and professional objectivity. The emergent male practitioners tended to represent themselves as objective professionals beyond the confines of a sexed body, a depiction to which, for a variety of reasons which will be explored in this chapter, female midwives could not lay claim. While emphasizing his superior reason and objectivity, the male practitioner simultaneously sought to highlight his own particular compassion and sympathy. This depiction both appropriated and attempted to displace the basis for female authority in midwifery. While female midwives continued to comprise the majority of practitioners throughout the century, male midwives and surgeons came to replace female midwife witnesses in infanticide court proceedings. As women's exclusive authority in midwifery came under attack, the court's reliance upon female expertise in these cases likewise diminished.

In chapter three, I analyze the way in which the changing basis of authority in matters of birth and reproduction played out within the eighteenth-century courtroom. Women's own stories of secret births and the interpretations of medical professionals come together in this chapter. I examine the nature of defences used by women accused of infanticide, as well as the replacement of female midwives by male practitioners and surgeons as witnesses. The authority of women within the community examined in

chapter one was, by the second half of the century, increasingly discounted in legal proceedings in favour of the testimony of male medical professionals. The statements of these men, while based within the language of scientific experiment and reasoned objectivity, nevertheless more often involved highly sympathetic narratives reminiscent of the peculiar ‘masculine sympathy’ found in the writings by male practitioners in the midwife debates.

The flexibility of medical and reproductive discourses during this period is evident in each of the three areas explored in this project. While the basis of authority in matters of the body, sex and reproduction was increasingly seen as a form of knowledge acquired through education, anatomical study and scientific experiment—all areas from which women were generally excluded—the qualifications required to speak from a place of authority about the body continued to be open for debate. In legal practice, however, male practitioners were increasingly positioned by the courts as key trial witnesses, displacing the role of female midwives. The testimony of these men, more often than not, validated and legitimized female defences used in trial. Highly sympathetic narratives of newborn infant murder were created in the eighteenth-century courtroom through the interactions of women, medical witnesses and legal professionals and these kinds of portrayals to this day inform criminal prosecutions for infanticide.

1. The Regulation of Female Bodies: Authority, Uncertainty and Narrative Strategies.

On 28, August 1728, Ann Ridoubt was tried at the Old Bailey Courthouse for the murder of her newborn bastard infant. Like many women accused of infanticide during the eighteenth century, Ann was a single servant woman living in the house of her employers, who had concealed her pregnancy from neighbours, family and friends and had delivered herself alone. At two o'clock in the morning, about a fortnight before her trial, Ann began to bang on the door of a fellow servant, William Osbourne, saying she was very ill. Osbourne thought she looked very bad indeed and "desired she have a Woman" to help her. Unfortunately, there were no women in the house at the time and William thus "begg'd her to compose herself," and went back to bed. Half an hour later, Ann knocked again on William's door and cried out to "a degree which surpriz'd him." William told Ann she "cried out like a Woman in Travail," to which she apparently replied that she was "just as bad." Ann begged William to send for their master, which he did. Ann told her master that she was violently ill with "the Cholick;" he thus sent for Mr. Lloyd, an apothecary. Mr. Lloyd arrived shortly thereafter and ordered the men of the house to get Ann some "Chicken Broth as soon as possible." After examining her, Mr. Lloyd went home and sent her something in a vial which she took and, according to William, she appeared to be somewhat better.

Mr. Lloyd then sent for his brother's maid to come and look after Ann. Upon her arrival, this servant woman found Ann's room to be "very foul from the Bed to the Necessary House." When questioned, Ann replied that she had had a "violent Purging." At seven a.m., after helping Ann clean up a little, this servant woman left the house with no further conversation. Margaret Barkhill was subsequently employed as a nurse to take

care of Ann. Barkhill grew suspicious when she discovered milk in Ann's breasts and began to tax her with having borne a child, which Ann obstinately denied. A few days later, the ladies of the house returned home and were told of the incidents that had taken place in their absence. These women, being quite "surprised," immediately sent for a midwife to investigate the matter further. The midwife, Elizabeth Woolhead, deposed in court that she likewise found milk in Ann's breasts, but again that Ann denied knowing anything of having borne a child. Ann told Woolhead that she had taken the medicine prescribed by the apothecary and then had had a "violent Purging, at which Time something came from her, which she could not account for; however, what it was, she slung it out of the Chamber-Pot and into the Vault." Apparently, Ann confessed to Woolhead that she had told the apothecary that she had "not had the Custom of Women" for nine months and that, nevertheless, he sent her a potion which "brought away something Extraordinary." Still, according to Woolhead, Ann would not "own that she knew herself to be with Child."¹

The chain of events leading up to the trial were thus described in court with each witness giving his or her account of the week's events. Ann Ridoubt's trial highlights certain key aspects of newborn infant murder. I will begin with a brief examination of the recent historiography surrounding early modern pregnancy and illegitimate births and consider Ann's case in light of this analysis. Using evidence from both the Old Bailey Proceedings and the Northern Circuit Assize depositions, I will then explore the lead up to newborn infant murder trials, including the suspicion, investigation and discovery of a child by household and neighbourhood women, and the uncertainties (and certainties) which structured these events.

¹ Old Bailey Proceedings [hereafter O.B.P.], Ann Ridoubt, 28 August 1728.

The authority of married and respectable women within the community was central to bringing these cases to trial. Women's expertise in determining the signs of pregnancy and birth provided them with an important role in the informal workings of local justice. Their position of authority in these matters depended upon their ability to regulate and expose the secrets of other women's bodies. As such, many of these women took their roles in investigations seriously. Occupying a limited position of power themselves, these women utilized their special expertise to exercise what influence and authority they had within their communities. The conflicts and accusations that arose between women will therefore be examined with emphasis on the role of women in regulating other women's bodies.

While recent work on early modern pregnancy has tended to highlight the ambiguity surrounding pregnancy and reproduction during this period, I want to draw attention to the way in which accused women utilized this ambiguity as a strategic manoeuvre designed to counter the interpretations of their accusers. Pregnant women attempted to reinterpret the signs of their bodies by providing alternative medical and quasi-medical explanations to those around them. After labour and delivery, however, women's stories generally shifted from denial to partial acknowledgement. Narratives of miscarriages, abortions and early-term births were common at this point, and these descriptions at once allowed women to admit to a pregnancy while also working as potentially exculpatory defences against the charge of concealment.

Exposing the 'truths' of the body was not always a straightforward matter during this period. The ambiguity inherent in the infanticide trials was due not only to the legal difficulties involved in obtaining proof in cases of secret births, but also, as is evident in

Ridoubt's trial, to the fact that the signs offered up by the body were subject to a multitude of diverse interpretations. There is ample evidence to suggest that surgeons, physicians, midwives, juries and the accused women themselves often made mistakes in the determination of pregnancy. Thus, historians in recent years have tended to highlight physical uncertainty in matters surrounding early modern pregnancy and the reproductive body. Laura Gowing, Ulinka Rublack, and Cathy McClive have all, to varying degrees, argued that pregnancy in this period was often a disputed condition whose signs could be contradictory and subject to a variety of interpretations.² According to McClive, early modern historians have been inclined to overlook the full extent of this kind of uncertainty.³ Gowing likewise suggests that detecting pregnancy in this period was never an easy task, and uncertainty made it "relatively possible for women not to recognize their own condition until after quickening or even later."⁴ Physical uncertainty figures largely in women's own testimonies of secret births and, as in the case of Ann Ridoubt, some women claimed not to have known they were pregnant at all.⁵

The ambiguity of these trial narratives reflects the complexities of using court records as an historical source. In constructing courtroom stories of secret births, eighteenth-century women did certainly rely upon defences which stressed their own uncertainty, helplessness and sometimes complete senselessness during the time of their

² Laura Gowing, "Secret Births and Infanticide in Seventeenth-Century England," *Past and Present* no. 156 (1997), 90; Cathy McClive, "The Hidden Truths of the Belly: The Uncertainties of Pregnancy in Early Modern Europe," *Social History of Medicine* 15, 2 (2002): 209-210; Ulinka Rublack, *The Crimes of Women in Early Modern Germany* (Oxford: Clarendon Press, 1999), 174-175.

³ McClive, "Hidden Truths," 45.

⁴ Gowing, "Ordering the Body," 47. Quickening was generally thought to occur in the fourth or fifth month of pregnancy, when the child first moved or kicked.

⁵ While the majority of women eventually admitted their delivery by the time the child is found, many continued to claim that the child came early or that they did not know they were so near their time, thus drawing upon the notion of corporeal uncertainty. At the end of the seventeenth century this defence is used less than 10% of the time; however, by the first quarter of the eighteenth century, this form of defence is apparent in approximately 35% of the cases. After mid-century, this defence again drops down to below 15% of cases as evidenced from the O.B.P.

delivery.⁶ Historians have, for good reason, begun to take seriously what these women actually said about their experiences rather than assuming that they were simply lying to the courts. Female narratives of ‘lumps’, miscarriages and stillbirths were only possible because “such things could and did happen.”⁷ Nevertheless, the tendency in this particular historiography to highlight female claims of reproductive uncertainty rests largely on the assumption that the narratives told within the courtroom by accused women were stable, unmediated accounts of female experience. Trial testimonies were, however, created within the bounds of social and cultural ideologies surrounding birth and maternity, and experiences were formulated into stories that could be made sense of (and hopefully excused) by legal authorities. The ability of accused women to draw upon medical and quasi-medical discourses about the body suggests that knowledge about pregnancy and childbirth were not as mysterious or esoteric as the above historiography suggests. Within the courtroom and outside it, some stories were simply more plausible and excusable than others.⁸

Ann Ridoubt’s case highlights these issues in a number of important ways. The fairly lengthy lead up to the search and discovery of the child that was found in the house of easement can in part be attributed to the absence of the women of the house during the time of Ann’s delivery. Neither Ann’s fellow servant, her master nor the apothecary seem to have seriously taxed Ann with having been in labour. While William did at first tell her she looked as “if a woman in travail,” from what we can gather he did not

⁶ Senselessness as a defence became increasingly common after the mid-eighteenth century. Less than 10% of defences contained this factor in trials from 1674-1750; however, during the second half of the century this defence was apparent in 20% of the cases tried at the Old Bailey.

⁷ McClive, “The Hidden Truths of the Belly,” 211.

⁸ See for example, Natalie Zemon Davis’ work on sixteenth-century pardon tales, where women were forced to find new ways to speak about anger and resistance in ways which made sense within the context of early modern systems of gendered thought (Davis, Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France [Stanford: Stanford University Press, 1987], 77-110).

mention his suspicions to the others, nor press her on this issue. Thus, although he was capable of acknowledging the possibility of Ann's pregnancy and delivery, he nevertheless did not seem to feel it was his place to interrogate her further. If it were not for the return of the household women, one wonders whether or not Ann's delivery would ever have been discovered and prosecuted.

Ann's claims to ignorance regarding her condition were countered by the certainty of the other women involved in her care. Both the nurse and midwife saw milk coming from Ann's breasts and therefore had reason to suspect that something was amiss. The original suspicions of the household women were confirmed by the expert midwife, even while Ann herself continued to deny knowing anything about having given birth. As her case reached trial, Ann's story nevertheless began to shift, incorporating a certain degree of acknowledgment into her legal defence.

Women's stories changed throughout the process of pregnancy, delivery and prosecution, using different strategies at varying times during the ordeal. Indeed, defences used during trial could combine conflicting and contradictory accounts without being called into question by the courts. By the time that Ridoubt's case came to trial, for instance, her claim that she did not know she was pregnant continued alongside another contradictory claim—namely her use of the defence of linen. Women who proved that they had made provisions for the reception of the child such as childbed linen, or caps and clothing suitable for an infant were generally acquitted by the eighteenth-century courts on the grounds that this was evidence that they had every intention of keeping the child should it be born alive.⁹ The preparation defence also suggested that a woman had

⁹ J. M. Beattie, *Crime and the Courts in England, 1660-1800* (Princeton: Princeton University Press, 1986), 120.

not attempted to conceal her pregnancy. Ann was acquitted of the charge, despite the contradictory nature of her defence. While this evidence suggests that the courts allowed for a certain inconsistency in the structuring of defences for infanticide, it is difficult to accept that Ann herself would have prepared linen for the reception of a child while at the same time remaining wholly ignorant of her condition. It is likewise significant that she had originally told the apothecary that the “custom of women” had left her, for surely this implies that Ann felt this to be an important component in her diagnosis. The midwife and surgeon in Ann’s case both agreed that the child found was at full term and thus it seems unlikely that the thing that Ann “slung into the vault” was to her unrecognizable.¹⁰

Ann’s use of the defence of linen, while contradicting her claims to reproductive ignorance, nevertheless worked to bridge two story lines, playing upon notions of helplessness and maternal sentiment. In the context of the legal proceedings against them, accused women framed their stories of pregnancy and birth in ways that countered the charge of concealment, while simultaneously providing explanations for why they were unable to secure the help of a midwife or other women at the time of their delivery. Uncertainty surrounding the signs of pregnancy and delivery suggested to the courts that a woman was surprised by the onset of labour and had not therefore necessarily intended to conceal the birth of a child.

Most women accused of infanticide did not go so far as did Ann Ridoubt and deny knowledge of their pregnancy once they came to trial. Although almost all women concealed their pregnancy both during the nine months leading up to delivery and upon their first interrogation by witnesses and neighbours after the birth, when the body of a child was found, women created new narratives which entailed a certain amount of

¹⁰ O.B.P., Ann Ridoubt, 28 August 1728.

acknowledgment. The Northern Circuit Depositions and the Old Bailey Proceedings suggest that while creating uncertainty surrounding the signs of the body may have worked well as a courtroom strategy (and was used by accused women to counter neighbourhood accusations), to the majority of members within the community there were physical signs which gave them cause to suspect both pregnancy and delivery.

That accused women drew upon uncertainty and ambiguity in attempts to keep their pregnancies and deliveries secret does not, however, suggest that these women were entirely conscious and wilful murderers. As illustrated by Ann Ridoubt's case, the public denial of pregnancy and birth could extend to a personal refusal to admit one's own condition. The lack of public recognition of pregnancy allowed for a certain denial of social identity to the infant after birth. That the infant occupied an ambiguous position at best in such cases—between a physical existence and a social non-existence—suggests that women's testimonies of secret births, including their denials, cannot be judged in terms of absolute truth and falsity. Illegitimate pregnancies posed a threat to both the lives and livelihoods of single women. As such, it is perhaps less surprising that a woman's refusal to acknowledge pregnancy and maternity could persist after her labour and delivery.

Female Authority and Communal Regulation

Women's authority and expertise were particularly important to the successful investigation and discovery of illegitimate births. Married women, mistresses and respectable widows within the community often took it upon themselves to conduct

searches, send for midwives, interrogate suspects and inform the local authorities.¹¹ Such local forms of self-policing and participation in the regulation of sexual morality within the community were fundamental to the operation of the state judicial apparatus. As Steve Hindle argues, although the English royal office succeeded in extending its authority throughout the early modern period, it did so within the context of a judicial system that allowed the local community significant access to that authority.¹² The requirements of the English state, and more specifically the operation of the legal system, “created a space for the negotiation of authority at highly localized levels in acts of self-policing.”¹³

Women were central to practices of both formal and informal justice. Recent work reveals that women were participants in almost all aspects of litigation as witnesses, defendants, victims and informers.¹⁴ Although women’s access to the legal system was certainly more restricted than men’s, they nevertheless utilized what access they had in order to address and resolve a variety of inter-personal conflicts and concerns. Cases of defamation, for instance, while initiated by and situated within the language of sexual slander between women, nevertheless reveal a fairly lengthy history of tensions arising from numerous issues that go beyond female sexual morality.¹⁵

¹¹ As evidenced by the Old Bailey Trials, almost three quarters of all cases were instigated by the discoveries and suspicions of women, the majority of whom were either the mistress of the accused or a fellow servant or female lodger. Thus, while neighbourhood women were often suspicious before the birth of a child and also took part in the search and taxing of the accused, the initial discoveries which brought about such searches were, not surprisingly, more likely to be instigated by those living in the same household as the suspect.

¹² Steve Hindle, The State and Social Change in Early Modern England, 1550-1640 (New York: St. Martin’s Press, 2000), 201.

¹³ Braddick and Walter, “Introduction,” 18. See also Crawford and Mendelson, Women in Early Modern England, 256-344.

¹⁴ Garthine Walker and Jenny Kermode, “Introduction,” in Women, Crime and the Courts in Early Modern England, ed. Garthine Walker and Jenny Kermode, (London: U.C.L., 1994), 9.

¹⁵ Gowing, “Language, Power and the Law: Women’s Slander Litigation in Early Modern London,” in Women, Crime and the Courts, 42.

The special expertise of women in matters of sexuality and the female body could also give them more formal roles within the courtroom. The jury of matrons is a case in point. In suspected incidents of witchcraft, rape, pregnancy and infanticide, women, either individually or as a group, were called in by the judge to examine bodies and give evidence regarding the facts of the case.¹⁶ Women's special expertise was sanctioned by courts and communities as it was understood to be a necessary component of the local and judicial enforcement of the law. In whatever capacity women participated, in both formal and informal settings, the operations of the law could not have functioned as well as they did without their assistance.¹⁷

The regulation of female bodies, while a concern to the entire community, was therefore largely a task left to married women and respectable widows. Older spinsters and widowed women maintained a much greater independence over their bodies and were rarely subject to the searches and physical investigations to which single women suspected of pregnancy and delivery were forced to undergo.¹⁸ The lead-up to the delivery of an illegitimate child was often characterized by conflict and accusations between women, neighbourhood gossip and 'strict eyes' upon female bodies which swelled and shrunk. Often rumours would abound for months before the birth of a child, the 'greater part of the neighbourhood' having suspicions about a particular woman being 'big with child'. Thus, Mary Donnis claimed in her deposition to the Northern Circuit magistrates in 1762 that she had known Hannah Conyers for about a year and had

¹⁶ Juries of matrons were called upon in order to search for the witches' mark, to determine pregnancy and virginity and, in rare cases, an honourable matron might even be called upon to determine a man's impotence in divorce cases. See for example, James Oldham, "On Pleading the Belly: A History of the Jury of Matrons," *Criminal Justice History* 6 (1985): 1-64; and Jim Sharpe, "Women, Witchcraft and the Legal Process," in *Women, Crime and the Courts*, 111.

¹⁷ Allyson May, "'She at First Denied it': Infanticide Trials at the Old Bailey," in *Women and History: Voices of Early Modern England*, ed. Valerie Frith (Toronto: Coach House Press, 1995) 24.

¹⁸ Gowing, "Secret Births," 94.

watched her grow “very big and then small again.”¹⁹ In a deposition taken in Cumberland in 1763, Ann Morton said that she had thought Mary Swinbank was with child, for her body looked quite “swollen.” Ann reportedly said that Mary looked very ill on the day of her suspected delivery, but that the next week she observed Mary’s body to be “much decreased in Bulk” and believed from this that Mary had in fact borne a child.²⁰ Ann Hopps, during a deposition concerning the accused Mary Stapleton, confessed that “flying stories” had been going about the neighbourhood that Mary was with child.²¹ While such rumours could be fairly easily dismissed by the accused during her pregnancy before any evidence could be obtained, it was nevertheless precisely these “flying stories” which formed the impetus for the detailed observation of particular women’s bodies and the subsequent demands, interrogations and confessions which followed.²²

Married and widowed women took it upon themselves to gather evidence and organize searches, often prior to any involvement from parish officials. As Gowing maintains, and as is evidenced by the depositions of female neighbours and matrons within the community, the experience of secret birth could be the polar opposite of the idealized notion of the lying-in with its female rituals of companionship and inclusion.²³ Many reports of infanticide reveal a “world of gossip and rumour, in which the moral conduct and physical appearance of women were made a matter of comment among other women in the community.”²⁴ For many economically vulnerable single women,

¹⁹ Public Records Office 26/6 14, Hannah Conyers, 1762 [hereafter P.R.O].

²⁰ P.R.O., 27/1 76H, Mary Swinbank, 1763.

²¹ P.R.O., 29/1 152, Mary Stapleton, 1768.

²² For a discussion of women’s talk in the regulation of community standards see Gowing, “Language, Power and the Law,” 26-47.

²³ Gowing, “Secret Births,” 90.

²⁴ J. R. Dickinson, and J.A. Sharpe, “Infanticide in Early Modern England: The Court of Great Sessions at Chester, 1650-1800,” in *Infanticide: Historical Perspectives on Child Murder and Concealment, 1550-2000*, ed. Mark Jackson (Manchester: Manchester University Press, 1996), 46.

concealment and secrecy were always coupled with the threat of investigation and exposure.²⁵

The relationship between mistresses and their female servants could likewise be fraught with antagonism and suspicion which was only aggravated by suspected pregnancies. Cissie Fairchilds has described the relationships between masters, mistresses and their servants in Old Regime France as one of “simultaneous closeness and distance, intimacy and enmity.”²⁶ The vulnerability of female domestics to the sexual advances of the male members of the household could make mistresses particularly fearful that a servant’s pregnancy might be caused by her husband or son.²⁷ Evidence from both fictional and factual accounts suggests that such a fear could be a potent factor in creating a “tense relationship” between mistresses and female servants.²⁸ Secrecy in such cases could be the only defence a single woman had, for, once rumours of liaisons either between a master and servant or even between two fellow servants reached the ears of the mistress of the house, it was almost always the female servant who was dismissed.²⁹

Part of the duties of mistresses, therefore, involved keeping a strict watch on the behaviour and bodies of their female servants. While some mistresses may have thought it best to know nothing about suspected pregnancies, others dismissed their servants upon suspicion or, more often, waited until firm evidence of a delivery could be ascertained to

²⁵ Gowing, “Secret Births,” 90.

²⁶ Cissie Fairchilds, *Domestic Enemies: Servants and their Masters in Old Regime France* (Baltimore: John Hopkins University Press, 1984), xi.

²⁷ Fairchilds, *Domestic Enemies*, 90. According to Fairchilds, affairs between masters and servants were frequent, exemplified by the number of wives petitioning the church for legal separation with adultery with servant maids coming as the second most often cited reason for separation after physical abuse.

²⁸ Hill, *Servants*, 51. For an in depth account of a particularly tense case see Gowing, “The Haunting of Susan Lay: Servants and Mistresses in Seventeenth-Century England,” *Gender and History* 14, 2 (2002): 183-201.

²⁹ Hill, *Servants*, 59.

begin investigation. In Sarah Hayes' 1746 trial, her mistress, Mary Moseley, deposed that upon perceiving Sarah to be with child she immediately turned her out of service.³⁰ Esther Rowden's mistress, on the other hand, suspected her to be pregnant for at least two months, but nevertheless waited until she saw Esther's body grow thinner to begin an investigation into the matter.³¹ In Sarah Hunter's 1769 trial, her mistress, having suspicions about Sarah's condition, one evening ordered the other maids in the house to stay with her through the night to keep watch. Nothing seems to have been discovered until the next morning when Sarah came down to the kitchen and her mistress Ann Steer began looking about the house eventually finding some foul sheets bundled up in a "very bad condition."³² By this point Ann was quite sure that her servant had delivered a child and brought another married woman to come with her to confront Sarah with their findings.

Neighbourhood women also kept a close watch on single women looking for signs of pregnancy and labour. Thus, in Ann Dixon's 1765 deposition, Mary Horn, who had an adjoining room to the accused, said she had heard many heavy groans coming from Dixon's dwelling and therefore went to her house to investigate further. Horn suspected the accused to be in labour; however, Dixon claimed merely that she was "Troubled with the Gripes." The next morning Elizabeth Baker, who lived in the room below Dixon, went to Horn to show her "some symptoms of Blood which had Dropt onto a Table" in her downstairs room. Horn had suspected for some time that Dixon was with child and she had therefore "kept a Strickter Eye upon her." With such evidence in hand,

³⁰ O.B.P., Sarah Hayes, 9 April 1746.

³¹ O.B.P., Esther Rowden, 21 October 1761.

³² O.B.P., Sarah Hunter, 28 June, 1769.

it appears that these two women went together to tax Mary with their findings.³³ The witness Martha Vereity, in another 1765 deposition concerning the accused Ann Pierson, likewise told the magistrate that she had had many confrontations with Ann, taxing her with being pregnant. After Ann's suspected delivery, this witness went and searched Ann's bed and found "evidence to her satisfaction." The next day "many women" went over to Ann's in order to make a "strict search" for the child.³⁴ Suspected cases of infanticide could likewise involve an entire neighbourhood. In the 1777 case of the accused Ann Usher, several people "had suspicion" that she had been delivered and had "Destroyed the child"; thus, for some time, "the Neighbours had been looking about in Several Coalhills in the Neighbourhood."³⁵

Male employers and fellow servants were likewise capable of initiating inquiries into these matters. In the case of Ann Hasle, tried on 17 July, 1717 at the Old Bailey Courthouse, for instance, it was her master, Mr. Burton, whose suspicions instigated the process of investigation and discovery of the child. On 11 July, Mr. Burton saw "some Symptoms of her [Ann] being deliver'd of a Child."³⁶ Upon this discovery, Mr. Burton immediately sent for some neighbourhood women to come and tax Ann with the delivery and aid in the search for the child's body. When these women arrived, they found Ann sitting in a chair and without delay began to question her about her pregnancy. Ann at first refused to "own it" and thus these female witnesses began to search about the house. While at first no child could be found, the investigation did yield some "Tokens of such a

³³ P.R.O., 28/1 17, Mary Dixon, 1765.

³⁴ P.R.O., 28/1 68, Ann Pierson, 1765.

³⁵ P.R.O., 28/2 146, Ann Usher, 1766.

³⁶ O.B.P., Ann Hasle, 17 July 1717.

Matter.”³⁷ These women then pressed Ann more firmly and demanded she tell them where she had put the child. Ann finally gave in and told them the child was in the copper.

