Age of Consent Law and the Making of Modern Childhood in New York City, 1886-1921.

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On the morning of January 4th, 1916, Rosa Colletti, a fifteen year old factory operative, and eighteen year old Anna Belsito, Colletti's friend and co-worker, seeking to escape beatings at the hands of their mothers, ran away their parents' homes in the Bronx. Two nights later, as the young women ate dinner in a restaurant, they were approached by twenty year old Louis Morelli. Morelli talked with them for a while, and then took them to his furnished room. Later that evening, he told Anna to leave but invited Rosa to stay. Rosa and Morelli then had sexual intercourse. Some time after that Morelli's roommate, James Torcello, arrived home and joined Rosa and Morelli in the room's only bed. In the days that followed, the two men went to work while Rosa "kept house"; in the evenings, Morelli brought Rosa food and took her out to various entertainments. On one occasion, Torcello had intercourse with Rosa while Morelli slept. At 2 a.m. on January 20th, two detectives, tipped off by Anna, whom they had arrested for soliciting, found Rosa and the two men in bed, and took all three into custody. Morelli admitted to the officers that he was living with Rosa, and that he had had intercourse with her. He also claimed that he wanted to marry her. Unmoved by his offer, the police charged him with statutory rape.[i]

The prosecution of Louis Morelli initiated a legal process that generated multiple narratives concerning his encounter with Rosa Colletti. Reading those narratives in relation to each other, highlighting the differences between them, reveals the way in which prosecutors sought to secure a conviction by shaping multiple narratives into an apparently compelling case. The key to winning a conviction in the lower courts, prosecutors discovered, was the

presentation of a narrative that fitted jurors' understanding of the crime being alleged, rather than one that accorded with the legal definition of that crime. As Arthur Train, an assistant district attorney in New York City in the first decade of the twentieth century, saw it, jurors "frequently feel by no means confident that the punishment will fit the crime, and are anxious, so far as they can, to dispose of the case for themselves."[ii] Prosecutors' efforts to conform to jurors' understandings helped to complicate, and sometimes to transform, the meaning of legal categories, and the ideas from which legislators derived them.

Despite the relative slimness of the case file put together by the Manhattan County District Attorney's Office for the prosecution of Louis Morelli, it contains not one account of Rosa Coletti's story, but three: Rosa's statement to the officer of the New York Society for the Prevention of Cruelty (NYSPCC), who investigated her case; that officer's summary of Rosa's statement, as contained in his investigation report; and a later and fuller summary the officer made in the trial brief he prepared for the attorney who prosecuted Louis Morelli. Rosa's statement describes an encounter with Morelli in which she set some of the terms of their subsequent relationship: when Morelli asked, in the restaurant, whether she wanted to become his "friend," Rosa, taking the initiative from him, replied that he would first need to obtain a furnished room. But when Morelli said that he had such a room, it was Anna, not Rosa, who suggested that they go to see it. It was also Anna who, by agreeing to leave without Rosa, created a situation in which Rosa was left alone with Morelli. Rosa's statement as to what happened next is opaque, making it difficult to determine if Morelli compelled her to stay, and later to have intercourse with him. The NYSPCC officer's initial summary of Rosa's statement omitted her conversation with Morelli in the restaurant, as well as the other

details of their relationship before and after they had intercourse. Rosa was presented, instead, as a passive object whom Morelli "brought" to his home to "perpetrate an act of intercourse upon." In his second summary of Rosa's statement, the officer did include the restaurant conversation, but, as he recounted it there, Rosa played no role when the terms of her relationship with Morelli were being set. In this second narrative, Morelli told Rosa that "if she would be his friend he would take her to stay with him in his furnished room."[iii]

The NYSPCC officer's two renditions of Rosa Colletti's story evinced a clear concern to make her appear passive. Yet the offence of statutory rape, with which Morelli was charged, did not require passivity on the part of the victim: by 1916, New York rape law treated all girls below eighteen years of age, the age of consent, as being incapable of consenting to sexual intercourse. Consequently, any man who had sexual intercourse with an underage girl, regardless of the circumstances, was guilty of rape. Mary Odem and Sharon Ullman, the leading historians of the phenomenon of statutory rape in the United States, see prosecutors' concern to portray girls as passive as a reflection of judges' and jurors' desire to control female sexuality, rather than as an attempt to protect girls from sexual violence. The men who decided statutory rape cases read any suggestion that a girl like Rosa had consented to sexual activity as a sign that such a girl possessed sexual desire. In its turn, the attribution of sexual desire to females challenged notions of proper female behavior, leading judges and jurors to treat girls not as victims of sexual violence who deserved their protection, but as wayward individuals who needed to be controlled.[iv] Odem and Ullman's emphasis on the regulatory dimensions of the prosecution of statutory rape is inherited from earlier scholarship relating to the age of consent, scholarship concerned with reformers' arguments for an

increase in that age. In the most influential of those studies, Deborah Gorham and Judith Walkowitz analyzed the campaigns to raise the age of consent in the United Kingdom, peeling back reformers' stated concerns to protect young girls in order to expose the coercive impulses to control the sexual activity and independence of those girls that lay beneath them.[v] In their studies, Odem and Ullman shifted the focus of analysis from reformers to the working-class girls who were the objects of reformers' concern. By locating female sexual consent at the center of statutory rape cases, Odem and Ullman made the prosecutions a part of the story of how working-class girls' increasingly visible sexual expression forced a dramatic transformation in ideas about female heterosexuality, thus ushering in modern notions of sexuality. Encounters with girls who behaved like Rosa, and the difficulties involved in perceiving such girls as passive and pure, contributed, so that story goes, to a new recognition that "women harbored strong sexual instincts and that sexual passion was as much a part of woman's nature as man's."[vi]