The significance of this case is twofold. While Mr. Burton did in fact suspect his servant of having been delivered, he nonetheless felt it necessary to call upon local women to tax Ann with the delivery. Deferring to the expertise of these women, Mr. Burton allowed them to lead the interrogation of his servant as well as to conduct the investigation and search of his household. Moreover, contrary to the notion that single women and men were largely removed from knowledge about birth and reproduction, Mr. Burton seems to have been quite knowledgeable about what would constitute evidence of a birth. While the investigation was largely left to the authority of knowing women, this evidence suggests that this had less to do with the inability of men to recognize symptoms of birth and more to do with a traditional division of authority in such matters based largely upon standards of propriety and female modesty.

In a similar vein, young women, although deemed less qualified than married and widowed women to give evidence with regards to reproductive matters, could nevertheless also recognize the signs of labour and instigate investigations. In Martha Bramhall’s 1767 deposition, the seventeen-year-old Susanna Bisby testified to having seen Martha’s body “deflate” but admitted that due to her age she could not be considered a “competent Judge of such Appearances.”³⁸ However, it was Bisby who, on the day of the suspected delivery, seeing Martha quite ill, went to inform Martha’s closest relations. Susanna had heard the neighbourhood rumours and knew therefore that Martha

³⁷ O.B.P., Ann Hasle, 17 July 1717.

³⁸ P.R.O., 28/3 25, Martha Bramhall, 1767.

was suspected to be with child. While Susanna did not seem to feel it was her place to tax Martha directly with her suspicions, she did go from house to house in an attempt to secure the aid of other more experienced women. Thus, although informal systems of regulation were enacted through rumour and gossip and depended upon a broad segment of the population for enforcement, the authority to touch, investigate and expose women's bodies and secrets was generally the preserve of particular women within the household and community.

Corporeal Uncertainty as Narrative Strategy

The testimony of respectable women and their position as arbiters of truth in these cases offers some glimpse into the relationships of power and gossip which worked to regulate female bodies and maintain standards of communal morality. Such a process was, however, never a straightforward matter. The narratives offered by the accused herself during her pregnancy often shifted depending on the context of the accusations brought forth by others. There is evidence to suggest that during pregnancy some women would sometimes admit their condition to certain people, and then retract or reconstruct these confessions. Thus, in a deposition taken in 1762, Jane Hill reported that she had taxed Hannah Frost several times with being with child, which Hannah sometimes denied and other times owned.³⁹ Hannah Conyers, tried at the Old Bailey in 1762, was apparently seen by the informant Ann Butler "squeeze[ing] Milk out of both her Breasts." When questioned, Conyers told Butler that she had had such milk for over three years.

³⁹ P.R.O., 26/6 22 Hannah Frost, 1762.

When confronted by Ann Young, however, Conyers did not deny her state, but instead insisted that she had a good husband who could maintain the child.⁴⁰

Denials and admissions could be reframed and reworked by the accused to suit the circumstances of each particular encounter. While the confrontations leading up to a trial could often be dismissed by the accused women as unfounded rumours, once the process of labour began these women had to find new ways of staving off accusations. In attempts to conceal the pains which overtook them during their delivery many women complained of other illnesses to those in and outside the household, including fellow servants, neighbours and employers. Women described the process of birth in terms of ailments such as “Cholick,” Rheumatism, headaches, backaches, toothaches and a variety of other aches and pains in attempts to explain why they needed to lie down in bed, remain in the vault, or were unable to engage in their regular household duties. Mary Ellenor, tried in 1708 at the Old Bailey, complained to her mistress on the night of her delivery that she had a “Pain in the Arm” which she thought was Rheumatism.⁴¹ Phebe Ward, when confronted by her mistress in 1711 about her illness, told her mistress that she was not with child but merely “had the Cholick very much.”⁴² Elizabeth Bunter, when asked why she stayed so long in the vault, likewise told her landlady that she was “sadly Griped and that her Body was coming down.”⁴³

Regina Shulte’s analysis of infanticide confessions in nineteenth-century rural Bavaria is illustrative of many of these same tactics.⁴⁴ Suspected and accused women

⁴⁰ P.R.O., 26/6 17, Hannah Conyers, 1762.

⁴¹ O.B.P., Mary Ellenor, 13 October 1708

⁴² O.B.P., Phebe Ward, 5 December 1711.

⁴³ O.B.P., Elizabeth Bunter, 14 October 1719.

⁴⁴ Regina Schulte, “Infanticide in Rural Bavaria in the Nineteenth Century,” in Interest and Emotion: Essays on the Study of Family and Kinship, ed. Hans Medick and David Warren Sabean (Cambridge: Cambridge University Press, 1984), 88.

often drew upon medical or quasi-medical explanations in order to avoid further questioning from those around them. Women like Elizabeth Catlin, who told her employer she had a “Fit of the Collick” brought about by eating cabbage, worked hard to provide viable, alternative explanations for their condition.⁴⁵ Many of these women seem to have expected interrogations about their growing bellies and therefore generally “accepted the demands for an explanation...anticipating the expected questions.”⁴⁶ The accused women were inevitably privy to the neighbourhood gossip which their bodies inspired and some of them took active roles in countering what they perceived to be dangerous accusations. The accused Mary Wingfield took matters into her own hands when she asked John Bilham, the overseer of the poor in Thorp, Yorkshire, to come to her house in order to clear herself of the reports that she had borne a child. Upon his arrival Wingfield apparently asked Bilham whether he thought it possible that “I shou’d bear a Child by myself, they say I have but it is a Lie, I have not.” In another conversation with Sarah Hall, a labourer’s wife, Wingfield again made a point of clarifying her position saying, “I suppose you have heard of the Report of my being brought-to-bed, but damn them they are Lyars, I have never had a Child.”⁴⁷

According to Schulte, women sometimes went further in attempting to provide alternative explanations for their condition by way of speaking about their health “semi-publicly” in order to report an illness that “mistakenly gave an appearance of pregnancy.”⁴⁸ This strategy is apparent in English trials as well. Elizabeth Barnet, tried in 1796, had apparently made no secret of the fact that she “took lots of medicine”

⁴⁵ O.B.P., Elizabeth Bunter, 14 October 1719.

⁴⁶ Schulte, “Infanticide,” 94.

⁴⁷ P.R.O., 37/3, 221-222, Mary Wingfield, 1792.

⁴⁸ Schulte, “Infanticide,” 94.

because she was not “regular as other women.”⁴⁹ Ann Stephenson had likewise told her mistress that she “had an obstruction in her Body caused by drinking cold Water when she was in her Monthly Courses.”⁵⁰ Recourse to popular, quasi-medical discourses could work therefore to counter communal suspicions by providing alternative explanations for growing bellies, swollen breasts and/or the lack of menstruation. The success of these strategies depended of course on how much evidence other members within the community could accumulate to challenge these claims. Nonetheless, the prevalence of these alternative explanations suggests that women exerted some agency in attempting to redefine communal understandings of their condition. Creating uncertainty surrounding the signs of their bodies could sometimes prove a useful strategy in delaying investigations.

Further evidence reveals descriptions of illness which more closely approximated the physical experience of labour and delivery. Thus, some women explained blood and other symptoms in terms of violent vomitings and purgings which had expelled substances from their bodies. In Anne Buncher’s trial of 1718, her mistress deposed that Ann had originally told her that she had been ill and had vomited and therefore needed a mop to wipe it up.⁵¹ Mary Mason, a fellow servant of the accused Elizabeth Smith, deposed that when she asked Smith why she went to the vault so many times, Smith replied that she had a “violent Looseness.”⁵² As Gowing maintains regarding seventeenth-century trials, women “recounting secret births were compelled to erase the

⁴⁹ P.R.O., 39/1 4, Elizabeth Barnett, 1796.

⁵⁰ P.R.O., 39/2 100, Ann Stephenson, 1797.

⁵¹ O.B.P., Anne Buncher, 5 December 1718.

⁵² O.B.P., Elizabeth Smith, 28 August 1730.

experience of labour and to retell it in other ways.”⁵³ Their exclusion from the legitimate rituals of the lying-in made it difficult for these women to speak of the experience of pregnancy and birth in the ways that married women could.⁵⁴ In drawing upon alternative medical discourses to counter neighbourhood accusations, accused women attempted to re-interpret the signs of their bodies in ways that could make sense to other members of the community. Thus, as Michael Braddick and John Walter suggest, by making reference to “the vocabularies of another hierarchy” it may have been possible for subordinates within a given hierarchy to counter the attempted exercise of power.⁵⁵ Purging and vomiting worked therefore as alternative medical explanations that could perhaps not only to stave off further accusations, but also enable the accused to express the experience of having something come out of the body without specifying or admitting what exactly *it* was.⁵⁶

In each of the cases cited above, the accused women eventually confessed to having been delivered. The denials and attempts to explain one’s illness in any other fashion than the pangs of birth are so prevalent in both the Old Bailey trials and the Northern Circuit depositions that it is difficult to interpret these findings not as evidence of uncertainty, nor solely of denial, but of something quite different. These women’s ability to negotiate narratives of illegitimate pregnancies through the process of investigation and discovery suggests that accused women were active participants in the communal definition of their condition. While the weight of communal opinion may often have outweighed these counter-strategies, the ‘dark figure’ involved in any analysis

⁵³ Gowing, “Secret Births,” 98.

⁵⁴ Gowing, “Secret Births,” 97.

⁵⁵ Braddick and Walter, “Introduction,” 42.

⁵⁶ Such narratives of bleeding noses and/or other illnesses are likewise found in Schulte’s work on rural Bavaria (Schulte, “Infanticide,” 86).

of the prevalence of this kind of crime implies that one can never know to what extent such techniques were successful in avoiding detection and prosecution.⁵⁷ Women's use of alternative physical explanations suggests nevertheless that popular understandings of the body could be redirected by the accused herself in an attempt to counter the interpretations of her accusers.⁵⁸

Many women also claimed to have had a false conception, abortion or miscarriage. Admitting to these kinds of deliveries before the body of the infant was found could, perhaps, for a certain period delay the discovery of the actual corpse and in court challenge the charge of concealment. Thus in 1708, Ann Gardner was suspected of having given birth but when questioned said that she had been "young with Child, but Miscarried."⁵⁹ Elizabeth Etof, accused, said in her deposition that she was "delivered of or miscarried of such Child or issue of her body in bed" without assistance. She claimed it had "not the form of a Child and that after she was so delivered of such Substance" she wiped it up in a napkin and put it "under her Bed where it lay three or four days." She then "took the same Substances...and buried it" by a barn.⁶⁰ Johannah Jefferson confessed in her deposition taken in 1763 to having been "delivered of an abortion" which she took and buried in a field.⁶¹

⁵⁷ For an analysis of the problems in attempting to quantify crime in the early modern period, see J.A. Sharpe, "Enforcing the Law in the Seventeenth-Century English Village" in *Crime and the Law: The Social History of Crime in Western Europe since 1500*, ed. V.A. C. Gatrell, Bruce Lenman and Geoffrey Parker (London: Europa Publications, 1980), 98-99.

⁵⁸ Reinterpreting the body's signs in order to counter accusations was nothing new. In witchcraft trials there is evidence that women gave alternative explanations for what others perceived to be the witch's mark. These other explanations often highlighted acceptable aspects of femininity such as scars from bearing children or being the passive victim of male seduction (Sharpe, "Women, Witchcraft and the Legal Process," 108-113).

⁵⁹ O.B.P., Ann Gardner, 15 January 1708.

⁶⁰ P.R.O., 26/6 19a, Elizabeth Etof, 1762.

⁶¹ P.R.O., 27/1 42, Johannah Jefferson, 1763.

In the majority of cases, other witnesses, midwives and surgeons who saw the body of the child were in agreement that the child was at, or close to, its full term. The prevalence of early delivery defences will be analyzed in the proceeding chapters; however, it is important to keep in mind this discrepancy in the testimonies of the accused and other witnesses. Being delivered of a miscarriage, ‘substance’ or abortion, enabled accused women to explain their condition while simultaneously attempting to stave off the search for, and discovery of, a corpse. By the eighteenth century, despite the legal implications of the 1624 statute, it had become in effect the court’s job to prove that the child was born alive and that the accused had murdered it. By way of describing the process of birth as a miscarriage, or the infant as an aborted substance, these women could maintain their innocence while simultaneously admitting to a pregnancy.

Much like admissions of an abortion or miscarriage, some women confessed to having had ‘something’ come from them which they could or would not call a child. Unable to speak of either the pregnancy or birth, the existence of a child is likewise denied upon first accusation even after delivery. Thus, Pleasant Bateman said that while “sitting upon the Close-stool something stopp’d from her.”⁶² Mary Doe told the midwife who came to examine her that “something (she knew not what) was come from her, but it was no Child.”⁶³ In 1732 Hannah Bradford told a fellow lodger that she had been sitting upon the vault and that “something had forc’d from her.”⁶⁴ These descriptions of matter and substances are interesting because while they hint at the experience of birth, the acknowledgement of a child is still refused by the accused. Furthermore, rather than

⁶² O.B.P., Pleasant Bateman, 27 February 1723.

⁶³ O.B.P., Mary Doe, 5 December 1733.

⁶⁴ O.B.P., Hannah Bradford, 19 April 1732.

actively participating in the delivery of such matter, the thing coming from them seems to be propelled by a force of its own to which they are passively subjected.

The substances which forced themselves from women's bodies were in many of these trials construed by the accused as 'abject' matter or waste.⁶⁵ In Elizabeth Barnett's trial of 1796, for instance, Dinah Simpson deposed that when she came over to administer something to Elizabeth, she would not take it for she said she had just "had a Stool" and had not "been right for 12 months" but that now "it had come upon her."⁶⁶ Here, as in other cases, the infant is him/herself the "stool" and the process of birth nothing more than its expulsion. Having reduced the experience to a purely physical expulsion, the child produced no "picture, no projection, no fantasy about its existence after its birth."⁶⁷ Indeed, it was most often not until the actual body of the child was found and presented to the accused that women's stories began to shift and denials became confessions, however limited. It was precisely this re-presentation of the infant's corpse to the accused by other members within the community that brought about the social acknowledgment of the child's existence, one that the accused had previously been able to deny.

A pregnancy outside of marriage for most early modern women almost always entailed the loss of employment, references (and thus the ability to find subsequent work) and one's social standing within the community. The prospect of having to beg or seek relief in order to support oneself and a small infant was by no means an improbable outcome for women without the support of spouse or family. Women's descriptions of

⁶⁵ I am drawing upon Julia Kristeva's notion of the abject as all of the aspects that the body rejects, the things which disturb identity, system and order (Kristeva, "Stabat Mater," in *The Kristeva Reader*, ed. Toril Moi [New York: Columbia University Press, 1986], 160-186).

⁶⁶ P.R.O., 39/1, 4, Dinah Simpson, 1796.

⁶⁷ Schulte, "Infanticide," 89.

the body of their child as nothing more than a “piece of non-human nature” can be seen, therefore, as a method of self-preservation.⁶⁸ This kind of story may have enabled women to rationalize to themselves—or at least make some sense of—what was, without doubt, a terrifying event. Simultaneously, these descriptions were grounds for potentially exculpatory legal defences. Early deliveries or miscarriages could suggest to the courts that a woman had not planned on giving birth in secret, but had been surprised by the onset of labour. The uncertain status occupied by the infant in these descriptions was, moreover, not entirely outside the pale of early modern medical and legal understandings. It was commonly believed, for instance, that a child did not ‘quicken’ until the fourth or fifth month of pregnancy and in early modern legal practice abortion before quickening generally went unpunished, while abortion after quickening was punishable only by a fine or short imprisonment.⁶⁹ As such, women who claimed to have come before their time or to have been delivered of a substance or an abortion were presenting what could be deemed legitimate grounds for acquittal.⁷⁰ In birthing practice it was commonly understood that a woman’s life was always more important to save than that of the child’s and a live birth was defined as such only when the child’s body was completely separated from the mother’s.⁷¹ Notions of independent personhood were inevitably complicated by this situation and such understandings allowed for a fairly wide margin of legal and medical interpretation. While the 1624 Statute had sought to clarify these problems by making concealment the issue at stake in these trials, in the case of an unbaptized,

⁶⁸ Schulte, “Infanticide,” 88.

⁶⁹ Angus McLaren, “‘Not a Stranger a Doctor’: Medical Men and Sexual Matters in the Late Nineteenth Century,” in *Sexual Knowledge, Sexual Science: The History of Attitudes to Sexuality*, ed. Roy Porter and Mikuláš Teich (Cambridge: Cambridge University Press, 1994), 270.

⁷⁰ Under the 1624 Statute, of course this was not the case, as concealment itself was part of the crime. Nevertheless, by drawing upon these more widespread understandings, accused women seemed to have been playing upon the ambiguity inherent in these situations.

⁷¹ Gowing, “Secret Births,” 98.

illegitimate infant—one that would most likely have simply become a burden upon the parish registrar—the community’s concern for the infant could certainly be precarious. Thus, even after its physical birth, in the eyes of doctors, courts and communities, the infant occupied an ambiguous position at best.⁷²

In the context of neighbourhood regulation and encounters between women, the stories of accused women were not static and frequently shifted throughout the process of discovery and exposure. By the time these cases came to trial, however, most women did admit to having given birth, even if it was only to what they described as a substance or abortion. While the lead-up to these trials frequently involved conflictual relationships between women based upon a system of female authority that allowed certain women rights over the bodies of others, once in court, men, including judges, juries and surgeons, became the primary arbiters of bodily truth.

In the following chapter I will look at the debates over the male midwife and analyze the competition between male and female practitioners for control over the field of midwifery. As reason and objectivity increasingly became the basis upon which the truths of the body were best thought to be obtained, the traditional authority of local women, and female midwives more specifically, diminished. The increasing reliance upon male surgeons and practitioners in infanticide trial proceedings paralleled this general shift in practice and helped to transform the way in which birth and maternity were understood and presented in the courtroom.

⁷² According to Josephine McDonagh, despite the explosion of literary works concerned with infant death in the eighteenth century society, rather than becoming less tolerant of infant death, continued to maintain “highly complex and ambiguous attitudes” towards it (McDonagh, *Child Murder and British Culture 1720-1900* [New York: Cambridge University Press, 2002], 9).

2. Transcending the Sexed Body: Reason, Sympathy, and ‘Thinking Machines’ in the Debates over the Man-Midwife.

The world will give me credit, surely, for having had sufficient opportunities of knowing a good deal of female characters. I have seen the private as well as the public virtues, the private as well as the more public frailties of women in all ranks of life. I have been in their secrets, their counsellor and adviser in the moments of their greatest distress in body and mind. I have been a witness to their private conduct, when they were preparing themselves to meet danger, and have heard their last and most serious reflections, when they were certain they had but a few hours to live.¹ (William Hunter, male-midwife, 1784)

One could of course read these reflections by William Hunter, one of the most prominent male-midwives of the late eighteenth century, as nothing more than the musings of a self-aggrandizing, megalomaniac physician, engaged in a professional advertising campaign. While this is entirely possible, if not probable, there is something else in his statement which represents the crystallization of certain shifts taking place within the eighteenth century. Hunter himself was a strong advocate for women accused of infanticide and, through his writing, worked to construct a new narrative of newborn infant murder, one which stressed the passivity of the female actor and replaced the evil murderess with a portrait of the infanticidal woman as “weak, deluded, unconscious, fainting,” and unable to speak.² Whereas legal authorities understood concealment to be a crime, Hunter saw it as evidence of a woman’s virtue.³ Hunter’s role as defender of and confidante to his female patients (and to vulnerable woman everywhere) gave him the right to speak of women’s most intimate truths, to be “in their secrets” as it were, and

¹ William Hunter, “On the Uncertainty of the Signs of Murder, in the Case of Bastard Children,” Medical Observation and Inquiries 6 (1784): 266-90. Hunter was a physician to Queen Charlotte, and member of the Royal Academy of Sciences at Paris (as cited by Deborah A. Symonds, Weep Not for Me: Women, Ballads and Infanticide in Early Modern Scotland [Philadelphia: Pennsylvania State Press, 1997], 146).

² Symonds, Weep Not for Me, 145.

³ For Hunter, it was a woman’s “high sense of shame, and a strong desire of being respectable in her character” that led her to conceal her pregnancy (Hunter, “On the Uncertainty of the Signs of Murder,” in Elements of Medical Jurisprudence [London: J. Callow, 1815], 154).

thus to appropriate the feminine voice and lay bare the mysteries of the female sex. The authority of women in matters of pregnancy and reproduction, examined in the previous chapter, was increasingly called into question by the advent of male practitioners such as Hunter. The debates taking place in the field of midwifery over the emergent man-midwife reflect the contested and shifting basis of authority over the female body during this period. Transformations in medical theory and practice had consequences for the way in which women accused of infanticide were represented and tried in the courtroom.

By the end of the eighteenth century male physicians had replaced female midwives as the preferred birthing attendants among the aristocracy and wealthy middle class. How the private world of the lying-in, deriving its authority from women's experiential knowledge of birth and reproduction, had become the domain of the male physician is a complicated and yet often overly-simplified story. As Lisa Cody argues, historical narratives concerning the wresting of control over the female body by the masculine medical profession have generally taken two paths—one highlighting the progressive accomplishments of medical technologies, and the other viewing this 'progress' as more accurately a reflection of the increasing domination of women and their bodies by a misogynist profession.⁴ Both of these narratives, in their crudest form, lack an adequately nuanced approach to the interactions that informed the relationship between women, midwives and male surgeons and physicians in the arena of birth and

⁴ Lisa Forman Cody, "The Politics of Reproduction: From Midwives Alternative Public Sphere to the Public Spectacle of Man Midwifery," *Eighteenth-Century Studies* 32, 4 (1999): 477. Doreen Evenden and David Harley have both, separately, noted the traditionally negative views of medical historians in their depictions of early modern female midwives (Evenden, *The Midwives of Seventeenth-Century London* [Cambridge: Cambridge University Press, 2000]; David Harley, "English Archives, Local History, and the Study of Early Modern Midwifery," *Archives* 21, [1994], 152). Mary Daly, on the other hand, suggests that the shift away from female midwives amounts to a "gynaecological crusade to shorten women's lives" (Daly, *Gyn/ecology: The Metaethics of Radical Feminism* [London: The Women's Press, 1979], 260). See also Barbara Ehrenreich and Deirdre English, *Witches, Midwives and Nurses* (Old Westbury NY: Feminist Press, 1973).

reproduction. The eighteenth-century debates over the man-midwife illuminate complicated and competing discourses surrounding the nature of men, women and the truths of the reproductive body.

So long as knowledge about the body—and particularly those conditions specific to the female body, such as pregnancy and labour—was seen to stem from feeling and experience, the male practitioner would have little place in the birthing chamber. The belief that women’s bodies were to a certain degree inaccessible to male practitioners, and thus to medical knowledge more generally, required and validated the authority of female midwives and their traditional position as arbiters of bodily truth.⁵ Throughout the eighteenth century, however, knowledge about the reproductive body became increasingly viewed, both inside and outside of the medical community, as an acquisition available to all, “attainable through ‘rational-critical’ means rather than personal bodily experience.”⁶ The burgeoning interest in reproductive topics during this period, an interest which intrigued the public in ways not previously seen, placed these issues quite firmly within the public imagination. Due to both obstetric and technological advances, and to a general fascination with embryology, life sciences and population studies, reproductive topics were “repositioned epistemologically” during the eighteenth century.⁷ Roy Porter has documented the explosion of printed works which dealt with matters of sex and reproduction beginning in the late seventeenth century, from midwifery and medical manuals to sex advice literature and erotica.⁸ Concerns over population, disease and sexual reproduction progressively found their way into the coffeehouses, newspapers

⁵ Cody, “Politics of Reproduction”, 482.

⁶ Cody, “Politics of Reproduction”, 483.

⁷ Cody, “Politics of Reproduction”, 479.

⁸ Roy Porter and Lesley Hall, The Facts of Life: The Creation of Sexual Knowledge in Britain, 1650-1950 (New Haven: Yale University Press, 1995) 33.

and public forums as did the debates over the use of male-midwives.⁹ Generation and childbirth by had become, by the eighteenth century, categories of “universal and public interest.”¹⁰

The emergent eighteenth-century public sphere has received ample attention from historians in the years after the publication and subsequent translation of Jürgen Habermas’ work.¹¹ The gendering of the public sphere has played a key role in revisionist works on this topic and writers such as Joan Landes have sought to analyze the way in which the public sphere, from its outset, excluded certain segments of the population, particularly women. The structural division between the public sphere and the realm of the market and the family, for instance, meant that a “whole range of concerns came to be labelled as private and treated as improper subjects for public debate.”¹² The “strong association of women's discourse and their interests with ‘particularity,’ and conversely, the alignment of masculine speech with truth, objectivity, and reason” is, according to Landes, fundamental to any analysis of the emergent bourgeois public.¹³ Likewise, Marion Young argues that the claims to universality and impartiality within the public sphere could only be sustained through this “exclusion of particularity,” whereby aspects such as desire, feeling and the body are expelled from its

⁹ Cody, “Politics of Reproduction”, 483.

¹⁰ Cody, “Politics of Reproduction”, 490. As Cody mentions, Nancy Fraser and Joan Landes remind their readers that the term public is etymologically linked to pubes, or “adult individuals possessing phalluses.” (Fraser, “Rethinking the Public Sphere,” in *Habermas and the Public Sphere*, ed. Craig Calhoun [Cambridge, MA: MIT Press, 1992], 114; Landes, *Women and the Public Sphere in the Age of the French Revolution* [Ithaca: Cornell University Press, 1988], 3, as cited by Cody, “Politics of Reproduction,” 490).

¹¹ Jürgen Habermas, *The Structural Transformation of the Public Sphere: An Enquiry into a Category of Bourgeois Society*, trans. Thomas Burger (Cambridge, Massachusetts: M.I.T Press, 1989) [first published in 1962].

¹² Joan Landes, “The Public and the Private Sphere: A Feminist Reconsideration,” in *Feminism, the Public and the Private*, ed. Joan Landes (New York: Oxford University Press, 1998), 142-143.

¹³ Landes, “Public and the Private,” 143.

parameters.¹⁴ While these authors add a much needed dimension to Habermas' work, I would argue that subjects such as desire and the body, far from being excluded from the public sphere, were instead being repositioned as important matters of public interest and debate.

Arguments in support of both male and female midwives make reference to the public good in order to bolster their claims. Allusions to the public interest were never the sole preserve of those advocating the use of male practitioners. The fairly high level of ideological flexibility within these debates, particularly with regards to a specifically gendered notion of public service, suggests that a fixed dichotomization of public and private in the realm of pregnancy and childbirth had not yet taken root.¹⁵ As matters traditionally associated exclusively with female authority, pregnancy and childbirth could not immediately and unproblematically be situated within a purely masculine discourse. Likewise, while the repositioning of male and female bodies in terms of distinctly opposite sexes rather than two hierarchically organized versions of the same sex, as theorized by Laqueur, was certainly gaining increasing interest and acceptance within the medical community, the natural biological differences between men and women could, and were, used to uphold both sides of the debate.¹⁶ Women's supposedly heightened sensitivity (based primarily within the emergent field of nerve theory) could be utilized by their advocates to argue for women's intuitive ability in the field of midwifery or, on the other hand, to 'prove' their inferior capability for scientific objectivity. Differences

¹⁴ Marion Young, "Impartiality and the Civil Public: Some Implications of Feminist Critiques of Moral and Political Theory," in *Feminism, the Public and the Private*, ed. Joan Landes (New York: Oxford University Press, 1998), 429.

¹⁵ Cody, for instance, argues that midwives operated in what she terms an "alternative public sphere" (Cody, "Politics of Reproduction," 480-82).

¹⁶ Thomas Laqueur, *Making Sex: Body and Gender from the Greeks to Freud* (Cambridge, MA.: Harvard University Press, 1990).

which in the nineteenth century could be used to exclude women from the practice of midwifery could, in the eighteenth century, still be used to justify their place in this field. Thus, the more rigid gender divisions associated with the nineteenth century were to a certain extent still in flux in the eighteenth-century midwife debates. Having said this, the repositioning of reproductive topics as matters for public consumption, as well as the increasing belief in the values of objectivity and empirical investigation, inevitably challenged the personal and experiential knowledge that had traditionally been the basis for an exclusively female practice.

Fashion, Forceps and Male Midwifery

Two traditional explanations have generally been put forward by historians to elucidate the replacement of female midwives by male practitioners in the birthing chamber: fashion and forceps.¹⁷ Once the invention of the forceps was made public (its design published in 1733-35 after being a closely guarded secret of the Chamberlen family), it was “available for a few pounds from any competent instrument-maker.”¹⁸ The revolutionary nature of this new instrument meant that the male practitioner, previously called in generally only during the final moments of a difficult birth in order to save the mother and deliver a dead child, instead could now save the woman *and* deliver a live infant. Indeed, according to Adrian Wilson in his work on the making of man-midwifery, it was only with the publication of this instrument that the “imaginative horizon of male obstetric practice shift[ed] beyond the delivery of a dead child.”¹⁹ A

¹⁷ Adrian Wilson, *The Making of Man-Midwifery: Childbirth in England 1660-1770* (Cambridge, MA: Harvard University Press, 1995), 3.

¹⁸ Wilson, *The Making of Man-Midwifery*, 3.

¹⁹ Wilson, *The Making of Man-Midwifery*, 57.

transformation of attitudes flowed accordingly from this new technique. Previously, the instrument of the surgeon or male-midwife used in cases of obstructed births was the crotchet, or a sharp hook, designed to pull out the head of a—hopefully—already dead infant. As long as the male practitioner deployed the “crotchet or some other craniotomy device, the realm of live deliveries belonged to the midwife.”²⁰ The image of the male surgeon and midwife suffered due to his association with these instruments. Some prominent male-midwives suggested that the use of the forceps frightened women to such a degree that the practitioner should attempt to conceal them from view during the delivery.²¹ Nevertheless, once it became known that a male practitioner could deliver a living child, the fear associated with the sight of a surgeon during one’s lying-in was replaced with hope in cases of difficult births. Female practitioners were put at a distinct disadvantage, for the use of instruments was forbidden to them and thus, for the most part, if they encountered a difficult birth, they had to call in a barber-surgeon or an apothecary.²² The rise of the professional male-midwife, according to Wilson, was a result of this momentum. The less women feared the male practitioner, the earlier they would call him in; “the earlier they called him, the more often he could deliver the child alive; and the more often this was so, the further it would be realized that he could achieve this.”²³

The second reason generally given for the shift towards the use of male practitioners is fashion. Again according to Wilson, after about 1750 there began to be

²⁰ Wilson, *The Making of Man-Midwifery*, 99.

²¹ William Smellie, (1974) *A Treatise on the Practice of Midwifery* (London: Scholar Press 1977) [first published in 1752], as cited by Phillip Rhodes, *A Short History of Clinical Midwifery: The Development of Ideas in the Professional Management of Childbirth* (Cheshire: Cromwell Press Ltd., 1995). 25.

²² Rhodes, *A Short History*, 25.

²³ Wilson, *The Making of Man-Midwifery*, 97.

“two distinct cultures of women: the old, traditional, oral culture, characteristic of the lower orders, and a new, fashionable, *literate culture*, the culture of ‘the ladies’, visible among the aristocracy and the wealthy middle classes.”²⁴ For this new culture of women, the male-midwife represented yet another aspect of conspicuous consumption, a way for elite women to distinguish themselves from “her fellow women far down the social scale.”²⁵ Porter likewise notes the fashionable appeal of male midwives in the age of Enlightenment, suggesting that mothers-to-be looked increasingly to practitioners who were “smooth, polite and confident” in contrast to the “traditional lower-class and uncouth women.”²⁶ Indeed, already in 1724 the physician John Maubray could write in his work *The Female Physician* that the “‘Politer Part of the World’ had already begun to use male practitioners in childbirth.”²⁷ Perhaps it is unnecessary to mention that this distinction was, of course, based largely upon the inequality of fees charged by male versus female practitioners, with male midwives consistently able to demand higher wages for their services.²⁸ Nevertheless, Wilson concludes that due to the twin elements of fashion and forceps, male practitioners were “turned into midwives not by their own desire but through the choices of women.”²⁹

Arguments such as Wilson’s, while illuminating the important role played by women in the shift towards the use of male practitioners, nevertheless fail to

²⁴ Wilson, *The Making of Man-Midwifery*, 186.

²⁵ Wilson, *The Making of Man Midwifery*, 187.

²⁶ Roy Porter, *Patient’s Progress: Doctors and Doctoring in Eighteenth-Century England* (Cambridge: Polity Press, 1989), 181.

²⁷ Jean Donnison, *Midwives and Medical Men: A History of the Struggle for the Control of Childbirth* (London: Historical Publications Ltd., 1988), 35.

²⁸ This inequality was bemoaned frequently by female midwives such as Elizabeth Nihell, who felt that there were those who “imagine that they cannot give a [female] midwife...too little...and that for no other reason on earth, but that she is not a man” (Nihell, *A Treatise on the Art of Midwifery* [London: Printed for A. Morley, 1760], 70).

²⁹ Wilson, *The Making of Man Midwifery*, 192.

acknowledge the many works by male midwives and doctors that advocated the use of their services over the apparently ignorant and unlearned female midwife. Attacks on the traditional midwife as no more than an “animal with nothing of the woman left” work to qualify some assumptions about the benign progress of male professional careers in obstetrics.³⁰ Many of the most prominent male midwives, for instance, generally opposed the use of instruments. Furthermore, such instruments were not usually needed except in the unlikely event of a difficult labour or obstructed birth, thus begging the question as to how men were able to expand their realm of practice in the majority of cases which involved natural deliveries. Additionally, if fashion is to be understood as the factor which tipped the scales in favour of male practitioners, one still must ask what exactly was so fashionable about a man in the birthing chamber, especially considering that generation after generation of moral reformers and proselytizers had expended great amounts of energy in the (often thankless?) task of inculcating female modesty as a feminine virtue. Thus, while fashion certainly may have played a role in women’s decisions to engage a male over a female midwife—and this problem was certainly one of the complaints put forth by the man-midwives’ opponents—women’s concern over sexual modesty could likely have been an equally important consideration.³¹ The fact that many of the polemical tracts attribute the emergence of the male-midwife in England as a foreign import, a French fashion no less, suggests that there were complicated and competing reasons for the choice of birthing attendant.

³⁰ Louis Lapeyre, An Enquiry... Whether Women with Child Ought to Prefer the Assistance of Their own Sex (London: S. Bladon, 1772), 35. This work was published in English, with some copies having French on opposite pages.

³¹ See for instance, Laura Gowing, Women, Words and Sex in Early Modern London (Oxford: Clarendon Press, 1996); J.A. Sharpe, Defamation and Sexual Slander in Early Modern England: The Church Courts at York (Heslington, York: Borthwick Institute of Historical Research, University of York, 1980).

I do not wish to dismiss fashion and forceps as elements that made male-midwifery in the eighteenth century both possible, and to some practitioners, extremely profitable. However, in examining the tracts published during this period, there are many more subtle and intriguing dimensions which highlight the ambiguous nature of eighteenth-century gender constructions and the problematics of sexual difference.³² The redefinition of birth and maternity as matters that could only be fully managed and understood through detailed, objective and professional learning, rather than through experiential knowledge, formed part of a wider intellectual shift surrounding the biological makeup of men and women and, more specifically, the way in which certain ‘innate differences’ set their abilities for objective understanding apart. The repositioning of reproductive matters in the public forum entailed a new way of thinking about how the truths of the body were to be ascertained. Impartial scientific investigations carried out by a distanced observer increasingly came to be valued within the medical and scientific community over knowledge derived from personal experience and/or textual authority. These processes were only beginning to take hold during this period and thus the debates over the man-midwife, as I have mentioned, reveal at once the fairly flexible gendered discourse of the eighteenth century, as well as the seeds of nineteenth-century medical ideology. While both sides of the debate were able to draw on wider discourses surrounding sexual difference, natural law and the public good, it was the man-midwife who was best able to harness the growing faith in reason and science and, in so doing, to

³² As Katharine Kittredge argues, many of the binary constructions of gender that were firmly in place by the nineteenth century still existed as “permeable delineations open to discussion and negotiation throughout the long eighteenth century” (Kittredge, “Introduction: Contexts for the Consideration of the Transgressive Antitype,” in *Lewd and Notorious: Female Transgression in the Eighteenth Century*, ed. Katharine Kittredge, [Ann Arbor: The University of Michigan Press, 2003], 13).

position himself as operating outside the limits of a sexed subjective body. This claim to objectivity was to serve him well in the courtroom where male practitioners increasingly replaced female midwives as expert witnesses in infanticide trial proceedings.

While the discourses surrounding public interests and private motivations were complicated and overlapping during this period, the man-midwife nevertheless became increasingly associated with, and positioned himself as, working in the interests of the emergent public sphere. Male practitioners advertised their services, held public lectures on midwifery and established philanthropic enterprises throughout the century.³³ In so doing, the male practitioner of midwifery was not only involved in a process of redefining pregnancy and childbirth as matters for public discussion and debate, but was engaged in a project of self-fashioning. With his supposedly superior learning and skill, the emergent obstetrician repositioned himself as an objective interlocutor of the female body. His claims to objectivity were, however, situated alongside the possession of very personal qualities such as compassion and sympathy. While these characteristics had traditionally been regarded as forming the very basis for female midwifery—as women’s sympathy was deemed to stem from shared experience and intuitive understanding—the man-midwife appropriated these qualities for himself and, simultaneously, rendered such characteristics in women suspect. Whereas female compassion was seen to come from a similitude of experience, masculine sympathy was said to arise from a cool and rational distance. It was, to a certain degree, precisely the distance of the male practitioner from the sufferings of childbirth that allowed him the objectivity apparently needed to arrive at reproductive truths. Male practitioners presented themselves as the necessary third term

³³ While some lectures were open to women as well as men, their participation was always that of student to a male practitioner. The financial resources required for these undertakings, furthermore, could certainly make such endeavours fairly restrictive along both class and gender lines.

between women's bodies and reproductive knowledge. The relationship between female midwives and their patients was increasingly problematized by these men as one that was in some ways too close, involving too much similitude to allow female practitioners the necessary distance required to achieve objective understanding.³⁴ In appropriating these qualities for himself and in rendering female sympathy dubious, the male practitioner claimed a rational compassion that was uniquely removed from any association with a specifically gendered body, a depiction I will discuss later in this chapter.

Midwifery and the Eighteenth-Century Medical Community

From the vantage of our own time, it is perhaps not too difficult to see who emerged victorious in the battle for control of birth and reproduction. The ferocity of these eighteenth-century debates nevertheless suggest that the male practitioner, despite his claims to superior skill, faced a multitude of opponents both within and outside the medical community. A thriving practice was never solely a matter of technical know-how or skill and the man-midwife had to work hard to counter attacks concerning

³⁴ I am drawing upon Luce Irigaray and her suggestion that a man's power to objectify lies in his creation of a difference from himself, which is largely dependent upon and creative of the notion that a woman cannot be distinct from herself (Irigaray, *Speculum of the Other Woman*, trans. Gillian Gill [Ithaca, NY: Cornell University Press, 1985], 28-31). The 'too closeness of women' to other women has also been theorized by Laura Mulvey, "Visual Pleasure and Narrative Cinema", in *Issues in Feminist Film Criticism*, ed. Patricia Evans (Indiana: Indiana University Press, 1990), 31-32. The issue of similitude and the problematization of this element between female midwives and their patients seems to relate to Thomas Laqueur's work on the shift towards an increasing interest in the biological differences between men and women in medical writings rather than the traditional representations of inverted similarity between the sexes. Whereas similitude had formed much of the basis for the privileged position of female midwives, who derived their authority from experiential understanding, female practitioners were increasingly discredited within these debates on this very basis. This shift in understandings surrounding how knowledge about the body should be obtained mirrors, therefore, to a certain degree, the changing nature of conceptions about the universe. The more mechanistic and representational depictions of the physical world, according to Michel Foucault, replaced the sixteenth and seventeenth century paradigm of thought based upon a system of 'analogical cosmography'. Similitude as such seems to have become increasingly suspect during this period and while there has as of yet been little historical work on this subject in terms of the midwifery debates, I unfortunately will not be able to delve too far into this argument at present. (Laqueur, *Making Sex*; Foucault, *The Order of Things: An Archeology of the Human Sciences* [New York: Pantheon Books, 1971], 25).

impropriety by cultivating an appropriate gentlemanly demeanour, particularly if he wished to have access to the most lucrative clientele. The development of male-midwifery was from the outset fraught with a host of difficulties. Aside from the fact that it was a fairly recent invention, its connotations not only as a female practice but also as a manual art made the practitioners who delved into this realm subject to criticism and continued exclusion from the sphere of the university-trained physician. With a few exceptions, midwifery went unrecognized by the three main bodies governing the field of medicine throughout the eighteenth century. The Royal College of Physicians (founded in 1518), the Company of Barber-Surgeons (founded in 1540) and the Society of Apothecaries (founded in 1617), for most of the century, all refused to provide any certificate of qualification or license for the practice of midwifery.³⁵ While a small group of honoured male-midwives received a 'License in Midwifery' between 1783 and 1800 from the College of Physicians, this practice ceased by the latter date and four years later the College passed a by-law banning men-midwives from election to its Fellowship.³⁶ Thus, the Royal College of Physicians, for all intents and purposes, "forbade any of its licentiates to practice midwifery."³⁷ In 1745, the barber-surgeons had passed similar regulation which prohibited members who engaged in "midwifery or pharmacy from election into the Court of Assistants."³⁸ This Court was the surgeon's governing body and as such this act effectively "limited control of the Company's policy to the small and fortunate elite who could make a living from surgery alone."³⁹ It was not, in fact, until

³⁵ Donnison, *Midwives and Medical Men*, 50-71.

³⁶ Donnison, *Midwives and Medical Men*, 53.

³⁷ Rhodes, *A Short History*, 25.

³⁸ Donnison, *Midwives and Medical Men*, 53.

³⁹ Donnison, *Midwives and Medical Men*, 53.

1851 that the surgeons agreed to change their policies with regards to practice of midwifery.⁴⁰

Throughout the eighteenth century, the Society of Apothecaries likewise offered no certificate in the practice of midwifery. In 1812, a small group of apothecaries had formed themselves into an association called the Association of Apothecaries, Surgeon-Apothecaries, and Practitioners of Midwifery.⁴¹ Surgeon-apothecaries, men holding both the 'License of the Apothecaries Society' and the 'Diploma of the College of Surgeons' by this time constituted the majority of regular medical practitioners and many of them were also practicing midwifery. Nevertheless, the Apothecaries Act passed in 1815 failed to mention the practice of midwifery and did not require its members to possess a qualification in this branch of medicine.⁴² Thus, although the majority of men practicing midwifery were licentiates of the Society, it was not until 1827 that attendance at lectures in midwifery became a mandatory requirement.⁴³ Despite this advancement, it was not until 1902 that the state passed an act regulating the practice of midwifery in England and Wales.⁴⁴

The practice of midwifery in eighteenth-century England operated, therefore, to a certain extent outside the legitimate realm of medicine. In contrast, in Scotland and on the continent men-midwives generally received standard university medical training.⁴⁵

⁴⁰ Donnison, *Midwives and Medical Men*, 54.

⁴¹ Donnison, *Midwives and Medical Men*, 55.

⁴² Donnison, *Midwives and Medical Men*, 56.

⁴³ Irvine Loudon, *Medical Care and the General Practitioner: 1750-1850* (Oxford: Clarendon Press, 1986), 175.

⁴⁴ Thomas R. Forbes, "The Regulation of English Midwives in the Eighteenth and Nineteenth Centuries," in *The Medicalization of Obstetrics: Personnel, Practice, and Instruments*, ed. Phillip K. Wilson (New York: Garland Publishing, Inc., 1996), 40.

⁴⁵ Barbara Schnorrenberg, "Is Childbirth Any Place for a Woman? The Decline of Midwifery in Eighteenth-Century England," in *Midwifery Theory and Practice*, ed. Phillip Wilson, (New York: Garland Press, 1996), 160.

Midwifery as a branch of medicine continued to be denigrated, particularly by physicians, who saw it as a “manual operation foreign to educated men.”⁴⁶ As a manual art, it was closest to the field of surgery, and female midwives were licensed therefore under Henry VIII’s Act of 1512, for the regulation of medicine and surgery.⁴⁷ The actual responsibility for the regulation of midwifery was laid upon the Church; women wishing to practice were thus required to apply to the local Bishop for approval.⁴⁸ The continued ecclesiastical regulation of midwifery, however, being as it was for the most part concerned with the social and religious functions of female practitioners, was never accompanied by any public requirements for instruction.⁴⁹ While attempts to organize into a society were made by female midwives hoping to ensure particular standards of practice, their plans never came to fruition. The petition of a group of London midwives in 1616, for instance, was opposed by the College of Physicians, and although the institution recognized the need for some form of standardized instruction, its members refused to consider the matter any further. Peter Chamberlen, the man-midwife and popularizer of the forceps, likewise attempted to form a society for the training of midwives in 1634. In this case, however, the London based midwives themselves opposed the plan, most likely due to their general distrust of Chamberlen’s intentions, a distrust that seems to have only been spurred on by his insistence that he be recognized as Governor to their society.⁵⁰ As early as the 1720s in London, and somewhat later in the provinces, even the ecclesiastical form of licensing for midwives had ceased.⁵¹ Thus in

⁴⁶ Donnison, *Midwives and Medical Men*, 57.

⁴⁷ Donnison, *Midwives and Medical Men*, 19.

⁴⁸ Donnison, *Midwives and Medical Men*, 19.

⁴⁹ Donnison, *Midwives and Medical Men*, 20.

⁵⁰ Donnison, *Midwives and Medical Men*, 26-27.

⁵¹ Cody, “Politics of Reproduction”, 490.

England, regulation and training in midwifery continued to exist in somewhat of a haphazard state, while on the continent municipal regulation was becoming increasingly common.⁵²

Nature, Bodies and Thinking Machines.

It was precisely into this somewhat jumbled state of affairs that the English male midwife made his entrance. Finding no real place in the medical hierarchy of the time, he likewise was forced to span the traditional gendered divisions of birthing practice. As many eighteenth-century contemporaries were quick to remark, even the term man-midwife was an oxymoron. The inherent unnaturalness of a man in the birthing chamber formed part of the standard fare of attacks directed against male practice. Nature had become one of the watchwords of eighteenth-century polemics and was frequently used in the midwife debates. It was used as an umbrella term which could be stretched to provide ammunition for either side, encompassing all that was good and decent about female midwifery, or outlining women's natural inadequacies as practitioners. Since traditionally women had attended births, some thought that this was the most natural route, one which had already stood the test of time.⁵³ Reference to nature worked upon a variety of levels. Some authors suggested that it was dangerous for men to expose the secrets of women's nature; others argued that male practice was fundamentally inconsistent with the tender nature of women; still others maintained that the presence of men in the birthing chamber actually worked to halt and disturb the natural process of

⁵² Donnison, *Midwives and Medical Men*, 25.

⁵³ John Stevens, M.D. *Man-Midwifery Exposed*, (London: W. Horsell, 1849), 2.

labour.⁵⁴ The naturalist philosophies associated with Rousseau were used in these debates in order to re-inscribe a divide between nature and artifice, and nature and civilization. In Dr. John Stevens' attack, the reader is told that women, unlike men, are natural midwives, for "woman is all but born a doctor." Women did not therefore need extensive medical knowledge of anatomy to perform the work of midwifery as "nature [was] the book, [and] experience the guide."⁵⁵ Women's innate understanding along with their experiential knowledge was positioned in opposition to male artifice and professional learning. Thus nature herself, according to the opponents of male practice, rendered women inevitably more fit for midwifery.

The physical differences between men and women likewise made it obvious to many that men were not cut out for this particular branch of medicine. Women's hands, for instance, were designed for such undertakings, owing to a certain "softness, flexibility, and dexterity of hand, palpably denied to the men."⁵⁶ In contrast, men's hands were said to be much too large. As a result, they needed to resort to the use of instruments which, it was argued, did far more harm than good.⁵⁷ One author asked the reader to compare, for instance, the damage a woman could cause with her hands to that done by a man with his "levers, his crotchets, his forceps, his perforators, and the rest of his murderous instruments."⁵⁸ Elizabeth Nihell, a practicing midwife and published author of birthing manuals, maintained that the "essential obstetric instrument was the *female hand*."⁵⁹ Indeed, in her writing, the female hand became almost enigmatic,

⁵⁴ Stevens, Man-Midwifery Exposed, 4-5.

⁵⁵ Junonesia; or Women Rescued, (London: Tavistock Street, Published for the author, Kidd, 1838), 34-35.

⁵⁶ Nihell, A Treatise, 89.

⁵⁷ William Douglas, M.D. A Letter to Dr. Smellie (London: Printed for J. Roberts in Warwick Lane, 1748), 18, 25.

⁵⁸ Death Blow to He or Man Midwifery (London: Claridge & Co, 1840 [?]), 9-10.

⁵⁹ Wilson, The Making of Man-Midwifery, 198.

capable of transcending the supposed “dichotomy between nature and art.”⁶⁰ The tenderness of a woman’s hands, moreover, served merely as the physical manifestation of her tenderness of feeling; her delicate hands were simply a reminder of her innate ability to sympathize with the suffering of other women. Only women, wrote another author, could have a “tenderness for their own sex in labour, which it is impossible men can ever equal.”⁶¹

Women’s sympathy, unlike men’s, was deemed natural by the proponents of female midwifery since only they could have actually “felt the pains and the anxieties attending child-birth.”⁶² Thus women, according to Nihell, had an “irresistible instinct” that made them the most obvious choice of birthing attendants.⁶³ In opposition to female “instinct,” Nihell suggested that men who engaged in the study and practice of midwifery actually spoiled their minds with such “undigested studies.”⁶⁴ Nihell was an expert in rhetorical reversals and her use of the physical metaphor of digestion worked to highlight the innate unnaturalness of a man attempting to pursue this practice. While traditionally it was held that too much study would ruin the body and mind of women, in this case Nihell turned the tables, arguing that studies in midwifery were, to a man, so foreign that his body and mind were quite simply incapable of ingesting them. Man-midwifery concluded another was, in essence, nothing more than an “outrage to nature.”⁶⁵

With all of these arguments in favour of female midwives, what then, according to the opponents of male practitioners, had caused the women of Europe to submit to the

⁶⁰ Wilson, *The Making of Man-Midwifery*, 198.

⁶¹ *Danger and Immodesty of the Present too General Custom* (London: J. Wilkie, 1772), 29.

⁶² *Danger and Immodesty*, 29.

⁶³ Nihell, *A Treatise*, 90.

⁶⁴ Nihell, *A Treatise*, 61-62.

⁶⁵ *Death Blow*, 30.

various abuses of the man-midwife with such apparent eagerness? Fashion, particularly of the French flavour, provided one of the most compelling explanations and again was set in direct contrast to nature. According to Nihell, “too many women” had been “miserably misled by fashion as to prefer the betraying [of] the cause of their own sex, and the subjecting [of] themselves to those who deceive them with false hopes.”⁶⁶ Nihell went even further in portraying the male-midwife as antithetical to nature by drawing upon the most sacred of all eighteenth-century images: the maternal breast. In a final stab at the practice, Nihell maintained that at this rate she would not be surprised if “dry-nursing became fashionable,” with the man-midwife arguing that “water-gruel or scotch-porridge was a much more healthy aliment for new-born infants than the milk of the female breast.”⁶⁷ The symbol of nursing had achieved something of an iconic status by at least the middle of the eighteenth century and Nihell’s use of this image worked therefore to spell out women’s natural abilities over male artifice just in case any of her readers had not yet understood what exactly was at stake.⁶⁸

Not only was fashion set in direct contrast to nature, but some works went even further, arguing that male practice was in fact a symptom of a diseased civilization. Thus, one author attributed this “noxious weed” which had cast its “shadow far and wide” to the unchecked luxury of European civilization as a whole.⁶⁹ Indeed, the contrast

⁶⁶ Nihell, *A Treatise*, 5.