My analysis of campaigns to raise the age of consent against the background of changing ideas about childhood, and my examination of all the rape cases involving underage girls – those prosecuted as child rape as well as those prosecuted as statutory rape -- in the case files of the Manhattan District Attorney in every fifth year between 1886 and 1921, have led me to reconsider the arguments of Odem and Ullman. I argue that the NYSPCC officer's concern to render Rosa passive, rather than reflecting a concern to control female sexuality, was part of an effort to fit her to jurors' understandings of childhood, and, by so doing, to have them extend to her the protection from sexual violence that they were only prepared to offer to children. Jane Larson's recent reconsideration of campaigns to raise the age of

consent also turns on female reformers' concern to protect women from sexual violence rather than simply to regulate female sexuality. But Larson contends that reformers were concerned specifically with crimes against children only as a strategy for expanding the range of sexual acts the law defined as sexual violence and, as such, extending the protection that the law offered women.[vii] Far more than Larson allows, I argue, reformers' concern with protection was tied to understandings of childhood and age. Deborah Gorham's insightful study of the campaign to raise the age of consent in the United Kingdom recognized reformers' concern with the nature and span of childhood as the basis of their desire to protect girls. Reformers' vision of childhood, in Gorham's analysis, focused on dependence as the core trait of children, ignoring the issue of sexual development. That view led Gorham to interpret the raising of the age of consent as an effort to constrain modern sexuality.[viii] Scholars who followed Gorham, however, progressively pushed the issue of childhood into the background of the story of efforts to increase the age of consent. They treated reformers' efforts to extend to working-class girls the legal status of children as both a rhetoric of protection, in which reformers garbed their efforts to control working-class sexuality, and as a purely middle-class preoccupation.[ix] On closer examination, the arguments of American reformers reveal that they saw childhood in terms of physiological development, not simply of dependence. In its turn, this emphasis on physiology sparked a broader concern with development, a concern that, in the 1920s, would make the concept of psycho-sexual development a central element in modern notions of sexuality.

Those new understandings of childhood also shaped the prosecution of statutory rape in New York City, the urban center in which my case study was set, producing a qualified

concern to protect children from sexual violence.[x] Prosecutors, jurors, and judges initially approached the offence of statutory rape in the same way as they regarded the crime of child rape, and expected teenage girls to be indistinguishable from the younger girls at the center of prosecutions for that more heavily punished sex crime. In 1886, the year in which the age of consent was raised to sixteen years in New York City, district attorneys initially prosecuted for rape all men who had sexual intercourse with underage girls, and used statutory rape only as a secondary charge. In practice, however, prosecutors quickly decided that often ordinary New Yorkers serving on juries could not fit teenage girls to their plastic ideas about childhood, and consequently would not extend to teenage girls the same protection they provided to younger girls. Concerned to win convictions, prosecutors responded to jurors' actions by charging an increasing proportion of the men alleged to have sexually assaulted pubescent girls with a different offence than that for which they prosecuted men alleged to have sexually assaulted pre-pubescent girls. By 1921, this approach was uniformly applied in all cases that involved underage girls.

Encounters between ordinary New Yorkers and prosecutors thus produced a distinction between teenage girls and younger girls, a distinction that helped prepare the ground for the modern notion of adolescence. Adolescence established the years around puberty as a unique stage of life. Young people that earlier generations of Americans had seen as inferior adults were re-conceptualized as having a nature unlike that possessed by either adults or younger children. Historians have generally concentrated their attention on only one of the distinctions that created adolescence, that between adolescents and adults. None of the studies of the age of consent and other efforts to regulate female sexuality explore the distinction

between adolescents and children; only in Jeffrey Moran's recent work on sex education has that difference been the subject of extended analysis. Moran skillfully charts the efforts of early twentieth century sex educators, driven by the new concept of adolescence, to undermine the notion that teenagers possessed the same sexual innocence as younger children, but he offers few clues as to why Americans were receptive to those particular efforts.[xi] My reconsideration of the age of consent provides one answer to that question. The extensive prosecution of statutory rape helped elaborate and dramatize distinctions between pre-pubescent and pubescent girls, distinctions that ultimately undermined efforts to respond to the sexual behavior of teenage girls by simply extending childhood, and the protections that went with it, to include such girls. When prosecutors tried to make a case that a man was guilty of rape when he had sexual intercourse with an underage, teenage girl, whatever the circumstances may have been, they were, in effect, designating those girls as neither children nor adults, as members of a separate group. The publication, in 1904, of psychologist G. Stanley Hall's two volume work, *Adolescence*, provided reformers and prosecutors not only with a label, but also an explanation for the unique character of this age group.