⁶⁷ Nihell, *A Treatise*, 190. as cited by Donnison, *Midwives and Medical Men*, 47.

⁶⁸ According to Amanda Gilroy, in a “backlash against wet-nursing, maternal breast-feeding became the symbol of maternal virtue, domestic economy and national responsibility” (Gilroy, “Candid Advice to the Fair Sex,” in *Body Matters: Feminism, Textuality and Corporeality*, ed. Avril Horner and Angela Keane, [Manchester: Manchester University Press, 2000], 18). While wet nursing was actually at its height around mid-century, a large body of work began pouring out reprimanding women for not feeding their own children and highlighting the numerous health benefits of breast-feeding. See, for example, Simon Richter, “Wet-nursing, Onanism, and the Breast in Eighteenth-Century Germany,” *Journal of the History of Sexuality* 7 (1996): 1-22.

⁶⁹ Stevens, *Man-Midwifery Exposed*, 3.

between civilization and the natural world found full force in the various racialized comparisons between European civilization and ‘other’ populations. Good European women were apparently surrendering themselves to practices that even the most immodest and uncivilized women would never dream of. To make matters worse, these women of Christendom were, according to some, doing so with great “pleasure and satisfaction.”⁷⁰ One author maintained that even the “wild Indian, the uncivilized negro, the untutored savage, and even the Hottentot woman would revolt with disgust at the idea of the presence of a male practitioner in the sanctuary of childbirth.”⁷¹ She would “feel polluted by his filthy and unhallowed touch—would shrink with horror from the disgusting exposure of her person to which the *delicate*, and *refined*, and *Christian* women of Europe...submit without reluctance and shame.”⁷² Even at this time, wrote Dr. Dickson, an “oriental mother...would sooner die than seek the assistance of a man in her hour of travail.”⁷³

Nature, of course, did not long remain the sole property of anti-male midwifery arguments. Up against the weight of tradition, male-midwives countered these attacks with references to their own understandings of natural law. The increasing interest in the biological differences between men and women served as ammunition for the attacks against the use of female midwives. The belief that women had far more sensitive nervous systems, for instance, suggested to some that they were excessively susceptible to sense impressions and had difficulty therefore in distinguishing between what was real

⁷⁰ *Death Blow*, 6.

⁷¹ *Death Blow*, 5.

⁷² *Death Blow*, 5-6.

⁷³ Stevens, *Man-Midwifery Exposed*, 5. Such analogies which set up a divide between ‘primitive peoples’ and European civilization could also extend to non-human populations. Schiebinger argues that in the field of naturalist science female apes were portrayed throughout the century as sexually modest creatures while their male counterparts were depicted as violent and aggressive (Schiebinger, *Nature’s Body*, 75-114).

and what was not, a tendency that could have disastrous consequences in the birthing chamber. According to Malebranche, the “delicacy of the [female] brain fibers” meant that women had an innate difficulty in discerning between mere appearance and abstract ideas and, as such, were quite incapable of penetrating the truths of nature.⁷⁴ According to Leake, women’s delicate bodily frame—rather than making them particularly fit for such endeavours as we saw above with reference to the female hand—led inevitably to a delicacy of mind liable to “many excesses and inordinate motions.”⁷⁵ Leake maintained that it was precisely because of women’s natural, subjective investment in childbirth that they were unable to obtain the necessary objective distance required to arrive at reproductive truths.⁷⁶ Female midwives, therefore, frequently made errors of judgment because their “passions led them astray.”⁷⁷ Leake upheld that judges who allowed a jury of matrons to determine pregnancy for the court ought to themselves be “deemed matrons” for female midwives were too often either motivated by sympathy or filled with blind arrogance.⁷⁸ Women’s natural sympathy for other women, rather than aiding their practice, thus actually worked to hinder it. While many men-midwives and their advocates certainly emphasized the fact that women were by nature creatures of feeling, they were, however, unfortunately always “feeling incorrectly.”⁷⁹

Male practitioners could not, however, afford to give over the whole realm of feeling and sympathy to the female sex. Thus, in their writings, men-midwives stressed

⁷⁴ Nicolas Malebranche, *The Search After Truth*, trans. T.M. Lennon and P.J. Olscamp (Columbus: Ohio State University Press, 1980), 130, as cited by Margrit Shildrick, “Maternal Imagination: Reconceiving First Impressions,” in *Rethinking History* 4, 3 (2000), 248.

⁷⁵ Leake, *A Lecture Introductory to the Theory and Practice of Midwifery* 3rd ed. (London: 1773), 25-26, as cited by Cody, “Politics of Reproduction,” 486.

⁷⁶ Cody, “Politics of Reproduction,” 487.

⁷⁷ Cody, “Politics of Reproduction,” 486.

⁷⁸ Leake, *A Lecture*, 25-26, as cited by Cody, “Politics of Reproduction,” 486.

⁷⁹ Cody, “Politics of Reproduction,” 486.

both their own superior rationality and their ability for ‘masculine sympathy’. Hence, not only did the doctor “know the science of the female skeleton,” but he (as illustrated by William Hunter above) was also peculiarly capable of “intuiting the feminine mind.”⁸⁰ While man’s feeling stemmed from a cool and rational sympathy it was, according to Leake, always matched with a “benevolence of heart.”⁸¹ The man-midwife combined feeling with rationality, sympathy with objective understanding. Louis Lapeyre maintained therefore that the male-midwife must not only be educated, but that he must also be “endowed with a sensitivity of soul.”⁸² He should be able to “sympathize with the evils and afflictions which human nature is liable to; he must be extremely compassionate, especially with regards to the pain to which the sex to whose service he has devoted his talents and labours, is so subject.”⁸³ In his deportment, he must remain simple and modest in order to “shew forth the probity and rectitude of his heart” alongside that “cool composure, sedateness and presence of mind.”⁸⁴ In sympathizing with the “evils and afflictions to which human nature is liable to” from the vantage point of rational observer, the male professional claimed at once to be in the service of this humanity while simultaneously somehow remaining outside of it.

Not all male practitioners and writers adhered to the notion that female feeling exceeded that of men’s. Lapeyre himself was quite willing to forgo his tenderness of soul and extreme compassion when making reference to the “lowest class of human beings”—the female midwives.⁸⁵ Lapeyre reversed the arguments surrounding innate female

⁸⁰ Cody, “Politics of Reproduction,” 487.

⁸¹ Leake, *A Lecture*, 54. as cited by Cody, “Politics of Reproduction,” 488.

⁸² Lapeyre, *An Enquiry into the Merits of These Two Important Questions*, (London: S. Bladon, 1772), 44-45.

⁸³ Lapeyre, *An Enquiry*, 44-45.

⁸⁴ Lapeyre, *An Enquiry*, 44-45.

⁸⁵ Lapeyre, *An Enquiry*, 29.

sympathy by suggesting that female midwives were in fact the ones guilty of having an “unfeeling heart.”⁸⁶ His portrayal of the female midwife drew upon traditional motifs of the doting old woman, callous, ignorant and full of “superannuated gossip.”⁸⁷ In depicting female midwives as predominantly older, presumably post-menopausal women, Lapeyre’s writings alluded to a long and popular history whereby older women were portrayed as malevolent creatures, incapable of empathetic feeling and forever jealous of younger, child-bearing women.⁸⁸ Lapeyre’s portrayal sought to displace the basis for female midwifery, namely, the argument that there was a natural sisterly affection between women based upon equality and shared experience that qualified women to practice the art. By depicting the female midwife instead as an older woman or (m)other figure, this similitude was shattered, the relationship instead becoming one fraught with envy and ineptitude.⁸⁹

While nature and feeling worked therefore on numerous levels in the arguments over the man-midwife, the problem of sex was even more forcefully played out in ways which could both disturb and titillate the reader. Male midwifery was construed by its opponents as a perversity that had the potential to destroy marriages, families and subsequently the whole basis upon which the state rested. Male practitioners had to walk a very fine line in this regard and defend themselves against the suggestion that they

⁸⁶ Lapeyre, *An Enquiry*, 36-37.

⁸⁷ Lapeyre, *An Enquiry*, 36-37.

⁸⁸ See Cindy McCreery, “Lustful Widows and Old Maids in Late Eighteenth-Century Caricatures,” in *Lewd and Notorious*, 2003; Lyndal Roper, *Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe* (London: Routledge, 1994).

⁸⁹ Here Lapeyre, rather than criticizing female ‘too closeness’ as that which rendered the female practitioner incapable of objective understandings, instead displaces this bond by way of distancing the female midwife from her patient through a generational divide. Thus, I do not wish to suggest that any of these tracts can be read as having only one definitive meaning or that either side put forth a consistent platform to argue their points. Each author, despite their place within these debates, utilized and combined a variety of different strategies within their writings. No particular set of arguments ever belonged only to one side; Nihell, for instance, frequently appealed to reason and the public good to argue in favour of female practitioners, while men like Lapeyre stressed their own ability for tenderness to further their cause.

operated in secret and with private designs.⁹⁰ In order to remove the threat posed by male sexuality, the male practitioners, as I have mentioned, needed to downplay any reference to their own sexed bodies. While using the gendered discourse of male rationality, male practitioners simultaneously attempted to unsex themselves, in effect, taking the sting, or at least the man, out of the man-midwife.

Hence, while some opponents portrayed man-midwifery as an effeminate and unmanly profession, most of the attacks were directed against their tendency towards the darker side of male passions. All men, wrote one author, “love lovely women” and passion is “so strongly implanted in our [men’s] nature, that even the wisest and best of men have...violated and outraged...the doctrines and legislation of the marriage bond.”⁹¹ The “passions of the man,” wrote another, are “by sight and touch liable to be excited.”⁹² This work went on to describe in extensive detail how each of the senses (excluding taste) became aroused in the close contact with women that male practitioners enjoyed. The sight of a beautiful bosom, the tangible feel of a woman’s soft skin and that frailness of voice all worked inevitably to lead a man to “seek the fruition of his desires.”⁹³ Nor did the author wish to pass over the olfactory sense which apparently “all naturalists know...is extremely powerful in many animals.”⁹⁴ The litany of all of these powerful sense impressions which drove the practitioner to falter meant that, according to the author, the man-midwife could hardly be considered “a free agent.”⁹⁵

⁹⁰ Cody, “The Politics of Reproduction,” 484.

⁹¹ Death Blow, 36.

⁹² Junonesia, 141.

⁹³ Junonesia, 70-71.

⁹⁴ Junonesia, 72.

⁹⁵ Junonesia, 141.

Other opponents were less forgiving in their description of men's motives in midwifery and suggested contrarily that male practitioners were entirely conscious and wilful with regards to achieving a certain perverse satisfaction. In Steven's attack, he 'quotes' a practicing man-midwife who apparently told him that

We [the man-midwives] have the opportunity of receiving the favours of the fair with greatest facility, and on extensive scale. We buy our gratifications at a cheap rate; we obtain profit and pleasure at the same time—a pretty girl, the thanks and gratitude both of herself and her *cara sposa*, and, what is more, are paid too in the bargain.⁹⁶

The notion that the male practitioner operated with selfish motives was taken up by Nihell as well. She maintained that male practitioners operated with private designs, while the female midwives were dutiful servants of the public good.⁹⁷ Thus, the male midwives sought to “drive out of the practice those who stand in the way of their private interest.”⁹⁸

The private designs of the male practitioner became even more threatening when one reflected upon his superior anatomical and sexual knowledge. While the superior knowledge possessed by male practitioners was precisely one of the arguments used in favour of men midwives, such knowledge could be used equally by their opponents to discredit them. The male practitioner, according to one writer, “knows every touch, and all variety of fingering.”⁹⁹ He was “expert in amorous arts,” his profession had taught him “where to place his finger upon the *clitoris*,” which, according to the author, was the “master-key to the accomplishments of his desires.”¹⁰⁰ Some writers attempted a little more subtlety, pretending themselves too modest to describe what the male practitioners

⁹⁶ Stevens, Man-Midwifery Exposed, 6.

⁹⁷ Nihell, A Treatise, vii.

⁹⁸ Nihell, A Treatise, vi.

⁹⁹ Junonesia, 143.

¹⁰⁰ Junonesia, 141.

were in fact doing in their practice that was so horrifying and contrary to sexual propriety. In one work, for instance, the author claimed that it was difficult for him to discuss what it is that male midwives actually do. Thus, to “avoid sullyng my pages” writes the author, he shall not describe the details of the “pawing and *fingering*, the *peeping* and *prying*, the *trying* and *taking of pains*, and the rest of the abominations of the *touching* and *tailing gentry*.”¹⁰¹ Authors such as the one above sexualized their texts while simultaneously lamenting the need to do so, in effect blaming the men-midwives for their own titillating and sullied pages.¹⁰²

It was precisely this sexual knowledge that made it apparently so difficult for the female patients to resist the doctor’s advances. What woman could “refuse a man, to whom nothing of that has been refused?”¹⁰³ His expert touch made it “next to impossible for a woman of warm temperament to preserve her virtue.”¹⁰⁴ Indeed, women, according to Dr. W. Beach, are “more susceptible to temptation during pregnancy than at any other time.”¹⁰⁵ Count Buffon went so far as to suggest that male practice was not only a “violent attack against chastity,” but furthermore, that “every situation which produces an internal blush” is in fact a “real prostitution.”¹⁰⁶ Thus, even these internal blushes could lead to dangerous situations. Even if, asks one author, the sensations that affect both the male practitioner and his female patient could be put aside for some time, how could the doctor not remember in retrospect the “delicate confirmation of her limbs, their luxuriant

¹⁰¹ Death Blow, 26.

¹⁰² Wilson’s work shows that this kind of tactic was not uncommon in anti-male midwife tracts (Wilson, The Making of Man-Midwifery, 198).

¹⁰³ Nihell, A Treatise, 234.

¹⁰⁴ Junonesia, 143.

¹⁰⁵ W. Beach, An Improved System of Midwifery, 17, as cited by Stevens, Man-Midwifery Exposed, 5.

¹⁰⁶ Stevens, Man-Midwifery Exposed, 4.

fullness and proportions, or the texture and complexion of her skin[?]"¹⁰⁷ The female patient likewise would not soon forget that "as well by touch as by sight, he [the man-midwife] knows her in person already too intimately."¹⁰⁸ The possibility of separating the man from the medical professional was, according to his opponents, a ludicrous proposition. The man being a professional, writes one author, cannot "obliterate the idea in her [the female patient's] breast that he is nevertheless a man."¹⁰⁹ One anonymous letter writer offered what he felt would work as a permanent solution to this problem. For, he writes, if men "*must be introduced to the privacies of women, I would earnestly recommend it as the MOST ESSENTIAL qualification requisite TO PREPARE them for the study, that they submit to having their VOICES made delicate.*"¹¹⁰ This last comment illustrates again the fact that the man-midwife's claim to transcending manly passions was not enough to convince his opponents. While perhaps only a jest, by advocating castration this writer reaffirms at once the sexual danger posed by men-midwives and by proxy the inherent superiority of female midwifery. The only way for a man to pursue this practice was to undergo a very physical (yet highly unnatural process), one that could, unlike transcendental reason, take the man out of the male practitioner.

While many opponents stressed therefore the preposterousness of a man being able to attend to women in such a manner without having his passions inflamed, male practitioners countered these arguments by portraying themselves as professionals transcending the passions of their sex. The transcendence of a specifically located, sexed body through the use of reason was part of the broader cultural dialogues that came out of

¹⁰⁷ Junonesia, 138.

¹⁰⁸ Junonesia, 138.

¹⁰⁹ Junonesia, 138.

¹¹⁰ Danger and Immodesty, 51.

the emerging field of seventeenth-century scientific inquiry. While the Cartesian assumption of a sexually undifferentiated body, merely the locus of the rational self, from its outset took man as its term of reference, the belief in a pure reason could also be used to justify women's potential for intellectual equality.¹¹¹ The Lockean notion of the 'blank slate' inspired many eighteenth-century philosophers and natural historians to view man not necessarily as a fixed creature, but rather as a product of education, circumstance or milieu, a malleable subject who could be conditioned by his social environment.¹¹² As such, women's inferiority could arguably be said to be based upon a lack of education and opportunity rather than upon any specifically biological basis, an argument put forth in the writings of Mary Wollstonecraft.¹¹³ The Enlightenment rhetoric of the 'rights of man' thus made urgent the problem of the political status of women. According to Londa Schiebinger, the increasing importance of natural law philosophy in the context of such enlightened ideals meant that the social inequalities of women needed to be justified with "scientific evidence of natural differences" in order to exclude them from public participation and political rights.¹¹⁴ Laqueur's work on the redefinition of men and women as opposite sexes likewise upholds this conclusion.¹¹⁵ Obviously, many of the arguments surrounding man's superior ability for rationality and objectivity were not new by the eighteenth century. However, in the context of the rise in liberal political theory

¹¹¹ Joanna Hodge, "Subject, Body, and the Exclusion of Women from Philosophy," in Feminist Perspectives in Philosophy, ed. Morwenna Griffiths and Margaret Whitford (Indianapolis: Indiana University Press, 1988), 153-168.

¹¹² G.S. Rousseau and Roy Porter, "Toward a Natural History of Mind and Body," in The Languages of the Psyche: Mind and Body in Enlightenment Thought. Clark Library Lectures 1985-1986, ed. G.S. Rousseau (Berkeley: University of California Press, 1990), 27.

¹¹³ Mary Wollstonecraft, A Vindication of the Rights of Women, with Strictures on Political and Moral Subjects (New York: Norton, 1967).

¹¹⁴ Londa Schiebinger, Nature's Body: Gender in the Making of Modern Science (Boston: Beacon Press, 1993), 144.

¹¹⁵ Laqueur, Making Sex, 194.

and natural law philosophy, the universal (male) subject became increasingly encoded as sexually neutral, while women were increasingly portrayed as a sexual subset.¹¹⁶

While the association of women with nature and the natural world had been present throughout western history, the increasing interest in interrogating the secrets of nature in the late seventeenth and eighteenth centuries accentuated what had already become a fairly central metaphor of scientific endeavour: that of a male subject penetrating the secrets of female nature.¹¹⁷ Beginning in the eighteenth century, the laws of nature increasingly came to be seen as above and beyond human politics and the male investigator sought likewise to position himself beyond such partiality. As Lieselotte Steinbrügge demonstrates in her analysis of Diderot's *Encyclopaedia*, it was not, therefore, necessarily the implicit equation of the human being with man that gave rise to this phenomenon, but rather, more specifically, the equation of women with sex.¹¹⁸ Women were increasingly viewed within naturalist science as at once the particular, the offshoot of the male sex, and, in another sense, as the embodiment of a generalized, unchanging nature. Both of these expressions served as justifications for denying women political rights: the former by way of excluding her from the supposedly universalist doctrine of liberty, and the latter as a rationale for keeping women in their "creaturely place."¹¹⁹ What defined man as a superior to all other beings, for instance, was his ability to control nature through the use of reason, hence the term *homo sapiens*. What linked humans to other mammals contrarily was the physical presence of functional mammary

¹¹⁶ Schiebinger, *Nature's Body*, 88.

¹¹⁷ Eve Keller, *Reflections on Gender and Science* (New Haven: Yale University Press, 1985), 3.

¹¹⁸ Lieselotte Steinbrügge, *The Moral Sex: Women's Nature in the French Enlightenment*, trans. Pamela E. Selwyn (New York: Oxford University Press, 1995), 28.

¹¹⁹ Steinbrügge, *The Moral Sex*, 28.

glands, a specifically female attribute.¹²⁰ Thus, while men were characterized with reference to their social and productive roles in the encyclopedic entries, women were defined primarily by their sexual and biological functions. Men's dominion over the natural world was set in contrast to a seeming "incompatibility between female nature and women's capacity to control nature."¹²¹ Depicted as creatures of nature, women could hardly position themselves as objective interlocutors of the natural world.

Within this context, nature, reason and passion became some of the most frequently debated issues in the midwifery debates, with each side drawing freely from a broad range of cultural discourses. While the tracts against the use of male midwives emphasize the irrefutability of sexual difference as one of the reasons why men should be excluded from this field of practice, male practitioners and their advocates sought to counter these accusations by denying the relevance of both their own and their patients' sexed bodies. The man-midwife straddled two competing and yet overlapping ideas, endowed with the virtue of rationality based upon being born male, while at the same time using as evidence this possession of reason as that which made him capable of transcending male sexual passions. Although the gendered discourses surrounding male rationality and female illogicality were deployed in favour of men's advancement in the field of midwifery, man-midwives were nonetheless forced to walk the fine line of embodying masculine qualities while simultaneously circumventing any association with their own sexed bodies. In redefining childbirth as a medical condition in need of

¹²⁰ As Schiebinger points out, what distinguished humans from animals was the ability for reason characterized by the term *homo sapiens*, while what connected humans to beasts was the term *mammalia*, a specifically female characteristic of the species. There are, according to her, at least six other possible characteristics that link humans to other mammals and she argues therefore that Linnaeus' choice was certainly, in part, a product of the eighteenth-century fascination with maternity and maternal breast-feeding (Schiebinger, *Nature's Body*, 55).

¹²¹ Steinbrügger, *The Moral Sex*, 28.

professional supervision, male practitioners not only helped to create new understandings surrounding the maternal body, but were also involved in the process of constructing a new kind of male medical professional, one able to show compassion without passion.¹²²

The man-midwife thus adopted his profession not out of some perverse fascination or private motivation, but rather out of a sense of “gratitude to his mother” and a natural “kinship with women.”¹²³ Lapeyre, for instance, attempted to deny accusations of impropriety by stating that those employed in this profession were actually immune to what other men might call the “beauty, charms, attractives [sic], [and] incentives” of the female sex.¹²⁴ Where other males saw, perhaps, a beautiful young woman, the man-midwife saw nothing but an “assemblage of nerves, cartilages, muscles, [and] fibers.”¹²⁵ Having been exposed to so many women in his practice, the “presence of such objects makes not the least impression on him.”¹²⁶ This was due to the fact that man, according to Lapeyre (drawing upon eighteenth century economic theories of supply and demand), desired only that thing whose “value is augmented in proportion to the difficulty which attends [its] attainment.”¹²⁷ As an example of this, Lapeyre also utilized a racialized analogy informing the reader that in the practice of his art, the man-midwife is akin to Europeans in America who, generally unaccustomed to seeing public nudity, might at first experience something of a “tumult,” but soon, through habit and

¹²² As Eve Keller has noted, medical practitioners’ self-construction have been “relatively unexplored” by historians (Keller, “The Subject of Touch: Medical Authority in Early Modern Midwifery,” in Sensible Flesh: On Touch in Early Modern Culture, ed. Elizabeth D. Harvey [Philadelphia: University of Pennsylvania Press, 2003], 68).

¹²³ Cody, “Politics of Reproduction,” 488.

¹²⁴ Lapeyre, An Enquiry, 61.

¹²⁵ Lapeyre, An Enquiry, 61.

¹²⁶ Lapeyre, An Enquiry, 55.

¹²⁷ Lapeyre, An Enquiry, 57.

daily exposure, feel nothing. Thus, the “frame of mind peculiar to those in his profession” armed the practitioner with a genuine indifference to female enticements.¹²⁸

Faced merely with a “bundle of nerves,” the male practitioner, according to Lapeyre, became himself no more than “a thinking machine.”¹²⁹ As the female patient was reduced to a body without sex, Lapeyre construed the male-midwife as a mind/machine capable of transcending his own sexed body. This mechanistic analogy was part of a relatively recent shift in Enlightenment thought concerning the nature of the universe and the individual’s place therein. As the organic cosmos of the sixteenth and seventeenth centuries—or what Michel Foucault has referred to as an “analogical cosmography”¹³⁰—gave way to the image of the universe as a machine, with laws that could be discovered by individuals through reason and experiment, the male professional increasingly portrayed himself as objective observer and interlocutor of nature capable of transcending the body through the use of reason.¹³¹ According to Jean Donnison, “the impact of this ‘masculine,’ mechanistic philosophy” with regards to the shifting nature of medical practice, “cannot be underestimated.”¹³² Lapeyre’s portrayal of the medical practitioner’s relationship to his female patients aptly mirrored these two competing discourses. While Lapeyre and his ilk represented the new mechanical universe engaged in the pursuit of reproductive truths, female patients were contrarily portrayed in more traditional organic metaphors as bodies or body parts. Thus, while the male practitioner had become a thinking machine, the European voyeur of the natural world, the female patient became merely the land upon which he practiced. Beyond the dualism of the

¹²⁸ Lapeyre, *An Enquiry*, 61.

¹²⁹ Lapeyre, *An Enquiry*, 61.

¹³⁰ Foucault, *The Order of Things*, 25.

¹³¹ Donnison, *Midwives and Medical Men*, 32.

¹³² Donnison, *Midwives and Medical Men*, 33.

sexed body, the man-midwife, sums up Lapeyre, was himself truly “a being who, in a moral sense, may be said to belong to neither sex.”¹³³

This kind of portrayal in Lapeyre’s work was, to a certain extent, related to the more general decline in the importance of the patient’s subjective self-reporting in medical encounters beginning in the eighteenth century. Porter argues that the relationship of the physician to his patients for most of the early modern period involved a significant amount of participation from the patient, as physical examinations were rarely part of the duties of a physician. As such, the subjective narrative of the patient, his/her description of the ailment, symptoms, lifestyle, previous complaints and so on, was paramount to the doctor’s diagnosis.¹³⁴ In the burgeoning field of male-midwifery, however, new techniques that focused upon manual operations carried out by the practitioner, such as podalic version, pelvic manipulation and the use of forceps, were coupled with the decreasing significance of the childbearing woman’s own subjective account.¹³⁵ Eve Keller’s analysis of eighteenth-century medical case books illustrates this quite well. The declining importance of the female patient as subject in these texts was coupled with her subsequent relegation to the status of silent object, composed of dismembered parts.¹³⁶ The female patient in these works became either “irrelevant or obviated altogether,” while the other birth attendants likewise came to form merely the

¹³³ Lapeyre, *An Enquiry*, 61.

¹³⁴ Porter, “The Rise of the Physical Examination,” in *Medicine and the Five Senses*, ed. W. F. Bynum and Roy Porter (Cambridge: Cambridge University Press, 1993), 182.

¹³⁵ While touch had generally been associated with the feminine, according to Eve Keller it was reconceptualized in the late seventeenth and eighteenth centuries, becoming, in the work of the man-midwives, “aligned with the masculine attributes of reason and decorous action” (Keller, “The Subject of Touch: Medical Authority in Early Modern Midwifery,” in *Sensible Flesh*, 70). For earlier evidence of this repositioning by anatomists see Bettina Mathes, “As Long as a Swan’s Neck?: The Significance of the ‘Enlarged’ Clitoris for Early Modern Anatomy,” in *Sensible Flesh*, 103-124.

¹³⁶ Keller, “The Subject of Touch,” 70.

“backdrop to the author’s self-construction.”¹³⁷ Likewise, in Ernelle Fife’s analysis of the differing discourses used in the writings of male and female midwives, the male midwives opt for a linear, analytical and technical style of writing and tend to position women more frequently than do female authors as merely physical bodies without subjectivity.¹³⁸ As a collection of organs and body parts, as dismembered bodies, the female patient retained neither sex nor subjectivity.

While this de-sexing of both the patient and the medical practitioner worked to counter attacks regarding the impropriety of the man-midwife, some authors went beyond a merely defensive stance and reversed the arguments surrounding sexual passions altogether. Tobias Smollet, for instance, turned the tables of perversity and sexual appetite onto the female practitioner. In his virulent attack against Elizabeth Nihell, he not only called her a “lunatic” with the fluency of a “fish woman,” but went so far as to call into question the purity of her motivations for practicing midwifery. Smollet attacked Nihell for advocating that a midwife place her hand upon the woman in labour and stroke her in a particular fashion in order to ease her pain. Apparently Nihell had meant this to be evidence against the use of male practitioners for, according to her, some women would obviously feel ashamed to ask for this kind of pain relief from a male doctor. Smollet, however, seized upon this opportunity in order to portray the female midwife as sexually suspect. Thus Smollet writes that “just how far Mrs. Nihell’s shrewd, supple, sensitive fingers, may be qualified for the act of titillation” he did not

¹³⁷ Keller, “The Subject of Touch,” 70.

¹³⁸ Ernelle Fife, “Gender and Professionalism in Eighteenth-Century Midwifery,” *Women’s Writing* 11, 2 (2004): 185-200.

wish to ponder too deeply.¹³⁹ Smollet's attack on Nihell reversed the naturalness of a woman as birth attendant motivated by sisterly love and affection by replacing it with the suggestion of an unnatural female sexuality. Thus, while the "thrust of many attacks against man-midwives had been (and continued to be well into the nineteenth-century) that they operated secretly with private designs," these same arguments could also be used to make women's interest in the field of midwifery seem itself unnatural and representative of a perverse female sexuality.¹⁴⁰ The image of this touch between women worked to emphasize an excessive closeness in the relationship between the female midwife and her patient. Whereas Lapeyre's portrayal above sought to displace the similitude between women, Smollet instead rendered it dubious, using it as evidence for women's inability to achieve the necessary distance required for objectivity.

The debates over the man-midwife became a battleground for rival interests as they drew upon a variety of intellectual shifts that were taking place throughout the eighteenth century. The tracts discussed above, while often complicated and contradictory, nevertheless represent two competing yet overlapping modes of knowing. As experiential understanding began to be replaced with reason as the basis upon which knowledge about the body could be obtained, the man-midwife gained an increasing foothold in the field of midwifery. By 1780 or thereabouts, the aristocracy had abandoned the use of female midwives.¹⁴¹ Portraying themselves as rational and

¹³⁹ Tobias Smolett, *The Critical Review* 9 (1760): 187-97, as cited by Cody, "Politics of Reproduction," 487.

¹⁴⁰ Cody, "The Politics of Reproduction," 484. See also Porter, "A Touch of Danger: The Man-Midwife as Sexual Predator," in *Sexual Underworlds of the Enlightenment*, ed. G.S. Rousseau and Roy Porter, (Manchester: Manchester University Press, 1987): 206-231.

¹⁴¹ J.S. Lewis, *In the Family Way: Childbearing in the British Aristocracy, 1760-1784* (New Brunswick, NJ: Rutgers University Press, 1986), as cited by Wilson, *The Making of Man-Midwifery*, 200.

sympathetic professionals, the image of the male midwife was transformed from hack surgeon to cultivated gentleman.

Nature, as we have seen, was used as an argument both for and against the use of male practitioners. While women's innate feeling for other women was generally deemed greater than that of men's on both sides of the divide, women's sympathy increasingly became construed in extreme cases as a perversity, but more generally, as that which rendered them incapable of arriving at objective and scientific truths. The rational sympathy of the male practitioner, on the other hand, enabled him to engage in this practice with a reasoned objectivity as a "thinking machine," transcending the passions of the body. While Cody maintains that the proponents of the new field of male obstetric practice "amplified the discourse of fundamental sexual difference," the evidence taken from these debates suggests that the authors in favour of male advancement in this field sought contrarily to neutralize any reference to the sexed bodies of both themselves and their patients.¹⁴² While defusing references to manly passions, these authors nevertheless drew upon an emerging gendered discourse of reason that was related to the supposedly natural and biological differences between women and men. While proponents of female midwifery continued to argue that female practice served the public and that women were capable of reason and professionalism, within medical and scientific discourse women were increasingly defined in terms of their biological make-up, as merely a sexual subset of the universal man. As such, the female practitioner of midwifery could not (like their male adversaries) forgo their own sex in order to arrive at transcendent truths.

¹⁴² Cody, "Politics of Reproduction," 487.

While the discourse surrounding reason was itself increasingly gendered, its starting point began with the assumption of a neuter body, merely the location of the enlightened subject constituting the person. The male practitioner drew upon this assumption by way of constructing himself as a mind machine beyond sexual distinctions. As Laqueur argues, the genderless, rational individual of liberal theory, “ironically engendered opposite, highly gendered sexes.”¹⁴³ The unsexing of the male practitioner was related to the emergence of a new individual, one coded as universal and thus to a certain extent beyond the confines of a sexed body yet, in effect, open only to a select few worthy of possessing the responsibilities and inalienable rights that individualism entailed.

The eighteenth-century man-midwife was from the outset linked to, and portrayed himself as, working in the interests of the emerging bourgeois public sphere. While women and their advocates continued to make reference to the public good, they were nevertheless increasingly conceived of in medical and scientific discourse as the objects rather than the executors of investigation. As Jürgen Habermas has argued, the public sphere of the eighteenth century was, in essence, a mirror into itself, the issues discussed by the members therein were in fact debates about themselves.¹⁴⁴ Investigations into the peculiar bio-medical make-up of the female sex were inevitably investigations into what it meant to be a man. In remapping the maternal body, the man-midwife was in fact in the process of giving birth to himself. The knowledge which such studies entailed had, therefore, as much to do with the medical professional’s self-presentations as it did with any specific truths about female anatomy. As Luce Irigaray surmises, knowledge that

¹⁴³ Laqueur, *Making Sex*, 197.

¹⁴⁴ Habermas, *Structural Transformations*, 43.

“poses itself as sexually *neutral*, as indifferent, as universal or disinterested” is, in fact, a “product of men’s self representations.”¹⁴⁵ Thus, the “public spectacle” of the man-midwife, as Cody suggests, might symbolically be “considered the display not only of female genitalia but also of his own.”¹⁴⁶ In these debates, however, according to the male practitioners, there was nothing much of the latter to display.

The eighteenth-century discourse surrounding nature and, specifically, the return to nature in contrast to the artifice of civilization, existed therefore alongside the emergence of an increasingly gendered discourse on the place of men and women within the natural order. In the emerging public sphere, the male midwife became the spokesperson for uncovering and articulating the truths of the reproductive body. As I will argue in the following chapter, the testimony of male medical practitioners in infanticide court proceedings followed along these same lines, helping to create a new narrative surrounding birth and delivery—one that, as mentioned at the beginning of this examination, stressed the passivity and helplessness of the accused at the time of delivery. Within the courtroom, as in the debates examined above, male practitioners displayed their compassion and feeling for the weaker sex, creating highly sympathetic, hypothetical accounts of events. The medical testimony of these witnesses was, moreover, used by the courts to exonerate the accused from responsibility for her actions. While often drawing upon defences used by the accused, the hypothetical birth narratives of medical practitioners increasingly replaced the woman’s own account of events. Her inability to explain her actions within the courtroom was used not only as evidence of her

¹⁴⁵ Elizabeth Grosz, Jacques Lacan: A Feminist Introduction (London: Routledge, 1990), 170.

¹⁴⁶ Cody, “Politics of Reproduction,” 490.

innocence, but also as the element which required and validated the interpretations of medical witnesses.

3. Remapping Maternity in the Courtroom: Female Defences, Medical Witnesses and the Humanitarian Narrative.

The challenges examined in the previous chapter to the exclusively female practice of midwifery had an impact on the prosecution of infanticide in the courtroom. Sympathy for the plight of the accused became ever more common throughout this period. Beginning in the eighteenth century, a new narrative habit took hold whereby “dead babies in dung heaps became a thing to inspire compassion.”¹ Older images of the ‘monstrous mother’ increasingly gave way to representations of accused women as suffering subjects, helpless victims of their bodies’ actions. Female defences for infanticide became increasingly elaborate renditions of their sufferings and courts inquired ever more into the emotional state of the accused. The traditional notion that women were simply weaker versions of men was increasingly replaced inside and outside medical circles with the belief that women were “quite distinct from men above all, possessing far more delicate nervous systems.”² As such, mental and emotional diseases were increasingly associated with the female sex. By the second half of the eighteenth century, internal states of mind such as being out of one’s senses at the time of delivery replaced other forms of defences for infanticide. Earlier defences had been based more firmly upon external material and physical evidence such as the preparation of linen and signs of violence upon the corpse of the infant. Alongside these shifts, surgeons and male midwives began to replace female midwives as key trial witnesses. Despite the fundamental inconclusiveness of medical evidence, the truth of the case was increasingly sought through the dissection of the infant’s body. The evidence found therein was used

¹ Thomas Laqueur, “Bodies, Details and the Humanitarian Narrative,” in The New Cultural History, ed. Lynn Hunt (Berkeley: University of California Press, 1989), 200.

² Roy Porter and Dorothy Porter, Patient’s Progress: Doctor’s and Doctoring in Eighteenth-Century England (Stanford: Stanford University Press, 1989), 178.

by male practitioners to recreate hypothetical accounts of the sequence of birth and delivery which worked to exonerate the accused from guilt.

Medical experiments became ever more important to infanticide trials throughout the eighteenth century. As medical witnesses were by far the most commonly called upon experts in criminal trials, they have often been viewed by historians as representative of a general trend towards “scientific and professional authority in society.”³ Nevertheless, despite this trend, the inability of medical testing to provide conclusive findings complicates assumptions about the role of expert witnesses in the courtroom. Although historians agree that medical tests were at best uncertain during this period, the way in which medical testimony was used by the courts in specific criminal prosecutions has been less fully elaborated. In cases of infanticide it was, more often than not, precisely the uncertainty of medical evidence that made it so vital to these trials.

The role of expert testimony in court proceedings was not new to the eighteenth century. Dating back to the fourteenth century, individuals possessing expertise were called upon to act as special advisors to the court.⁴ Special juries were sometimes formed for difficult cases in which the court felt that particularized knowledge was needed in order to understand the facts of the case and to make informed decisions.⁵ During the seventeenth century, however, expert witnesses began to be called not as adjudicators or private advisors to the court, but rather as witnesses whose testimony was to be evaluated, like that of other witnesses, by a lay jury.⁶ Changes in legal practice during

³ Michael Clark and Catherine Crawford, “Introduction,” in *Legal Medicine in History*, ed. Michael Clark and Catherine Crawford (Cambridge: Cambridge University Press, 1994), 17.

⁴ Stephan Landsman, “One Hundred Years of Rectitude: Medical Witnesses at the Old Bailey, 1717-1817,” *Law and History Review*, 16, 3 (1998): 446.

⁵ James Oldham, “The Origins of the Special Jury,” *University of Chicago Law Review* 50 (1983): 137.

⁶ Landsman, “One Hundred Years,” 446-447.

the eighteenth century—including an increasingly adversarial system, a growing demand for certainty and standards of proof to obtain conviction, and a heightened focus upon circumstantial evidence—all contributed to the rise of expert witness testimony.⁷

According to Stephan Landsman, the growing need for certainty within the judicial process contributed to a general devaluation of direct (lay) testimony in favour of the circumstantial evidence offered by “disinterested medical witnesses.”⁸ In infanticide cases in particular, the problems of ascertaining proof in cases of secret births made the role of expert witnesses especially important as circumstantial evidence was generally all that could be obtained in such cases.

As in other criminal cases, in infanticide trials medical experts were most frequently brought in by the court rather than by the defence or prosecution and had generally already been involved in the case through the dissection of the body in the case of surgeons, or through the examination of the mother’s body in the case of midwives. As such, their testimony was, in theory, supposed to be informed yet impartial.⁹ Obvious partisanship was condemned by the courts despite the fact that judges increasingly exerted pressure upon medical witnesses to provide conclusive statements.¹⁰ The growing adversarial nature of the eighteenth-century legal process also altered the judge’s role in the trial. By the latter part of the century judges, rather than engaging as inquisitors themselves, more often took on the role of clarifying the findings of medical experts and testing their conclusions.¹¹ The witness’s description of experiments made

⁷ Landsman, “One Hundred Years,” 459. For the advent of increased standards of proof, see Barbara Shapiro, Beyond ‘Reasonable Doubt’ and ‘Probable Cause’: Historical Perspectives on the Anglo-American Law of Evidence (Berkeley: University of California Press, 1991).

⁸ Landsman, “One Hundred Years,” 447.

⁹ Landsman, “One Hundred Years,” 461.

¹⁰ Landsman, “One Hundred Years,” 484.

¹¹ Landsman, “One Hundred Years,” 467.

upon the corpse were presented within the language of scientific objectivity even while the conclusions drawn from these experiments were generally uncertain. As such, the courts retained a relatively high degree of flexibility in their interpretation of the validity of such experiments and, more often than not in cases of infanticide, used the inconclusiveness of medical testing to exonerate the accused. Despite the inability of medical testimony to provide concrete facts, the growing reliance on experimental proof at once validated the authority of professional medical witnesses while simultaneously devaluing traditional forms of testimony offered by both lay witnesses and female midwives.

The more rigorous standards of proof, as well as the flexibility with which medical evidence could be interpreted by judges and juries, enabled eighteenth-century courts to acquit women accused of infanticide despite the legal intent of the 1624 Statute. Medical testing helped to shift the focus within legal proceedings from concealment of birth to evidence of violence derived from experiments made upon the corpse. While the law governing this crime remained the same, eighteenth-century courts, unlike their seventeenth-century predecessors, were increasingly unwilling to prosecute and convict women on the basis of concealment.¹² A more lenient attitude towards female offenders has also been documented by Peter King in his examination of property offences in the late eighteenth- and early nineteenth-century. His research indicates that women were almost “twice as likely to avoid public trial completely...[and] attracted a considerably

¹² Peter C. Hoffer and N. E. H. Hull, Murdering Mothers: Infanticide in England and New England, 1558-1803 (New York: New York University Press, 1981); J. M. Beattie, Crime and the Courts in England, 1660-1800 (Princeton: Princeton University Press, 1986).

higher percentage of not guilty verdicts.”¹³ The combination of these two factors meant that men were forty percent more likely than women to be convicted of property crimes.¹⁴ The overall conviction rate for murder declined during this period; however, the decrease was not as steep as that for infanticide prosecutions.¹⁵ In cases of other forms of murder, juries could convict on the non-capital charge of manslaughter, while in infanticide proceedings there was no lesser charge upon which juries could draw. Women accused of infanticide were therefore more frequently acquitted entirely of newborn infant murder charges.

Recent scholarship reveals that this trend was occurring across Western Europe, with infanticide convictions declining sharply during this period.¹⁶ The romanticization of motherhood and motherly love, a general increase in humanitarian sentiment, as well as a feeling among judges, juries and legal reformers that the statute governing newborn infant murder was too draconian, have all been put forth by historians as explanations for this decline. J. M. Beattie argues, for instance, that the most significant factor in the decline in convictions for this crime was the “change in attitudes towards the unmarried mother” as indicated by the advent of charitable institutions such as the lying-in hospitals.¹⁷ Hoffer and Hull have suggested that the law itself was increasingly viewed as anachronistic and out-of-step with a culture more interested in the sentimental aspects

¹³ Peter King, “Gender, Crime and Justice in Late Eighteenth- and Early Nineteenth-Century England,” in *Gender and Crime in Modern Europe*, ed. Margaret L. Arnot and Cornelia Osborne (London: U.C.L. Press, 1999), 46.

¹⁴ King, “Gender, Crime and Justice,” 46.

¹⁵ Hoffer and Hull, *Murdering Mothers*, 76.

¹⁶ Tracey Rizzo, “Between Dishonour and Death: Infanticide in the *Causes Célèbres* of Eighteenth-Century France,” *Women’s History Review* 13, 1 (2004): 10. See also Deborah Symonds, *Weep not for me: Women, Ballads, and Infanticide in Early Modern Scotland* (University Park, PA: Pennsylvania State University Press, 1997); Susanne Kord, “Women as Children, Women as Childkillers: Poetic Images of Infanticide in Eighteenth-Century Germany,” *Eighteenth Century Studies* 26, 3 (1993): 449-466; Ulinka Rublack, *The Crimes of Women in Early Modern Germany* (New York: Clarendon Press, 1999).

¹⁷ J. M. Beattie, *Crime and the Courts in England*, 120.

of mothering.¹⁸ Nevertheless, according to Mark Jackson, most scholarship to date has relied upon a vaguely defined “reform perspective” whereby it is assumed that a general increase in humanitarian feeling inspired lighter sentencing by the courts.¹⁹ Both Jackson and Thomas Laqueur have pointed to the need for greater attention to be paid to the role of medical discourse and the increasing tendency of courts to focus on detailed, scientific, natural explanations as a way to understand these seemingly unnatural crimes.²⁰ By linking detailed, objective knowledge as a sign of truth (including the body as a site of scientific discourse) with the “suffering subject,” these trials produced what Laqueur has termed the “humanitarian narrative.”²¹

While there are no doubt a variety of factors involved in the declining rates of prosecution, less attention has been paid to these scientific shifts, specifically, the more general appropriation of female reproductive knowledge by the medical and scientific community. The increasing reliance on scientific expertise in legal proceedings for infanticide encouraged representations of birth as an essentially passive (in)activity which—particularly in cases of secret births—could only be made sense of by recourse to the objective professionalism of male medical learning. Thus, the changing attitudes towards the infanticidal mother within the courtroom during this period parallel, to a certain extent, the changing nature of investigations into the truth(s) of the reproductive body delineated in the previous chapter. The shift from experiential knowledge to scientific learning in the midwifery debates is likewise played out in court, with surgeons and male midwives increasingly replacing female midwives as key trial witnesses. As

¹⁸ Hoffer and Hull, *Murdering Mothers*, 83.

¹⁹ Mark Jackson, *New-born Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England* (New York: Manchester University Press, 1996), 13.

²⁰ Jackson, *New-born Child Murder*, 123.

²¹ Laqueur, “Bodies, Details, and the Humanitarian Narrative,” 176-204.

male practitioners were not the majority of birth attendants in society at large during this period, this transformation represents a fairly conscious shift in the court's selection process. The testimonies of medical witnesses served as the counter point to the accused woman, herself unable to rationally explain or control the actions of her body. As experiential knowledge became increasingly suspect, male medical practitioners were positioned by the courts—and positioned themselves—as the necessary interpreters of the body. While these court witnesses were not necessarily the prominent man-midwives of William Hunter and his ilk, they nevertheless drew upon the same narrative habits outlined by these advocates and practitioners. The language of scientific objectivity lent these witnesses an aura of authority despite the fact that their testimony was frequently speculative and their evidence uncertain.²² While male witnesses and surgeons drew heavily upon women's own stories of secret births, their very existence within the courtroom worked to challenge the traditional female domain of experiential knowledge and authority.

Female Defences in the Courtroom

Female narratives concerning secret births, as we saw in the first chapter, were malleable creations. Women's confessions shifted throughout the process of investigation and exposure. By the time these cases reached trial, however, it was exceedingly rare for women accused to deny having given birth at all. In the context of mounting evidence, including the discovery of the infant's corpse, new narrative

²² The language used by male medical professionals was becoming increasingly specialized and distinct from traditional writings on midwifery. As women were generally denied access to formal scientific training, their language (both written and spoken) remained closer to a more informal and metaphorical style of discourse evident in seventeenth-century manuals. See Ernelle Fife, "Gender and Professionalism in Eighteenth-Century Midwifery," *Women's Writing* 11, 2 (2004): 185-200.

strategies were developed which encompassed aspects of both responsibility and innocence. Some women may have had access to legal advice before trial and could therefore rework their stories in ways that would counter the charge of concealment. Accused women within the courtroom drew upon a number of defences including but not limited to: marriage; the defence of linen; droppings; early onset deliveries; senselessness during labour; and falls and frights before the birth which led to stillborn infants. As the eighteenth century wore on, successful defences combined a large number of these claims, weaving them into recognizable stories designed to provoke sympathy from judges and juries. Narrative strategies became much more detailed and complex during this period and, as Dana Rabin argues, increasingly referred to the “emotional or mental state of the accused” as a “primary explanation for the crime.”²³

The most common line of defence at the beginning of the eighteenth century was the defence of linen. It seems to have been a fairly recent strategy as earlier records from the Old Bailey trials indicate that this defence was present less than ten percent of the time during the last quarter of the seventeenth century. Gowing’s work likewise indicates that linen was not a frequent defence in seventeenth-century trials.²⁴ Due to the limitations of these earlier documents, however, it is difficult to ascertain to what extent the infrequency of linen as a defence could simply imply a default in the recording techniques. From 1674-1700 for instance, 17% of the Old Bailey trial records state specifically that the accused said nothing in her defence. Approximately a quarter of

²³ Dana Rabin. “Bodies of Evidence, States of Mind: Infanticide, Emotion and Sensibility in Eighteenth-Century England,” in *Infanticide: Historical Perspectives on Child Murder and Concealment 1550-2000*, ed. Mark Jackson, (Aldershot: Ashgate Publishing Ltd., 2002), 74.

²⁴ Only two cases out of seventy found in the Northern Circuit Assize from 1642-1680 involve the linen defence. Gowing, “Secret Births and Infanticide in Seventeenth-Century England,” *Past and Present* 156 (1997): 99.

these records give no information whatsoever with regards to the presence or lack of a defence. Furthermore, the records from these late seventeenth-century trials often rely upon standardized and formulaic accounts which give little insight into the events and circumstances leading up to prosecution. In a record from February 1679, for instance, the transcript opens with an “unhappy Wench, whom the Devil had seduced to endeavour, to cover the filthy sin of Fornication, with the Scarlet Mantle of Murder.”²⁵ A few further sentences indicate that this nameless accused had cut the throat of her newborn infant child and, although she denied this fact, the record gives no further information with regards to her defence. The document thus concludes with the statement that upon “full evidence, nothing necessary here to be related, she was found guilty.”²⁶ In this same year the trial of Katherine Tumince is even more succinctly summarized. Katherine was brought in for “murdering her Bastard Male Child, which was found hid under rubbish in a Garret: several Witnesses, were examined: She made little defence, and was brought in Guilty of murther.”²⁷ This one sentence is the only record of Katherine’s trial and subsequent punishment. While some of these earlier trials do in fact give more information regarding the accused and her circumstances before prosecution, the limitations of these accounts nevertheless make it difficult to come to any firm conclusions surrounding the events of individual cases.

Having said this, the claim of stillbirth seems to have been the most common defence utilized in these late seventeenth-century trials. This assertion, although made in 22% of the trials, was rarely successful by itself. Of the fourteen women who attempted to use stillbirth as their only line of defence during this period, only two were acquitted, a

²⁵ O.B.P., Wench, Killing: Infanticide 26 February 1679.

²⁶ O.B.P., Wench, Killing: Infanticide 26 February 1679.

²⁷ O.B.P., Katherine Tumince, Killing: Infanticide, 16 July 1679.

rate less favourable than the overall rate of acquittal. From 1674-1700, fifty-eight percent of women were found guilty of the crime of neonaticide. Of the twenty-five women acquitted in this period, six proved they were married and thus did not come under the 1624 Statute. Thus, only nineteen women out of the fifty-four who were tried and were subject to the statute were found not guilty. The most successful defences in this period, after being able to prove oneself married, included having a supportive midwife witness and/or being able to provide evidence that one had made previous arrangements for a lying-in as this worked to counter the charge of concealment.

By the beginning of the eighteenth century, the claim of stillbirth hardly needed to be mentioned, as most other defences incorporated this as part of a much more detailed defence narrative. That a woman had given birth to a stillborn child required further elaboration. A stillbirth needed to be explained by the woman having suffered a previous fall, being frightened, coming early and/or having been hurt by some means or another. Sarah Lucas, tried at the Old Bailey in 1718, successfully drew upon a number of these defences. Sarah claimed that she had been “deluded by a fellow servant at another Place, who had promised her Marriage, and had put her off from time to time; that the Child was born dead, she having received Harm by two Falls not long before; that she came six Weeks before her time, had made provisions for it, had spoke to a Person to get her a Lodging to Lie-in, but was taken before she expected.”²⁸ This rather lengthy description of events worked to show both Sarah’s willingness to take responsibility for her situation as well as her extreme helplessness and vulnerability at the time of her labour. Women such as Sarah seemed to have understood that the claim of stillbirth by itself would not provide the necessary grounds for acquittal. The judges and juries, although increasingly

²⁸ O.B.P., Sarah Lucas, 9 July 1718.

sympathetic to the plight of these women, required a fuller narrative account which could perhaps somehow justify the court's direct disregard for the legal intent of the statute.

The defence of linen was by the eighteenth century a mainstay of a successful defence. From 1700-1725, the preparation of linen was used as evidence in favour of the accused in approximately 55% of defences. Only one of the women who proved they had prepared for the birth in this way was found guilty under the statute. While only a small number of guilty verdicts were returned overall, 10 out of 40 or 25%, linen was an important component of the court's decision to acquit. Hoffer and Hull suggest that after 1700, the benefit-of-linen in the "absence of evidence of violence" upon the body of the child "almost guaranteed an eventual acquittal in newborn bastard death trials."²⁹

Women like Ann Hasle tried in 1717, who could produce a "considerable quantity of child-bed linen" in court stood a greater chance of acquittal than those women who could not. Thus, in Ann Morris' trial at the Old Bailey in 1722, the midwife deposed that when she asked the accused if she had provided anything for the child, Ann apparently replied, "No indeed, Mrs. Cooper, I've provided nothing; I would not tell a lie for the world."

Although Ann's case was quite typical, having disposed of the infant into the "House of Ease," without any outward signs of harm upon the child's body, the midwife's evidence was taken seriously by the court and Ann was subsequently sentenced to death.³⁰ Ann Gardner likewise, tried in 1708, had little to say in her defence and as it "did not appear that she made any Provision for the Birth of a Child" the statute was read out in court and she was found guilty of the indictment.³¹ The one woman who used the linen defence during this period but was nevertheless found guilty had both her mistress and a midwife

²⁹ Hoffer and Hull, *Murdering Mothers*, 69.

³⁰ O.B.P., Ann Morris, 7 September 1722.

³¹ O.B.P. Ann Gardner, 15 January 1708.

suggest that the child was most likely born alive. Moreover, she did not actually bring any linen in to court, but instead had only one witness to claim that the linen was at the accused sister's house.³²

Linen continued to be an important component of defences during the second quarter of the century as well. From 1726-1750, the use of linen as a defence had dropped slightly to 46%; however, courts continued to inquire into this fact and to utilize this as evidence in their determination of guilt. The midwife in Elizabeth Smith's 1730 trial was asked directly by the court whether or not the prisoner had made provisions for the child. The midwife replied that she herself had found one "child's Cap in her [Elizabeth's] Box, and had heard that there was more in another Place."³³ Smith was acquitted of the charge, again based on this as well as other evidence. While linen was vitally important to a successful defence in this period, it could be called into question by other witnesses. Thus, when a midwife suggested that the linen produced by Mercy Hornby tried in 1734 actually belonged to her neighbour she, unlike the vast majority of women during this period, was found guilty by the court.³⁴ This evidence suggests that although linen was usually vital to a successful defence (and seems to have been generally taken fairly unquestioningly by the courts as proof of innocence) the testimony of a midwife witness could be invested with more authority than the presentation of this material evidence. Linen was, nevertheless, a fairly compelling defence, for it illustrated to the courts that a woman had not planned to conceal the birth of her child.

The second most often used defence during the first half of the eighteenth century was premature labour. During the first quarter of the century this was used in 35% of

³² O.B.P., Christian Russel, 14 January 1702

³³ O.B.P., Elizabeth Smith, 28 August 1730.

³⁴ O.B.P., Mercy Hornby, 24 April 1734.

defence narratives and by the second quarter in 30% of the cases examined. Mary Gough, tried in 1719, told the court that she “reckoned she had 6 Weeks longer to go.” While both the midwife and surgeon in her case believed upon examination that the child was born at full term, Gough was acquitted of the charge.³⁵ Sarah Dickenson told the court in 1728 that she believed she had “3 Months to go, which made her not so forward as making Provision as she should have been, and that the Child was Still-born.” Despite her miscalculation, Sarah did have some provisions to show and was found not guilty.³⁶ Although many of the women who claimed that they had come before their time were contradicted by other witnesses who examined the child’s body, this inconsistency seemed to have little impact on the outcome of the court’s verdict. For the judges and juries, whether or not the child had actually been early does not seem to have been the most important consideration. Early delivery defences suggested rather that the accused had gone into labour unexpectedly, was surprised by the onset of her pains and was therefore unprepared for the birth of the child. As such, this kind of defence worked to construe labour as a quick, unanticipated event that the accused could neither predict nor control. These defence narratives stressed both a woman’s helplessness and inability to prepare for the birth, as well as highlighting the way that under such circumstances there could be no premeditation for murder.

The combination of the preparation of linen and an early delivery defence worked well within the trial context because it provided the courts with evidence of both maternal devotion and the inability for premeditation. Women such as Elizabeth Warner, tried in 1760, seemed to have recognized that quick and painless labours could be grounds for

³⁵ O.B.P., Mary Gough, 3 September 1719.

³⁶ O.B.P., Sarah Dickenson, 17 January 1728.

acquittal. Warner had delivered over the vault and, while at first telling other witnesses that she had only had a bloody nose, eventually confessed to some neighbourhood women that she had in fact given birth. Elizabeth told the witness, Mary Lawson, that she had come before her time and that the child had “drop’d from her” over the vault with “very little pain.”³⁷ Elizabeth also told a fellow lodger, Margaret Watson, that when she went to the necessary house, in “straining my child came from me.” Margaret seemed frightened for Warner saying, “Lord, Betty, what will you do for the child, for you will be hanged.” According to Margaret’s testimony, Elizabeth replied, “hanged for what”? for “she was come before her time.” After numerous failed attempts to get the child out of the vault, Margaret went back upstairs to reproach Warner again demanding to know how she could do such a thing. Warner begged Margaret not to “reflect” too much and again maintained that she “could not help it, she felt no pain.” Watson deposed in court that linen had been found and that another woman had agreed to lend Warner a blanket for the child. Warner was found not guilty of the charge with a telling note at the end of the record specifying that she was acquitted “as delivered by surprise.”³⁸ The combination of linen and early delivery defences together worked to show that despite a woman’s attempt to prepare for the birth of her child, when surprised by the onset of labour, there was little more she could have done.³⁹

³⁷ O.B.P., Elizabeth Warner, 16 January 1760.

³⁸ O.B.P., Elizabeth Warner, 16 January 1760.

³⁹ It was precisely this combination that William Hunter used in his writings to exonerate women accused of infanticide. Hunter redefined the image of a woman accused of this crime by stressing both her innate maternal instinct and her complete helplessness during delivery. According to him, a woman’s best intentions were “frustrated” when taken unexpectedly in labour and even her “powerful and instinctive passion” to save her child could not counter the “distress in body and mind” that deprived her of all “judgment, and rational conduct.” Hunter, “On the Uncertainty of the Signs of Murder,” in Elements of Medical Jurisprudence (London: J. Callow, 1815), 156-159.

The combination of these two defences continued to be an important component of a successful plea throughout the second half of the eighteenth century, although to a lesser extent. From 1751-1775 for instance, the prevalence of the benefit of linen as a defence had dropped slightly, found in only 36% of trial defences. During the last quarter of the century, it was explicitly present in only 20% of courtroom narratives. Early delivery defences dropped from a high of 35% during the first quarter of the eighteenth century to only 13% from 1751-1775 and to 6.6% of trial defences from 1776-1800. New defences which stressed a woman's helplessness to save or care for her infant at the time of the delivery became increasingly common. While the early onset of labour highlighted a lack of premeditation, droppings into the vault and sudden fits of senselessness during delivery began to complement this form of defence. Although dropping generally incorporated aspects of the early delivery defence—being surprised by labour as in Warner's case above—this particular defence plea went even further in construing the woman accused as entirely unable to stop her child from falling from her body. The dropping defence allowed courts to interpret bruises and other evidence of harm found on the body of the child as possibly the result of falls into the vault or onto a hard floor rather than as indications of intentional violence.

While 'droppings' were present in less than 5% of cases from 1674-1700, such a defence increased steadily over the course of the eighteenth century rising to 10% of cases during the first quarter of the century, then to 27% from 1726-1750 and 30% during the third quarter.⁴⁰ From 1776-1800, dropping was the most commonly used component

⁴⁰ I have only counted 'droppings' when the accused said (or a witness said on her behalf) that the child dropped from her body during the process of labour. Most often this was used to explain why the child was found in the vault and/or to explain away bruises and cuts as being merely the result of the child's falling. Being surprised by the onset of labour or being senseless during the time of labour could result in

of a defence, present in 33% of all trials. Similarly, senselessness during the time of labour as a defence, present in none of the late seventeenth-century trials, rose to 8% during the first quarter of the century, down a bit to 6.7% from 1726-1750 and then rose again, present in 20% of defences for infanticide for the rest of the century. Such drastic increases in the prevalence of droppings and senselessness as defence strategies suggests that there were some fairly significant changes in the way in which the process of birth and delivery were described by women and interpreted by the courts.⁴¹

The court's increased allowance for defences that, strictly speaking, should not have gained women an acquittal when tried under the Statute of 1624, effectively rendered the law, in practice, anachronistic. Rublack has likewise found that in the case of infanticide in Germany, many women claimed that the birth had been sudden and that the "baby had fallen onto the floor."⁴² While medical witnesses increasingly corroborated these birth narratives, the evidence nevertheless highlights the fact that women, such as Elizabeth Warner above, were—or had quickly become—knowledgeable about what sort of delivery would allow the courts the necessary grounds for acquittal. While it is entirely possible that these women received some form of legal advice while awaiting trial, their self-presentations within the courtroom also highlights their ability to structure their personal stories in ways that fit into the framework of an exculpatory legal defence. Representing themselves as weak, ignorant and sometimes entirely unconscious during the time of their ordeal, women were able to "manipulate the public transcripts of

droppings; however, these aspects were not required for this defence to be utilized. Thus, each of these defences could be used exclusively or in combination.

⁴¹ While the Old Bailey Proceedings do become increasingly detailed and elaborate throughout the century, the fact that the incidence of producing linen is no longer recorded, and yet defences of senselessness are, suggests that this increase is not merely a matter of better recording techniques, but rather does imply a shift in defence strategies.

⁴² Ulinka Rublack, *The Crimes of Women*, 164.

gendered relations” to their own advantage, both obscuring and legitimizing what in an earlier century was taken to be the most wilful and unnatural act.⁴³ The process of birth was, to a certain extent, redefined within the courtroom and naturalized as essentially an (in)activity that surprised and rendered senseless the women accused. As such, rather than being found guilty for what she had done, the trial records suggest that courts increasingly felt that it was unfair to hold women responsible merely for what they had failed to do under such dire circumstances.

The inability for a woman to save her child as it dropped from her body was deemed particularly plausible by the courts when she claimed to have been senseless at the time of her delivery. In Ann Haywood’s 1762 trial, she claimed in her defence that when she was “upon the vault a pain came upon me and I could not get off, nor I did not know where I was till I was in bed. I was quite insensible when the child came from me.”⁴⁴ In 1794, Diana Parker—after having apparently admitted to several people (as she did to John Harris) that she had put her child down the privy, that “it was born alive” and that she therefore wished to be brought to justice—developed a different strategy once brought to trial. In court, Diana defended herself by saying that she “did not mean to make away with the child” and that she “did not know what I was about.” Diana showed some things that she had made for the child and was acquitted by the jury.⁴⁵ Evidence of cuts, lacerations and bruises upon the child’s body could, moreover, be forgiven by the judge and jury if a woman could convince them that she had been out of her mind during her labour. Thus, in the cook Sarah Hunter’s 1769 trial, her mistress deposed that another

⁴³ Michael J. Braddick and John Walter, “Introduction,” in *Negotiating Power in Early Modern Society*, ed. Braddick and Walter (Cambridge: Cambridge University Press, 2001), 20.

⁴⁴ O.B.P. Ann Haywood, 8 December 1762.

⁴⁵ O.B.P. Diana Parker, 17 September 1794.

servant came to her to tell her that Sarah was “very busy under the bed-clothes” and that she was “doing something to herself” and seemed to have “taken her knife out.” The child was discovered the following morning and according to the mistress had a “cut down from the ear, and then another cut across the throat” that seemed to be to right to the “bone of the neck.” The surgeon, Mr. Able, likewise described the cut and suggested that the child had been born alive. Despite the severity of the wounds upon the infant’s body, Hunter was acquitted after saying only in her own defence that “I awaked in the morning and found there was a child; that frightened me very much. I was not sensible what I did. I can give no account how I did it.”⁴⁶

Far from dismissing defences of senselessness, medical witnesses and judges increasingly validated these kinds of confessions. In a culture increasingly interested in notions of sensibility, the moral value of aggrandized feeling and particularly women’s more impressionable nature, a woman’s senselessness could be interpreted as a an inherently natural reaction to the calamitous and agonizing circumstances of an unattended birth.⁴⁷ These symptoms were increasingly being naturalized by medical experts both inside and outside the courtroom—representative of women’s delicate constitution, rather than as indications of mental or physical disease. Whereas insanity pleas in most murder cases were rarely accepted in eighteenth-century legal practice, women’s claims to senselessness during delivery often were.⁴⁸ When medical experts testified to an individual’s mental instability in regular cases of murder, the courts, rather than using the uncertainty of medical testimony to the advantage of the accused, more

⁴⁶ O.B.P. Sarah Hunter, 28 June 1769.

⁴⁷ G. J. Barker-Benfield, *The Culture of Sensibility: Sex and Society in Eighteenth-Century Britain* (Chicago: University of Chicago Press, 1992), xix.

⁴⁸ Landsman, “One Hundred Years,” 464-467.

often used it to dismiss the defendant's pleas.⁴⁹ Hence, in eighteenth-century criminal proceedings the courts operated within a gendered framework in which the gender of the accused had a fairly significant impact on the court's acceptance of senselessness pleas. In eighteenth-century trials for theft, similarly, Lynn MacKay has found that while both men and women often attempted to portray themselves as victims of circumstance, courts were far more willing to accept the pleas of vulnerability put forth by female defendants.⁵⁰ Women in these cases sometimes drew upon discourses specific to female virtues, such as pregnancy or child care responsibilities, in order to gain sympathy from the courts. In these cases, as well as in the female realm of infanticide prosecutions, the broader cultural discourses surrounding women's more sensitive biological make-up lent a certain plausibility to these kinds of legal defences.

Thus, even with such a great deal of evidence against women like Hunter, courts continued to return not guilty verdicts, apparently on the grounds of incapacity during the time of delivery. Dropping, as a defence by itself, could also gain the accused acquittal despite evidence of harm. In Ann Taylor's 1778 trial, the infant's body was examined by a surgeon who found that several of the ribs were cut through and that the head was almost torn off. Mr. Midford the surgeon thought that these wounds appeared to have been inflicted with the use of a sharp instrument. The court, however, continued to press Mr. Midford demanding to know whether or not such wounds could have possibly been the result of the child's dropping into the vault, suggesting to this witness perhaps that the child's body had struck against "the edge of bricks which sometimes project." Mr. Midford was reluctant at first to admit such a possibility, but the court continued to press

⁴⁹ Landsman, "One Hundred Years," 465.

⁵⁰ Lynn McKay, "Why They Stole: Women in the Old Bailey, 1779-1789," *Journal of Social History* 32, 3 (1999): 606-623.

him until he relented. Midford seems to have been fairly sceptical of the judge's suggestion, but after a lengthy period of questioning the surgeon finally admitted that he "would not say it could not be done so," and, in fact, he now "believed it might." Mr. Midford's original suspicion that the wounds upon the body of the child were most likely the result of a "cutting instrument" were effectively dismissed by the court on the grounds that Midford could not with certainty discount other possibilities. Ann did not even speak in her own defence, allowing the facts of the case to stand on their own.⁵¹

The notion that women were much more vulnerable to fits of senselessness has been documented by Porter, who suggests that it was increasingly common to construe women in such a way in advice literature, novels and medical tracts. He nevertheless argues that such constructions are "remarkable by their absence from letters and journals of men and women faced with the actual circumstances of sickness."⁵² Thus, according to Porter, the "age of sensibility produced a great crop of hysterical women, but only between the covers of novels."⁵³ What is striking, however, is women's own use of these forms of depictions to defend themselves within the courtroom. In the trial context, women were quite willing to draw upon these patronizing medical understandings in order to secure their own acquittal. Thus, within the eighteenth-century infanticide trial, the fictive representation of the hysterical woman became something of a reality.

Marylin Francus argues that only by way of conforming to the stereotypical constructions of femininity were the accused women able to be reintegrated into society.⁵⁴ While the fairly dramatic increase in defences of senselessness and droppings

⁵¹ O.B.P., Ann Taylor, 9 December 1778.

⁵² Porter and Porter, *Patient's Progress*, 178.

⁵³ Porter and Porter, *Patient's Progress*, 178.

⁵⁴ Francus, "Monstrous Mothers," 142.

utilized by women during the second half of the century certainly suggests that women were drawing upon strategies which highlighted their helplessness and vulnerability at the time of delivery, these tactics were most often deployed by women in court and subsequently upheld and legitimated by medical evidence. Thus, while a transition in representations of the accused and the process of delivery within the courtroom can certainly be substantiated, it does not follow that these women were merely hapless victims conforming to rigid constructions of femininity. Female narratives combined aspects of a variety of defences and their stories were continuously shifting depending upon the context of their confessions. Although defences of senselessness contributed to depictions of women as helpless subjects, their narratives illustrate a careful selection process that drew upon both legal requirements and cultural conventions.⁵⁵ Personal experiences of secret births retained (like all experience) the inherent potential to be plotted and narrated in a multiplicity of ways. By emphasizing some aspects over others, women selected from a variety of possible frameworks and structured their stories in ways that would be deemed both plausible and excusable to eighteenth-century courts. The particular circumstances leading to each trial were different. Hence, even when using standardized defences—perhaps based upon legal advice received before trial—women's individual stories had still to complement (or at least successfully challenge) the interpretations and chain of events recounted in court by other witnesses.

From Experiential Knowledge to 'Objectivity': Compassionate Courts and Sympathetic Surgeons.

Paralleling the decrease in the incidence of producing linen in court and the rise of defences of senselessness was the court's increasing reliance on male medical witnesses

⁵⁵ Walker and Kermode, "Introduction," 8.

to decipher the facts of the case. Experiments made by medical witnesses upon the infant's body were becoming ever more important to judicial inquiries. Throughout the eighteenth century, the child's corpse had been a fairly central piece of evidence; however, in earlier cases in which male practitioners were largely absent, female midwives could only make statements based upon traditional signs of a full-term birth and external evidence of assault or violence found on the body of the child. As female midwives were not generally permitted to conduct autopsies, these indicators were the only evidence available to them. The growing reliance upon the dissection of the corpse by surgeons in the second half of the century, and the medical testing and terminology which accompanied it, signified a new emphasis upon the body as a source of knowledge.⁵⁶ As Jackson maintains, despite popular antagonism towards dissection, the "inspection and dissection of bodies became an increasingly important tool in penetrating the secrets of nature."⁵⁷ The escalating scrutiny of evidence found within the infant's corpse can be understood therefore as part of the "novel interest in probing the depths of the human body."⁵⁸ While coroner's inquests into suspicious deaths had begun as early as the twelfth century in England, the changes in standards of proof and the greater reliance upon circumstantial evidence during the eighteenth century increased the court's dependence upon scientific experiments, particularly in cases in which direct evidence might be difficult or impossible to obtain.⁵⁹ Landsman's analysis of eighteenth-century poisoning, rape and infanticide trials at the Old Bailey—crimes notoriously difficult to

⁵⁶ Jackson, New-born Child Murder, 87.

⁵⁷ Jackson, New-born Child Murder, 87.

⁵⁸ Jackson, New-born Child Murder, 87.

⁵⁹ Poisoning, for instance, was another form of murder trial that relied heavily upon autopsy reports and yet was one in which the medical evidence presented remained generally inconclusive. See for example, Ian A. Burney, "Testing Testimony: Toxicology and the Law of Evidence in Early Nineteenth-Century England," Studies in History and Philosophy of Science 33 (2002): 289-314.

prove—reveals that after 1760, the reliance upon lay opinion in court dwindled while recourse to medical expertise rose.⁶⁰

In the case of infanticide, the inspection of the mother's body had traditionally provided some insight into the matter (for instance, whether or not she had in fact given birth); however, as the century progressed, the body most closely probed by medical witnesses became that of the infant. It was precisely the findings derived from experiments made upon the corpse that somehow allowed for the creation of narratives that highlighted the experience and suffering of the accused. Thus, although medical evidence centred around the clues found upon or within the child's corpse, this evidence was used by medical witnesses (often with the consent and even insistence of the courts) to construct hypothetical sequences of illegitimate births that exonerated the accused from responsibility for the death of her infant. The sympathy for the victim of the crime, the child, was therefore transferred to compassion for the suffering of the mother.⁶¹ The child's body became the object of medical testing and the site through which the internal mental and emotional state of the accused at the time of delivery could be ascertained.

While the sharp decline in conviction for infanticide occurred around 1715, male medical witnesses did not become the experts of choice until approximately mid-century. Female midwives were therefore often called upon in these earlier trials to make statements regarding the child's body. Due to the nature of their practice, however—being barred from the use of instruments, for instance—female midwives could comment only upon the external signs found upon the infant's corpse. Their evidence therefore drew upon traditional tell-tale signs of live or still-births. If the child's fists were open as

⁶⁰ Landsman, "One Hundred Years," 455.

⁶¹ This trend is also apparent in the fictional representations of infanticide examined by Josephine McDonagh, *Child Murder and British Culture*, 32-35.

opposed to clenched, for example, this suggested that the child had been born alive. Thus in 1718, a midwife testified that Ann Mabe's infant was most likely stillborn for its fists were clenched and it was her opinion that a "Child that is born new, if alive, came into the World with its Hands expanded; but if dead, with its Hands clenched." ⁶² Further evidence included whether or not the infant's fingernails and toenails were fully formed, an observation which could be indicative of whether or not a child had been born at full term. The midwife in Deborah Greening's 1725 trial testified therefore that, "to the best of her Judgement, the Prisoner did not go her full time, for the Toe Nails of the Infant were not perfect." ⁶³ While such evidence was based upon the signs offered up by the child's body, female midwives, even when sympathetic to the plight of the accused, rarely went as far as did male practitioners in constructing lengthy and speculative narratives surrounding the events of a secret birth.

While the evidence offered by male witnesses, as we will see, was no more conclusive than that given by female midwives, the use of scientific language and medical discourse lent them an aura of authority and helped to lessen the semblance of uncertainty that plagued these trials. Thus, while the shift towards the use of male surgeons and midwives cannot be said to have caused the decline in convictions, nor did their medical evidence in effect clarify the truths of the case, their increasing presence in these trials suggests that the courts felt that their testimony was somehow vital to the outcome of these trials. While female midwives could certainly utilize the outwards signs of the child's body to make statements regarding evidence of full-term births or violence upon the corpse, these external signs did not allow them access to the internal

⁶² O.B.P., Ann Mabe, 27 February 1718.

⁶³ O.B.P., Deborah Greening, 24 February 1725.

states of mind of the accused which the male practitioners often assumed. There seems to have been something peculiar to the surgeon's abilities to examine the innards of the body that gave them the propensity to intuit not only a chain of past events from which he were necessarily absent, but also the motivations and feelings of the accused that accompanied her travails. By accessing the innards of the body of the infant, the male practitioner claimed the ability to decipher the internal workings of the mother's mind.

In order to outline the divergent ways in which the body of the dead infant was spoken of and the conclusions which could be drawn from it by male and female practitioners, I will examine two similar cases. In Ann Hullock's 1760 trial, the child was found in the vault with serious injuries. Susannah Dorwood, the midwife, describes her examination of the child's body in personal and colloquial terms. After taking the child out of the vault the "blood appear'd: I said here is murder committed, the head is almost off; I laid it down on the boards, and it bled prodigiously."⁶⁴ The body had been "stuck in the soil, and the soil kept the place [head and body] together, so that the blood had no vent." Dorwood's examination lacks a specific description of the injury as well as a detailed account of how the child may have come by it, except to say "here is a murder." Dorwood then goes up to confront the accused and asks her "how could you lay violent hands on it to draw innocent blood...do you consider your soul?"⁶⁵ Such a direct confrontation between a male practitioner and the accused is exceedingly rare. As

⁶⁴ O.B.P., Ann Hullock, 21 May 1760.

⁶⁵ O.B.P., Ann Hullock, 21 May 1760. The reference to religion as well as Dorwood's immediate assumption that the accused had committed murder could certainly have discredited her statement in the eyes of a court increasingly interested in the rules of evidence and scientific experiment. The basis of Dorwood's authority, as a woman and midwife, rested largely upon experiential knowledge and traditional practice, and it was precisely this kind of authority that was increasingly viewed with suspicion in both medical discourse and legal practice. Fife's analysis of the divergent discourses used in male and female midwifery manuals likewise reveals that generally only in women's writing does one find reference to religion, specifically, in the form of an invocation for God's help towards a safe delivery (Fife, "Gender and Professionalism," 186).

outlined in the first chapter, while men were certainly able to draw conclusions about secret birth and make judgments surrounding the facts of the case, they rarely taxed the accused themselves, leaving this role to women within the community.

In contrast, medical witnesses utilized their examination of the infant's body to assess the facts of the case. In Mary Samuels' 1762 trial, the male midwife and surgeon Dr. White gives his testimony in a language quite different from Mrs. Dorwood's. Dr. White describes to the court the nature of the injury found upon the infant's body; it was a "laceration, a tearing by force on the right side of the mouth, beginning at the mouth and extending almost to the ear."⁶⁶ Having given the specifics of the injury, he continued, unsolicited, explaining how this might happen naturally. The doctor went on to describe how the "poor creature, I doubt not" was in a "great deal of distress, when the child's head might be born, and to extricate herself in that misery, she might introduce her fingers into the child's mouth, she might make use of this means to pull the child from her, which might break the jaw and tear the part." The reasons for his conclusions, while still couched in medical terminology, are nevertheless speculative and sympathetic ones, as evidenced by his repeated use of the words "she might." Indeed, it is plain to Dr. White that "no person would give themselves pain, if they could help or ease it; every body will try to ease themselves; and as the navel-string was broke before, death trust ensue [sic] [would have occurred] before the child could be delivered." Although the lungs, when immersed in water, had floated—suggesting that the child had in fact taken a breath—Dr. White explained to the court that "another of the faculty" agreed with him that even when the "lungs being inflated, and swimming" may suggest a live birth, this is

⁶⁶ O.B.P., Mary Samuel, 8 December 1762.

not “always proof of a child’s being born alive; that I have had a proof of within these ten days.”⁶⁷

While the profusion of blood in the first case examined above may suggest that a narrative such as Dr. White’s could not be used, many other cases reveal that even such injuries could be effectively explained away by a sympathetic medical witness. Thus, many infants appeared to have bled to death because the woman was herself unable to tie the umbilical cord properly.⁶⁸ The surgeon, William Withers, confirms this in Sarah Hopkins’ trial of 1767, observing that since the navel-string was broken quite close to the navel, he believed from this that the child “could not have lived past a minute or two, but must bleed to death” an event which “might happen as she stood erect.”⁶⁹ Richard Ingram a male midwife testifying in Elisabeth Gwatkin’s case of 1779, likewise swore that the death of a child “might very easily be accounted for from the umbilical cord not being secured.”⁷⁰ Again, these surgeons are willing to utilize such speculative evidence to suggest that the child died through no real fault of the mothers and, instead, that their ill fates were a result of the mothers’ inaction rather than wilful action. While female midwives certainly could give testimony suggesting a particularly violent birth or the

⁶⁷ O.B.P., Mary Samuel, 8 December 1762.

⁶⁸ That the navel string tore, was cut improperly (without the help of a professional practitioner) or left untied worked well as a courtroom defence as it played upon the ambiguity of the law with regards to the infant’s having a separate identity. Symbolically, the navel scar represents the separation between infant and mother necessary to constitute the subject as an independent and cultural being. By leaving it untied, the effect of this separation remains, to a certain degree, incomplete. For a discussion of the navel-string, see Elisabeth Bronfen, “The Body and its Discontents” in *Body Matters: Feminism, Textuality and Corporeality*, ed. Avril Horner and Angela Keane (Manchester: Manchester University Press, 2000), 109-110.

⁶⁹ O.B.P., Sarah Hopkins, 29 April 1762.

⁷⁰ O.B.P., Elisabeth Gwatkin, 15 September 1779

ability for a woman to be surprised by the onset of labour, they rarely went beyond these conclusions to reconstruct an entire series of events.⁷¹

As illustrated by Dr. White's testimony above with regards to the lung test, surgeons were, furthermore, quite willing to discount medical evidence in favour of a narrative of sympathy and suffering. Such a denial of the efficacy of medical testing by surgeons and courts is not uncommon in these trials. The lung test which involved removing the lungs from the infant's body and placing them in water to see if they would float—thus, determining whether or not the infant had taken a breath—although fundamental to a surgeon's testimony, was often discounted by either the surgeon himself or by the court. Thus, Robert Young reported in 1762 that after opening the thorax, he took out the lungs "in order to make the experiment usually made in these cases...the lungs did swim, but I was of the opinion that the experiment cannot be conclusive in this case, because the body had laid 3 days in the bog house, and I think such a fermentation might have been brought off, that it might gather air."⁷² The inconclusiveness of the lung test, although designed to bring greater clarity to these difficult situations, effectively contributed to the uncertainty that plagued these trials. In Rebecca Cowley's trial of 1781, the judge himself tells the surgeon witness that he "understood that the experiment upon the lungs has of late been held not to be conclusive," and that it is only "held to be conclusive, if the lungs sink." The surgeon was obviously compelled to agree with the judge and offered nothing more on the matter except an affirmative "yes."⁷³ One further

⁷¹ While female midwives were generally no less sympathetic than male practitioners, the growing preference for scientific findings through dissection, as opposed to the external evidence traditionally offered by female witnesses gave the male practitioners a larger role in trial proceedings which seems to have eclipsed what evidence female midwives had to offer.

⁷² O.B.P., Ann Haywood, 8 December 1762.

⁷³ O.B.P., Rebecca Cowley, 30 May 1781.

example of the court ruling out this evidence is found in the trial of Anne Taylor in 1778. After the jury asked the surgeon, Mr. Midford, if he dissected the body and performed the usual test, the judge quickly intervened, responding before Mr. Midford had a chance to answer with the claim that “that is nothing. We never suffer that to be given in evidence.”⁷⁴

Findings such as these complicate any simple understandings of the court’s reliance on medical testing as a means to establish the guilt or innocence of the accused. If surgeons and courts themselves increasingly refused to uphold the validity of medical testing, one must ask what purpose such testimony in fact served. The lung test was the only experiment that separated the findings of male practitioners from that offered by female midwives. Dissections rarely offered any other substantial evidence as to whether or not a child had been born alive. By calling into question this test or by stating as did the judge in Rebecca Cowley’s case that it was only held to be conclusive if the lungs sank and therefore substantiated a plea of innocence, the courts in effect made null and void the whole purpose of the surgeon’s presence in court. Or did they?

As Laqueur maintains, the ‘humanitarian narrative’ derived its success through its ability to construct “causal chains” of events which connected the “actions of its readers [in this case the judge and jury] with the suffering of its subjects.”⁷⁵ The dissections of the corpse worked to provide the courts with this necessary connection, making imaginative leaps from the body’s signs to the mother’s innocence. What surgeons and male medical practitioners offered in these cases was a connection between the innards of the body and the interiority of the feminine mind, accessed by their ability

⁷⁴ O.B.P. Anne Taylor, 9 December 1778.

⁷⁵ Laqueur, “Bodies, Details and the Humanitarian Narrative,” 177.

for objective distance and related in court within the discourse of medical science. These men's ability to penetrate the truths of the body in ways in which female practitioners could not, gave them the authority to draw conclusions about the state of mind of the accused and the sequence of events that she had endured. The child's body became a clue to the mother's suffering and the resulting narrative accounts offered by these medical witnesses, although absolving her from responsibility, increasingly replaced her own voice in these proceedings. Within the courtroom male practitioners were asserting "epistemological sovereignty" over both the "minds and bodies of others."⁷⁶ The medical gaze of the distant observer replaced knowledge based upon shared experience, simultaneously objectifying the corpse and claiming authoritative entitlement to speak on behalf of the accused.

As the century wore on, sympathetic medical testimony became increasingly common and midwives either disappeared from the trials or were positioned alongside male medical witnesses in court. Female experiential knowledge was no longer deemed reliable in itself. Indeed, in Elisabeth Gwatkin's 1779 trial, mentioned above, female testimony is directly contradicted and then disregarded by the court in favour of the male witnesses. Gwatkin utilized the dropping defence, saying she had been surprised with labour pains while sitting on the vault and that the child fell in. The first male midwife who was questioned by the court supported the possibility of such deliveries, testifying that there were "many instances" of such labours.⁷⁷ The second medical witness, a surgeon, Mr. Wade, who performed the examination of the child's body, likewise concurred. The court asked Mr. Wade specifically if he thought it possible that a

⁷⁶ Laqueur, "Bodies, Details and the Humanitarian Narrative," 188.

⁷⁷ O.B.P., Elisabeth Gwatkin, 15 September 1779.

“woman, being at a necessary, upon a needful occasion, may be taken in labour, and for the child to drop from her into the necessary without her putting it there?” Wade answered the court claiming that while “I have never known an instance of it; I have frequently heard of its being so.” Indeed, he had been previously informed by a lady that her own child had dropped into the necessary and thus, Mr. Wade thought such incidences “very probable.” Contrarily, the witness Elisabeth Bailey a neighbour of the accused, maintained that she did not believe such births were possible. The court pressed her suggesting that she herself had said there was a “difference between women.” Nevertheless, Bailey retained her original statement. Under cross examination, however, her testimony was called into question for, as she had not practiced as a midwife, it followed that “the ground of your [Bailey’s] observation must be very confined indeed.” Bailey replied that she was a married woman herself with children of her own. This fact was, however, no longer enough to persuade the court, for “the possibility of information” that Bailey could have gathered, according to the court, “must be but little.” In response to this suggestion, Bailey replied that she only answered “according to my judgment.” After a third male practitioner was called in and asked again about the possibility of such births, he likewise upheld that he was “clear it [these kinds of deliveries] can happen.”⁷⁸

While Bailey was not a midwife or medical professional, her answers suggest that she did not feel this barred her from making a statement about the case. She was a mother and her experience therefore qualified her to give an opinion. As a married woman, moreover, she most likely maintained the right to express her opinion and exercise a degree of authority in such matters within the community. She was a

⁷⁸ O.B.P., Elisabeth Gwatkin, 15 September 1779.

respectable woman with children who was involved in the taxing and searching of the accused, an integral part of the very events that brought Gwatkin to trial. In court, however, Bailey's testimony was easily dismissed by the male medical professionals who, while having no personal experience of birth, were apparently more qualified than she to understand the process of labour. Of course, what is interesting about this case is that while these male medical witnesses would most likely never have seen such a birth—as it generally only happened in the context of concealment of pregnancy and secret deliveries—their evidence draws on (speculative) female experience. Thus, while contradicting the testimony of Elisabeth Bailey, Dr. Wade nonetheless upholds the validity of such births based upon hearsay; the knowledge reported to him from an anonymous lady.⁷⁹ Likewise, all of these male witnesses are in fact legitimating the defences used by the accused through these medical narratives. Thus, while Bailey's experience as a mother is discounted, Gwatkin's is, ironically, authenticated.

The professional learning of male medical practitioners by this time came to outweigh the experiential knowledge of female witnesses even while these doctors' testimony generally corroborated the defensive strategies of the accused. Not only was Gwatkin acquitted by the courts with the help of these men's testimony, but something else was also being created within the courtroom walls. A new understanding of labour and birth as a process that rendered certain women incapable of saving their infants from falling out of their bodies and into outhouses became, throughout the course of the century, increasingly legitimated through legal practice. As such, if women could not

⁷⁹ By making reference to the word of a lady, Mr. Wade's testimony linked his professionalism with the authority derived from class. A lady's word would obviously have given his opinion more credence than that of unmarried servant women like Gwatkin. Thus, this kind of birth is legitimated not only through the use of scientific discourse, but also through reference to the experiential knowledge of a lady who would, presumably, have no reason to lie.

even manage to catch their child before it dropped and if the experience of birth rendered them entirely senseless, one had to wonder to what extent female experiential knowledge could be trusted at all. Hence, if the basis for female midwifery rested largely upon women's intuitive and experiential understanding of reproductive matters, in opposition to male artifice, why was it that so many women when faced with the pangs of labour could not differentiate between this and other bodily processes? While what transpired in the courtroom was not the cause (or a necessary effect) of the shifting practices in midwifery, certain understandings were, no doubt, taking root. Both within the courtroom and in the debates over the man-midwife, women's ability to speak from a place of authority about their own bodies or those of other women was being questioned within legal and medical practice respectively.

The tensions between experiential knowledge and objective learning outlined above were paralleled by the opposition increasingly evident between communal opinion and medical/judicial authority. While women continued to operate as regulators of sexual morality within the community, their authority was gradually being discounted within the trial setting. Already by Elizabeth Fletcher's 1747 trial, the bill was returned *ignoramus*, meaning that, according to the court, there was no case to answer. The record states tellingly that, upon examination of the case, the suspicions directed against Elizabeth appeared to be "entirely without a Foundation, and arose from some poor, ignorant, and rash People, by whose Means this poor Creature was like to fall a Sacrifice to the Mob."⁸⁰ While the validity of the neighbourhood suspicions could justifiably be brought into question in this case, the tone taken by the jury with regards to the "ignorant mob" is nevertheless significant. Judges and juries by the second half of the century not

⁸⁰ O.B.P., Elizabeth Fletcher, 9 September 1747.

only inquired ever more into the emotional state of the accused at the time of delivery, but moreover positioned themselves as the enlightened protectors of helpless women who were seen as falling victims to the fanaticism of the lower orders.

Tracy Rizzo's examination of infanticide in eighteenth-century French *causes célèbres* likewise illustrates a growing distrust among judges and juries towards the "bloodlust of the 'people.'"⁸¹ It was, according to legal authorities, always "misguided public opinion, especially the 'clamor' of women, which created a *cause célèbre* where none would otherwise exist."⁸² Susanne Kord's examination of German infanticide cases also documents the increasing reliance on medical and professional testimony in court proceedings which could, at times, carry more weight than even a woman's own confession.⁸³ Only an unfeeling, uncouth individual could remain unmoved by the stories of suffering and swooning that came to permeate courtroom narratives. The ability for feeling and sympathy within legal practice, therefore, affirmed the superior sense of self and sensibility exercised by the judges and juries. Sensibility, by mid-century, while generally still understood as the preserve of the more genteel orders, nevertheless implied not only a "special and admirable susceptibility to one's own feelings," but, moreover, an innate ability to sympathize, and be oneself emotionally affected by, the suffering of others.⁸⁴

In feeling for others and voicing their suffering, however, the humanitarian narrative, according to Laqueur, tended to create a sense of "property in the objects of

⁸¹ Tracey Rizzo, "Between Dishonor and Death," 14.

⁸² Rizzo, "Between Dishonor and Death," 14.

⁸³ Susanne Kord, "Women as Children," 450.

⁸⁴ Rabin, "Bodies of Evidence," 89.

compassion.”⁸⁵ Ownership of property, even in this vein, continued by and large to be the preserve of men, specifically those more learned individuals whose education entitled them to speak on behalf of others. Thus, the degree of sympathy that male professionals could express within the courtroom could sometimes go beyond what any female witness or midwife would dare confess. Some surgeons were quite willing to admit directly their sympathy for the accused, even if it implied a direct disregard for the operations of justice. Dr. Underwood, for instance, testified in Elizabeth Warner’s 1770 trial that he had “begged her” when it seemed as if she was “going to say something to me” not to “tell me anything that would do her hurt.”⁸⁶ Underwood actually advised her at this point to “go away directly” for only she “knew whether she was guilty or not.”⁸⁷ Such an obvious attempt to obstruct justice as well as such misplaced loyalty—directed as it was towards the accused rather than to abstract principles of truth and objectivity—could not have been made by a female midwife without damage to her reputation. As Gowing maintains, the midwife’s position depended on her ability to “expose secrets” specifically those that compromised a community’s sexual norms and bodily boundaries.⁸⁸ A midwife who testified to having begged a suspect to escape would certainly have jeopardized her role as guardian of female sexual morality. Rather than gaining a confession from the accused—which obviously seemed like a distinct possibility from what we can gather from this encounter—Underwood preferred to remain ignorant to whatever facts about the case she was willing to report in order not to do her harm in court. While the purpose of medical evidence was purportedly to establish the facts of

⁸⁵ Laqueur, “Bodies, Details, and the Humanitarian Narrative,” 179.

⁸⁶ O.B.P., Elizabeth Warner, 16 January 1770.

⁸⁷ O.B.P., Elizabeth Warner, 16 January 1770.

⁸⁸ Gowing, “Ordering the Body: Illegitimacy and Female Authority in Seventeenth-Century England,” in *Negotiating Power*, 45.

the case, the testimony of male midwives and surgeons more often obscured rather than exposed the truths of illegitimate births.

Male medical court witnesses, while relying upon the dissection of the corpse as a means to interpret the guilt or innocence of the mother, nevertheless frequently utilized their findings in order to make sympathetic and hypothetical claims about the process of delivery and birth. While Rabin maintains that the court's focus upon the state of mind of the defendant became so privileged during the eighteenth century that "evidence about the body no longer determined the outcome of a trial," this statement ignores the way in which the child's body served as the crucial link that allowed medical witnesses to make claims surrounding the intentions of the accused.⁸⁹ While women themselves were often the first to draw upon strategies which highlighted their helplessness and vulnerability during delivery—as evidenced by their use of new courtroom defence narratives—it was the corpse itself that was used by the surgeons, judges and juries to validate these kinds of confessions.

Unearthing the facts of the case through dissection was vital to these new defences for reasons other than an ability to offer any reliable, scientific truths. As the conclusions of medical testing were increasingly called into question by eighteenth-century courts, the evidence available to medical practitioners differed little from that available to traditional midwife witnesses. The testimony offered by these two groups, however, diverged in terms of both the language used and the authority upon which their claims rested. As the experiential knowledge of women came increasingly to be seen as suspect, male practitioners became ever more prominent as expert witnesses in infanticide court proceedings. The split between innate experiential knowledge and

⁸⁹ Rabin, "Bodies of Evidence," 74.

professional objectivity was paralleled by an increasingly articulated division between communal opinion and educated learning. The shifts occurring within these trials operated therefore upon an axis of both gender and class distinctions. The humanitarian narrative outlined by Laqueur in some ways worked as the intersection between these sites. Sympathy for the mother as victim at once exonerated her from guilt and, simultaneously, helped to affirm the superior feeling and sensibility of the emerging male practitioners and legal professionals. The reticence of these witnesses to draw firm conclusions, particularly ones which might convict the accused, was, moreover, part of the broader culture of medical professionalism. Gentlemanly demeanour and civil discourse were increasingly incorporated into the medical practitioner's professional identity.⁹⁰ As illustrated by the self-constructions of the male midwives examined in the previous chapter, the capability for tenderness and compassion was vital to countering portrayals levied by their opponents who sought to discredit them as either hack surgeons wielding crotchets, or opportunists motivated exclusively by perversion and self-interested. The image of the man-midwife as a gentleman capable of reason and sympathy was played out within the courtroom as well. And, even while expert medical witnesses confirmed and legitimated women's own stories of secret births and deliveries, their presence within the proceedings nevertheless called into question women's ability to speak from a place of authority about their own bodies and the bodies of other women. As such, while exonerating the accused, the male witnesses also positioned themselves as the necessary interpreters and narrators of the female body.

⁹⁰ Landsman, "One Hundred Years," 488. See also Porter and Porter, Patient's Progress, 142.

Conclusion: Lasting Impressions

I want to begin with a case related in the *Times* March 1859, in which it was reported that during the infanticide trial of Agnes Bradley the judge became “painfully affected.”¹ Apparently, the judge in this case was moved by the accused testimony to such a degree “that at one time he buried his face in his note-book and shed tears, and seemed almost unable to proceed with the evidence.” The intense “interest” that this case had inspired within the courtroom was said to have been most likely the result of the “youthful and interesting appearance of the prisoner, who was also much affected.”² The tremendous outpouring of sympathy and feeling described in this excerpt was, in part, the product of the subtle shifts in the representation of women accused of newborn infant murder during the eighteenth century. Within this rather limited description of a nineteenth-century case, the representation of the infanticidal mother as an object of sympathy rather than enmity had found its full expression.

While the courtroom drama that inspired this story is only one particularly extreme example of the sympathy of legal professionals for accused women, this description is also suggestive of an awareness on the part of the public that the operations of justice were perhaps being thwarted. Increasingly, reports of this kind were being publicized and some medical men began to question the validity of the sympathetic portrayal put forth by practitioners like William Hunter.³ Whereas Hunter saw women accused of infanticide as victims of circumstance or seduction, overwhelmed by terror

¹ *Times*, March 28th 1859, 11, as cited by Christine L. Krueger, “Literary Defenses and Medical Prosecutions: Representing Infanticide in Nineteenth-Century Britain,” *Victorian Studies Journal* (1997): 275.

² *Times*, March 28th 1859, 11, as cited by Krueger, “Literary Defenses,” 275.

³ Krueger, “Literary Defenses,” 283. See also Hilary Marland, *Dangerous Motherhood: Insanity and Childbirth in Victorian Britain* (Hampshire: Palgrave Macmillan Ltd., 2004).

and despair, other medical professionals began to wonder if this particular understanding had made the courts too lenient in their treatment of women accused of this crime.

Indeed, in the preface to the third edition of William Hunter's famous lecture *Observation on the Uncertainty of the Signs of Murder in the Case of Bastard Children*, the author suggests that although Hunter's paper be "esteemed" and that juries may well before have been "convicting [women] upon insufficient evidence," they had now "passed into the opposite extreme of too readily acquitting them."⁴ Similarly, in a work by John Gordon Smith aimed at providing information for medical witnesses in criminal trials, he proclaimed that,

the errors of William Hunter are enforced from the judgment-seat, while those among us who choose to follow the guidance of scientific truth, in preference to the dogmas of a great name, are pronounced to be deficient in respectability, and are not allowed to give evidence that may tend to correct the mistakes of supply the deficiencies of one who, unhappily for us and for our science, did not live to see the introduction of forensic medicine as an important and well-digested branch of political philosophic study.⁵

Despite Gordon Smith's faith in forensic evidence, nineteenth-century courts were in fact in no better position than their eighteenth-century predecessors to make conclusive determinations of guilt through medical testing.⁶ While the statute of 1624 was repealed in 1803 and replaced with Lord Ellenborough's Offences Against the Person Act—overturning the presumption of guilt and placing the burden of proof upon the prosecution—this new law did nothing to clarify the issues of infanticide cases and was

⁴ Elements of Medical Jurisprudence; or a Succinct and Compendious Description (London: J. Callow, 1815), vii.

⁵ John Gordon Smith, An Analysis of Medical Evidence: Comprising Directions for Practitioners in the View of Becoming Witnesses in Courts of Justice (London: 1825), 46, as cited by Krueger, "Literary Defenses," 283.

⁶ According to Krueger, proof of live birth continued to be "unobtainable with nineteenth-century diagnostic techniques," (Krueger, "Literary Defenses," 283).

essentially a belated response to what had been occurring in legal practice for at least half a century.⁷

The desire to shield women from conviction for these crimes by both courts and medical professionals was thus at once acknowledged and questioned through the coverage of infanticide trials. Reports began to circulate of incidences in which even a woman's own confession had been discounted in favour of the interpretations of medical witnesses. One of the most dramatic examples of this was a case recounted by William Guy in 1844. Guy recorded a case in his textbook in which a woman confessed to the murder of her infant in "minute detail" only to have her confession disproved by a surgeon who had examined the corpse of the child. According to Guy, when this woman was "confronted with this exonerating testimony" she seemed "much distressed in mind, and said in a low voice, 'I thought I had murdered the child, but I will leave it to the doctors to tell whether I did it.'"⁸ This kind of reportage, whether fictional or not, nevertheless served multiple and competing purposes. Like the case reported in the *Times* above, these texts construed the accused as an object of sympathy while simultaneously casting doubt upon the legitimacy of the medical and legal practices informing these proceedings.

What had begun as an acceptance on the part of the courts of defences based upon temporary fits of senselessness validated by expert witnesses had, by the nineteenth century, become a medical condition known as puerperal insanity.⁹ The medicalization of this condition helped to solidify the role of medical witnesses in criminal court

⁷ Krueger, "Literary Defenses," 274.

⁸ William A. Guy, *Principles of Forensic Medicine* (New York: 1845, first published in London, 1844), 14, as cited by Thomas Laqueur, "Bodies, Details, and the Humanitarian Narrative," 188.

⁹ See Marland, *Dangerous Motherhood*

proceedings for infanticide and to legitimize temporary insanity defences in these cases. Related to the more general medical interest in female disorders falling under the broad category of hysteria, puerperal insanity at once hysterized and excused women accused of newborn infant murder. While this type of defence was, and continues to be, highly controversial, mental disorders affecting women during the first year after giving birth are today inscribed in English law. The mental and emotional distress associated with childbirth and lactation continues to provide legitimate, if only partial, grounds for infanticide defences. Thus, the current law governing infanticide, the British Infanticide Act of 1922 (amended in 1938), gives legal recognition to the belief that a woman who has recently given birth may have an “altered and disturbed mental status for up to one year following the delivery of the child.”¹⁰ A distinction is therefore made between the murder of a child under twelve months of age and one killed after this period. The Act states specifically that:

Where a woman by any wilful act of omission causes the death of her child being under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this Act the offence would have amounted to murder she shall be guilty of felony, to wit infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.¹¹

A woman who is accused of murdering her infant under one year of age can therefore be tried and sentenced as if she had committed manslaughter rather than murder.¹² By making reference to a woman’s disturbed state of mind as a way to partially absolve her

¹⁰ Velma Dobson and Bruce Sales, “The Science of Infanticide and Mental Illness,” Psychology, Public Policy and the Law 6, 4 (2000): 1099.

¹¹ A.A. Bartholomew and A. Bonnici, “Infanticide a Statutory Offence,” Medical Journal of Australia 18, 2 (1965): 1018-1019.

¹² Dobson and Sales, “The Science of Infanticide,” 1099.

from responsibility for this crime, the legal interpretation of infanticide has, to a certain degree, incorporated eighteenth-century senselessness defences.

The recognition of this type of condition in legal theory has, like the draconian statute of 1624, done little to clarify the issues surrounding this crime. The cultural ambivalence that these cases inspire is revealed in contemporary media coverage. Immense outpourings of feeling and sympathy as well as hostility and disgust are played out in newspaper and television reports. The intense public fascination with these cases points not only to humanity's continued attraction to the gruesome, but also, I think more importantly, to the curiosity that stems from the way in which such acts represent the antithesis of society's assumptions about maternity. The idealization of motherhood that, according to some, was invented in the eighteenth century, remains central to modern conceptions.¹³ Depictions of the infanticidal mother as victim, as insane, or even as an unnatural monster, uphold and validate certain maternal ideals by alleviating any sense of ambivalence about the existence of an instinctive maternal devotion. Infanticide represents the limits of Western culture's understanding of motherhood. Investigations into the changing perceptions of, and consequences for, women accused of this crime can therefore offer substantial insights into the social construction of maternity and sexual difference, both past and present.

The sympathetic portrayals of accused women within the courtroom are illustrative of the broader trends surrounding the naturalization and idealization of motherly love. Through legal practice and medical discourse a new understanding of motherhood was being created within the eighteenth-century courtroom. By way of

¹³ See for instance, Shari L. Thurer, The Myths of Motherhood: How Culture Reinvents the Good Mother (Boston: Houghton Mifflin Company, 1994).

depicting infanticide as an act of senseless neglect rather than wilful murder, the emergent ideals of maternal affection could more easily be sustained. Motherhood was thus both naturalized and constructed through these practices. Ironically, at the same time that maternal instinct was being expounded as an innate female sentiment, women's relationship to their own bodies, to those of other women and to reproductive knowledge more generally, was increasingly problematized and rendered suspect in medical discourse and legal practice. Thus, although maternal instinct was coming to be depicted as a natural and biologically based female characteristic, this instinct, at least in cases of secret births, increasingly needed to be mediated by the, real or symbolic, interposition of the male practitioner. Neither women's intuitive knowledge nor their innate instincts seemed to be enough to save the lives of their children during delivery. Women's helplessness and vulnerability in cases of unattended births thus both excused them from responsibility and, in some ways, worked to reinforce the claims of male practitioners who argued that women could not be entrusted with the authority to interpret or manage their own or other women's bodies.

In this project I have attempted to demonstrate the way in which the changing representations of the accused in the eighteenth-century paralleled the broader cultural shifts taking place in the fields of medicine and the law. In cases of illegitimate births, medical practitioners increasingly positioned themselves, and were positioned by the courts, as the necessary interpreters of the female body. In legal proceedings, judges and juries came to rely upon the testimony of these medical experts to make sense of these cases. Yet, despite these shifts, medical evidence did little in the way of actually offering conclusive determinations. Scientific experiments made upon the corpse were in fact no

more effective with regards to interpreting the signs of the body than earlier methods had been. The alterations taking place within the courtroom and the shifting basis of authority in matters of the body in medical discourse cannot therefore be entirely captured by a concept of medicalization.¹⁴ The testimony of medical practitioners drew as much upon feeling and sympathy as it did the discourses of scientific objectivity. Anatomical knowledge and skill were never enough, in either the courtroom or the birthing chamber, to replace the traditional authority of women in these matters. Thus, in the self-constructions of male midwives and surgeons, these practitioners both appropriated and displaced the special expertise of women by highlighting their own masculine sympathy alongside their superior ability for objective reasoning.

The signs of the body continued to be indeterminate throughout this period and allowed for the existence of a variety of competing dialogues through which stories of the body could be told. The authority upon which such stories rested was certainly shifting in favour of the male practitioner and yet, whether in the community or the courtroom, women continued to construct their experiences of secret births into narrative forms that could be understood, if not always believed, by both courts and communities. Women's stories sometimes challenged, and at other times conformed to, the interpretations of those around them. Whether participating in court as accused, witness or midwife, women's accounts both informed and were formed by the broader cultural discussions surrounding birth and maternity. What seventeenth-century courts had perceived to be the most wilful and unnatural act had, by the eighteenth-century, become an excusable, almost inevitable, consequence of secret births

¹⁴ Tony Ward, "The Sad Subject of Infanticide: Law, Medicine and Child Murder, 1860-1938," Social and Legal Studies 8, 2 (1999): 163-189.

Bibliography

Archival Sources

London, Public Record Office.

Assizes: Northern and North-Eastern Circuits: Criminal Depositions and Case Papers. Assi. 45. 18/2-18/51; 26/4-29/3; 37/2-40/2. [cited in text as P.R.O.]

The Old Bailey Proceedings Online. Project Directors Tim Hitchcock and Robert Shoemaker, implemented by the Humanities Research Institute, University of Sheffield and the Higher Education Digitization Service, University of Hertfordshire, 2003. (May 15th 2005).

<http://www.oldbaileyonline.org/proceedings/publishinghistory.html#value>
[cited in text as O.B.P.]

Printed Primary Sources

The Danger and Immodesty of the Present too General Custom of Unnecessarily Employing Men-Midwives, Being the Letters which Lately Appeared under a Signature of a Man-Midwife, with an Introduction, a Treatise on Milk, and an Appendix with corrections by the Author. London: J. Wilkie and F. Blyth, 1772.

Death Blow to He or Man Midwifery: Addressed to Husbands and Fathers...Its Disgusting and Obscene Practices. London: 1850 [?].

Douglas, William. A Letter to Dr. Smellie. London: J. Roberts, 1748.

Elements of Medical Jurisprudence; or a Succinct and Compendious Description or A succinct and compendious description of such tokens in the human body as are requisite to determine the judgment of a coroner, and courts of law, in the cases of divorce, rape, murder &c. to which are added, directions for preserving the public health. London: J. Callow, 1815.

Junonesia: or Women Rescued, a Familiar Treatise Relating to the Prevalence Practice and Evil Tendencies of Man-Midwifery. London, 1838.

Lapeyre, Louis. An Enquiry into the Merit of These Two Important Questions: I. Whether women with Child Ought to Prefer the Assistance of Their Own Sex, II Whether the Assistance of Men-Midwives is Contrary to Decency. London. 1772.

Nihell, Elizabeth. A Treatise on the Art of Midwifery, Setting Forth Various Abuses

Therein, Especially as the Practice with Instruments: The Whole Serving to Put All Rational Inquirers in a Fair Way of Very Safely Forming Their Own Judgment Upon the Question: Which It Is Best to Employ in Cases of Pregnancy and lying-in, a Man-Midwife or, a Midwife. London: A Morley, 1760.

Stevens, John. Man-Midwifery Exposed: or the Danger and Immorality of Employing Men in Midwifery Proved: and the Remedy of that Evil Found, Addressed to the Society for the Suppression of Vice. London: William Horsell, 1849.

Published Sources

- Barker-Benfield, G.J. The Culture of Sensibility: Sex and Society in Eighteenth-Century Britain. Chicago: University of Chicago Press, 1992.
- Bartholomew, A. A. and A. Bonnici, "Infanticide a Statutory Offence." Medical Journal of Australia 18, 2 (1965): 1018-1021.
- Beattie, J.M. Crime and the Courts in England, 1660-1800. Princeton: Princeton University Press, 1986.
- Braddick, M.J and John Walter. "Introduction, Grids of Power: Order, Hierarchy and Subordination." In Negotiating Power in Early Modern Society: Order, Hierarchy, and Subordination in Britain and Ireland ed. by Braddick and Walter. Cambridge: Cambridge University Press, 2001, 1-42.
- Bronfen, Elisabeth. "The Body and its Discontents." In Body Matters: Feminism, Textuality and Corporeality ed. by Avril Horner and Angela Keane. Manchester: Manchester University Press, 2000, 109-127.
- Brundage, Anthony. The English Poor Laws, 1700-1930. Hampshire: Palgrave, 2002
- Burney, Ian A. "Testing Testimony: Toxicology and the Law of Evidence in Early Nineteenth-Century England." Studies in History and Philosophy of Science 33 (2002): 289-314.
- Cody, Lisa Forman. "The Politics of Reproduction: From Midwives Alternative Public Sphere to the Public Spectacle of Man Midwifery." Eighteenth Century Studies 32, 4 (1999): 477-497.
- Clark. Michael and Catherine Crawford. "Introduction." In Legal Medicine in History, ed. by Michael Clark and Catherine Crawford. Cambridge: Cambridge University Press, 1994.
- Crawford, Patricia. "Sexual Knowledge in England, 1500-1750." In Sexual Knowledge Sexual Science: The History of Attitudes to Sexuality ed. by Roy Porter and Mikulás Teich. Cambridge: Cambridge University Press, 1994, 82-106.
- Crawford, Patricia and Sara Mendelson, Women in Early Modern England. Oxford: Clarendon Press, 1998.
- Dabhoiiwala, Faramerz. "Sex, Social Relations and the Law in Seventeenth- and Eighteenth-Century London." In Negotiating Power in Early Modern Society: Order, Hierarchy, and Subordination in Britain and Ireland ed. by M. J. Braddick and John Walter. Cambridge: Cambridge University Press, 2001, 86-101.

- Daly, Mary. Gyn/ecology: The Metaethics of Radical Feminism. London: The Women's Press, 1979.
- Davis, Natalie Zemon. Fiction in the Archives: Pardon Tales and their Tellers in Sixteenth-Century France. Stanford: Stanford University Press, 1987.
- Helen Deutsch, "This Monster, the Body: Narratives of Illness, Histories of Presences, 1812, 19993." In Monstrous Dreams of Reason: Body, Self and Other in the Enlightenment ed. by Laura J. Rosenthal and Mita Choudhury. London: Bucknell Press, 2002, 110-131.
- Dickinson, J.R. and J.A Sharpe. "Infanticide in Early Modern England: The Court of Great Sessions in Chester 1650-1800." In Infanticide: Historical Perspectives on Child Murder and Concealment, 1550-2000 ed. by Mark Jackson. Manchester: Manchester University Press, 1996, 35-51.
- Dobson, Velma and Bruce Sales. "The Science of Infanticide and Mental Illness." Psychology, Public Policy and Law 6, 4 (2000): 1098-1112.
- Donnison, Jean. Midwives and Medical Men: A History of the Struggle for the Control of Childbirth. London: Historical Publications Ltd., 1988.
- Ehrenreich, Barbara and Deirdre English. Witches, Midwives and Nurses. Old Westbury: New York: Feminist Press, 1973.
- Evenden, Doreen. The Midwives of Seventeenth-Century London. Cambridge: Cambridge University Press, 2000.
- Fairchilds, Cissie. Domestic Enemies: Servants and their Masters in Old Regime France. Baltimore: John Hopkins University Press, 1984.
- Fife, Ernelle. "Gender and Professionalism in Eighteenth-Century Midwifery." Women's Writing 11, 2 (2004): 185-200.
- Forbes, Thomas R. "The Regulation of English Midwives in the Eighteenth and Nineteenth Centuries." In The Medicalization of Obstetrics: Personnel, Practice, and Instruments ed. by Phillip K. Wilson. New York: Garland Publishing, Inc., 1996, 32-42.
- Foucault, Michel. The Order of Things: An Archaeology of the Human Sciences. New York: Pantheon Books, 1971.
- Francus, Marilyn. "Monstrous Mothers, Monstrous Societies: Infanticide and the Rule of Law in Restoration and Eighteenth-Century England." Eighteenth-Century Life 21, 2 (1997): 133-156.

- Gilroy, Amanda. "Candid Advice to the Fair Sex." In Body Matters: Feminism, Textuality and Corporeality ed. by Avril Horner and Angela Keane. Manchester: Manchester University Press, 2000, 17-28.
- Goldstein, Jan. "The Hysteria Diagnosis and the Politics of Anticlericalism in Late Nineteenth-Century France." The Journal of Modern History 54, 2 (1982): 209-239.
- Gowing, Laura. Common Bodies: Women, Touch and Power in Seventeenth-Century England. New Haven: Yale University Press, 2003.
- Gowing, Laura. "Language, Power and the Law: Women's Slander Litigation in Early Modern London." In Women, Crime and the Courts in Early Modern England ed. by Garthine Walker and Jenny Kermode. London: U.C.L. Press Limited, 1994, 26-47.
- Gowing, Laura. "Ordering the Body: Illegitimacy and Female Authority in England." In Negotiating Power in Early Modern Society: Order, Hierarchy, and Subordination in Britain and Ireland ed. by J. M. Braddick and John Walter, Cambridge: Cambridge University Press, 2001, 43-62.
- Gowing, Laura. "Secret Births and Infanticide in Seventeenth-Century England." Past and Present 156 (1997): 87-116.
- Gowing, Laura. Women, Words and Sex in Early Modern London. Oxford: Clarendon Press, 1996.
- Grosz, Elizabeth. Jacques Lacan: A Feminist Introduction. London: Routledge, 1990.
- Harvey, Karen. "The Substance of Sexual Difference: Change and Persistence in Representations of the Body in Eighteenth-Century England." Gender and History 14, 2 (2002): 220-223.
- Habermas, Jürgen. The Structural Transformation of the Public Sphere: An Enquiry into a Category of Bourgeois Society, translated by Thomas Burger. Cambridge, MA: M.I.T. Press, 1989.
- Harley, David. "English Archives, Local History, and the Study of Early Modern Midwifery." Archives 21 (October 1994): 145-154.
- Hill, Bridget. English Domesticity in the Eighteenth Century. Oxford: Clarendon Press, 1996.
- Hindle, Steve. The State and Social Change in Early Modern England, 1550-1640. New York: St. Martin's Press, 2000.

- Hobby, Elaine. "The Secrets of the Female Sex: Jane Sharpe, the Reproductive Female Body and Early Modern Midwifery Manuals." Women's Writing 8, 2, (2001): 201-212.
- Hodge, Joanna. "Subject, Body, and the Exclusion of Women from Philosophy." In Feminist Perspectives in Philosophy ed. by Morwenna Griffiths and Margaret Whitford. Indianapolis: Indiana University Press, 1988, 152-168.
- Hoffer, Peter C. and N. E. H. Hull, Murdering Mothers: Infanticide in England and New England, 1558-1803. New York: New York University Press, 1981.
- Hudson, Geoffrey. "Negotiating for Blood Money: War Widows and the Courts in Seventeenth-Century England." In Women, Crime and the Courts in Early Modern England ed. Garthine Walker and Jenny Kermode. London: U.C.L. Press Limited, 1994, 146-169.
- Irigaray, Luce. Speculum of the Other Woman, translated by Gillian Gill. Ithaca, NY: Cornell University Press, 1985.
- Jackson, Mark. New-born Child Murder: Women, Illegitimacy and the Courts in Eighteenth-Century England. New York: Manchester University Press, 1996.
- Keller, Eve. Reflections on Gender and Science. New Haven: Yale University Press, 1985.
- Keller, Eve. "The Subject of Touch: Medical Authority in Early Modern Midwifery." In Sensible Flesh: On Touch in Early Modern Culture, ed. by Elizabeth D. Harvey. Philadelphia: University of Pennsylvania Press, 2003, 62-80.
- King, Peter. "Gender, Crime and Justice in Late Eighteenth- and Early Nineteenth-Century England." In Gender and Crime in Modern Europe ed. by Margaret L. Arnot and Cornelia Osborne. London: U.C.L. Press, 1999, 44-74.
- Kittredge, Katharine. "Introduction: Contexts for the Consideration of the Transgressive Antitype." In Lewd and Notorious: Female Transgression in the Eighteenth Century ed. by Katharine Kittredge. Ann Arbor: University of Michigan Press, 2003, 1-20.
- Klarimont-Lingo, Alison. "The Fate of Popular Terms for Female Anatomy in the Age of Print." French Historical Studies 22, 3 (1999): 335-349.
- Kord, Susanne. "Women as Children, Women as Childkillers: Poetic Images of Infanticide in Eighteenth-Century Germany." Eighteenth Century Studies 26, 3 (1993): 449-466

- Kristeva, Julia. "Stabat Mater." In The Kristeva Reader ed. by Toril Moi. New York: Columbia Press University, 1986, 160-186.
- Kristeva, Julia. "Powers of Horror: An Essay on Abjection." In The Portable Kristeva ed. by Kelly Oliver. New York: Columbia University Press, 1997, 229-232.
- Krueger, Christine L. "Literary Defenses and Medical Prosecutions: Representing Infanticide in Nineteenth-Century Britain." Victorian Studies Journal (1997): 271-295.
- Landes, Joan. "The Public and the Private Sphere a Feminist Reconsideration." In Feminism, the Public and the Private, ed. by Joan Landes. New York: Oxford University Press, 1998, 135-163.
- Landsman, Stephan. "One Hundred Years of Rectitude: Medical Witnesses at the Old Bailey, 1717-1817." Law and History Review. 16, 3 (1998): 445-494.
- Laqueur, Thomas. Making Sex: The Body and Gender from the Greeks to Freud. Cambridge, MA: Harvard University Press, 1990.
- Laqueur, Thomas. "Bodies, Details, and the Humanitarian Narrative." In New Cultural History ed. by Lynn Hunt. Berkeley: University of California Press, 1989, 176-204.
- Loudon, Irvine. Medical Care and the General Practitioner: 1750-1850. Oxford: Clarendon Press, 1986.
- Marland, Hilary. Dangerous Motherhood: Insanity and Childbirth in Victorian Britain. Hampshire: Palgrave Macmillan Ltd., 2004.
- Mathes, Bettina. "As Long as a Swan's Neck?: The Significance of the 'Enlarged' Clitoris for Early Modern Anatomy." In Sensible Flesh: On Touch in Early Modern Culture, ed. by Elizabeth D. Harvey. Philadelphia: University of Pennsylvania Press, 2003, 103-124.
- May, Allyson. "'She at First Denied it': Infanticide Trials in the Old Bailey." In Women and History: Voices of Early Modern England ed. by Valerie Frith. Toronto: Coach House Press 1995, 19-50.
- McClive, Cathy. "The Hidden Truths of the Belly: The Uncertainties of Pregnancy in Early Modern Europe." Social History of Medicine 15, 2 (2002): 209-227.
- McCreery, Cindy. "Lustful Widows and Old Maids in Late Eighteenth-Century Caricatures." In Lewd and Notorious: Female Transgression in the Eighteenth Century, edited by Katharine Kittredge. Ann Arbor: The University of Michigan Press, 2003, 112-132.

- McDonagh, Josephine. Child Murder and British Culture, 1720-1900. New York: Cambridge University Press, 2002.
- McKay, Lynn. "Why They Stole: Women in the Old Bailey, 1779-1789." Journal of Social History 32, 3 (1999): 606-623.
- McLaren, Angus. "'Not a Stranger, a Doctor': Medical Men and Sexual Matters in the Late Nineteenth Century." In Sexual Knowledge Sexual Science: The History of Attitudes to Sexuality ed. by Roy Porter and Mikulás Teich. Cambridge: Cambridge University Press, 1994, 267-283.
- Mulvey, Laura. "Visual Pleasure and Narrative Cinema." In Issues in Feminist Film Criticism ed. by Patricia Evans. Indianapolis: Indiana University Press, 1990.
- Nagy, Doreen. Popular Medicine in Seventeenth-Century England. Bowling Green, OH: Bowling Green State University Popular Press, 1988.
- Oldham, James. "On Pleading the Belly: A History of the Jury of Matrons." Criminal Justice History 6 (1985): 1-64.
- Perry, Gill and Michael Rossington. "Introduction." In Masculinity and Femininity in Eighteenth-Century Art and Culture ed. by Perry and Rossington. Manchester: Manchester University Press, 1994, 1-17.
- Porter, Roy. "A Touch of Danger: The Man-Midwife as Sexual Predator." In Sexual Underworlds of the Enlightenment ed. by G.S. Rousseau and Roy Porter. Manchester: Manchester University Press, 1987, 206-231.
- Porter, Roy. "The Rise of the Physical Examination." In Medicine and the Five Senses ed. by W. F. Bynum and Roy Porter. Cambridge: Cambridge University Press, 1993, 179-197.
- Porter, Roy and Dorothy Porter. Patient's Progress: Doctors and Doctoring in Eighteenth-Century England. Cambridge: Polity Press, 1989.
- Porter, Roy and Leslie Hall. The Facts of Life: The Creation of Sexual Knowledge in Britain, 1650-1950. New Haven: Yale University Press, 1995.
- Porter, Roy and G.S. Rousseau. "Toward a Natural History of Mind and Body." In The Languages of the Psyche: Mind and Body in Enlightenment Thought. Clark Library Lectures 1985-1986 ed. by G.S. Rousseau. Berkley: University of California Press, 1990, 27-44.
- Rabin, Dana. "Bodies of Evidence, States of Mind: Infanticide, Emotion and Sensibility

- in Eighteenth-Century England." In Infanticide: Historical Perspectives on Child Murder and Concealment 1550-2000 ed. by Mark Jackson. Aldershot: Ashgate Publishing Ltd., 2002, 73-92.
- Rabin, Dana. Identity, Crime and Legal Responsibility in Eighteenth-Century England. New York: Palgrave Macmillan, 2004.
- Ramsey, Mathew. "The Popularization of Medicine in France 1650-1900." In The Popularization of Medicine 1650-1850 ed. by Roy Porter. London: Routledge, 1992, 97-133.
- Rhodes, Phillip. A Short History of Clinical Midwifery: The Development of Ideas in the Professional Management of Childbirth. Cheshire: Cromwell Press Ltd., 1995.
- Richter, Simon. "Wet-nursing, Onanism, and the Breast in Eighteenth-Century Germany." Journal of the History of Sexuality 7 (1996): 1-22
- Rizzo, Tracey. "Between Dishonour and Death: Infanticide in the Causes Célèbres of Eighteenth-Century France." Women's History Review 13, 1 (2004): 5-21.
- Roper, Lyndal. The Holy Household: Women and Morals in Reformation Augsburg. Oxford: Clarendon Press, 1989.
- Roper, Lyndal. Oedipus and the Devil: Witchcraft, Sexuality and Religion in Early Modern Europe. London: Routledge, 1994.
- Rublack, Ulinka. The Crimes of Women in Early Modern Germany. Oxford: Clarendon Press, 1999.
- Schiebinger, Londa. "Mammals, Primatology and Sexology." In Sexual Knowledge Sexual Science: The History of Attitudes to Sexuality ed. by Roy Porter and Mikulás Teich. Cambridge: Cambridge University Press, 1994, 184-209.
- Schiebinger, Londa. Nature's Body: Gender in the Making of Modern Science. Boston: Beacon Press, 1993.
- Schnorrenberg, Barbara. "Is Childbirth Any Place for a Woman? The Decline of Midwifery in Eighteenth-Century England." In Midwifery Theory and Practice (Childbirth: Changing Ideas and Practices in Britain and American, 1600 to Present) ed. by Phillip Wilson. New York: Garland Press, 1996: 157-172.
- Schulte, Regina. "Infanticide in Rural Bavaria in the Nineteenth Century." In Interest and Emotions: Essays on the Study of Family and Kinship, ed. by Hans Medick and David Warren Sabean. Cambridge: Cambridge University Press, 1984, 77-102.
- Shapiro, Barbara. Beyond 'Reasonable Doubt' and 'Probable Cause': Historical

- Perspectives on the Anglo-American Law of Evidence. Berkeley: University of California Press, 1991.
- Sharpe, James. "Women, Witchcraft and the Legal Process." In Women, Crime and the Courts in Early Modern England ed. by Walker and Kermode. London: U.C.L. Press Limited, 1994, 106-145.
- Sharpe, James. "Enforcing the Law in the Seventeenth-Century Village." In Crime and the Law: The Social History of Crime in Western Europe since 1500 ed. by V.A.C. Gattress, et. al. London: Europa Publications, 1980, 97-119.
- Shildrick, Margrit. "Maternal Imagination: Reconceiving First Impressions." Rethinking History 4, 3 (2000): 243-248.
- Smith, Bruce. "The Presumption of Guilt and the English Law of Theft, 1750-1850." Law and History Review (Spring 2005)
<<http://www.historycooperative.org/journals/lhr/23.1/smith.html>> (14 April 2005)
- Steinbrügge, Liselotte. The Moral Sex: Women's Nature in the French Enlightenment, translated by Pamela E. Selwyn. New York: Oxford University Press, 1995.
- Symonds, Deborah. Weep Not for Me: Women Ballads and Infanticide in Early Modern Scotland. Philadelphia: Pennsylvania State Press, 1997.
- Symonds, Deborah. "Reconstructing Rural Infanticide in Eighteenth-Century Scotland." Journal of Women's History 10, 2 (Summer 1998): 63-84.
- Thorn, Jennifer. "Introduction." In Writing British Infanticide: Child Murder, Gender and Print 1722-1859. Newark: University of Delaware Press, 2003, 13-41.
- Thurer, Shari L. The Myths of Motherhood: How Culture Reinvents the Good Mother. Boston: Houghton Mifflin Company, 1994.
- Tucker, Holly. Pregnant Fictions: Childbirth and the Fairytale in Early Modern France. Detroit: Wayne State University Press, 2003.
- Walker, Garthine and Jenny Kermode. "Introduction." In Women, Crime and the Courts in Early Modern England, ed. by Walker and Kermode. London: U.C.L. Press, 1994, 1-25.
- Ward, Tony. "The Sad Subject of Infanticide: Law, Medicine and Child Murder, 1860-1938." Social and Legal Studies 8, 2 (1999): 163-189
- Wiesner, Merry. Women and Gender in Early Modern Europe. Cambridge: Cambridge University Press, 1993.

Wilson, Adrian. The Making of Man-Midwifery: Childbirth in England 1660-1770. Cambridge, MA: Harvard University Press, 1995.

Wilson, Adrian. "The Ceremony of Childbirth and its Interpretations." In Women as Mothers in Pre-Industrial England ed. by Valerie Fildes. London: Routledge, 1989, 68-107.

Young, Marion. "Impartiality and the Civil Public: Some Implications of Feminist Critiques of Moral and Political Theory." In Feminist, the Public and the Private ed. by Joan Landes New York: Oxford University Press, 1998.

Zaw, Susan Khin. "'Appealing to the Head and Heart': Wollstonecraft and Burke on Taste, Morals and Human Nature." In Masculinity and Femininity in Eighteenth-Century Art and Culture ed. by Gill Perry and Michael Rossington. Manchester: Manchester University Press, 1994, 123-141.