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The modern offense of statutory rape had its origins in turn-of-the-century campaigns by purity reformers to increase the age of consent. In 1885, in the aftermath of the scandal surrounding the publication of "The Maiden Tribute of Modern Babylon," W.T. Stead's expose of the traffic in young girls in London, such campaigns became part of the fight

against prostitution in the United States. The scandal spurred the British Parliament to raise the age of consent from ten to sixteen years, a move that directed the attention of American reformers to the state of the law in their country. Efforts to bring about a similar increase in the age of consent in state and federal law spread throughout the country in the late 1880s, spurring twenty-four states to amend their laws by the end of the decade. Although such campaigns waned in subsequent years, reformers were continuing to win increases in the age of consent as late as 1918. By 1920, however, purity reform, reconstituted as the social hygiene movement, had abandoned efforts to raise the age of consent in favor of a focus on sex education.[xii]

Interpretations of the nature of purity reformers' campaigns have focused on the reformers' argument that, as Adam Powell put it in the leading purity reform journal of the day, the age of consent should be increased in order to prevent "vicious and designing men" from leading astray poor girls in order to satisfy their lust, thereby creating "flagrant spectacles of vice [and] abandoned girls in their teens in the streets."[xiii] But Powell went on to develop a second strand of argument, one that invoked a scenario of sexual violence rather then seduction, and that relied on ideas about childhood.[xiv] He asserted that, unless the age of consent was increased, whenever a ten year old girl was "assaulted and overpowered, if it be shown that she did not resist to the uttermost limit of exhaustion, the man (?) who assaulted her may still successfully plead "consent"."[xv] To Powell, raising the age of consent would afford to girls the same protection currently extended by existing laws to children under the age of ten. Though older, Powell believed, those girls' physical immaturity rendered them similarly incapable of effective resistance. In effect, then, increasing the age of consent was a

means of extending childhood. Purity reformers' concern to redefine childhood in this way reflected a growing attention to physiological and psychological development in the aftermath of the Darwinian revolution. Viewed in this new light, children appeared more sharply different in nature from adults. Their distinct natures were now seen as changing as they developed and matured, a perception that replaced the Victorian dichotomy between childhood and adulthood with an increasingly segmented spectrum of age groups. Maturity came only after the end of puberty, long after the point at which, in earlier conceptions, childhood had drawn to a close, and well beyond the age of ten years defined by American rape laws as marking the upper limit of childhood.[xvi] Purity reformers' attention to development reflected the presence in their ranks of two groups attuned to the new view of children's bodies. The first group was composed of medical practitioners, of whom Dr. Emily Blackwell, a leading member of the New York Committee for the Prevention of the State Regulation of Vice was the most prominent. The second group comprised leaders of the child protection movement, most notably Elbridge Gerry, the founder of the NYSPCC, the society that provided the model for child protection organizations established throughout the English-speaking world in the last quarter of the nineteenth century.[xvii]

The concern to use the concept of the age of consent to extend the legal protection from sexual violence presently available to children to cover the teenage years had only a secondary place in the arguments offered by most reformers; it became more prominent, however, when the new laws were put into practice. In New York, in 1886, purity reformers succeeded in having the age of consent increased to sixteen years; in 1895, reformers were able to raise it to eighteen years.[xviii] Responsibility for enforcing laws based on the increased

age of consent lay with the NYSPCC, as the central role played by an officer of the Society in Rosa's case highlights. A private child protection agency incorporated by the State Legislature in 1874, this Society was instrumental not only in shaping criminal law relating to children, but also in administering and enforcing it. Its directors, together with those of the societies it inspired throughout the state, initiated legislative action and helped draft the amended laws and new legal categories relating to the age of consent that were adopted by the State Legislature. NYSPCC officers had powers of arrest and prosecution, custody of all children under the age of sixteen years involved in crimes, and responsibility for tasks ranging from investigation to the collection of fines. Judges also required the assent of NYSPCC officers before agreeing to plea-bargains or other outcomes brokered by assistant district attorneys. The Society's involvement in enforcing the increased age of consent wove the new law into a web of legal restrictions on behavior ranging from work, to entry to pool halls constructed by the NYSPCC around children. Those legal restrictions were intended to protect, and to separate from adults, working-class children whose parents failed to keep them within the home until they had completed puberty.[xix] The Society concerned itself only with those under the age of sixteen years, arguing that by that age the onset of puberty would have occurred, bringing with it the physical strength and "higher intelligence and greater strength of will" that distinguished adults from children. When campaigns by other purity reformers succeeded in raising the age of consent to eighteen years, Elbridge Gerry, the NYSPCC President, complained that the age was now set beyond the time when "a girl became a woman." Not only would it be impossible to obtain any convictions in cases that involved the sixteen and seventeen year old girls, he lamented, but the effort to prosecute such cases would

undermine the legitimacy of the law, making it more difficult to win convictions in cases involving girls under the age of sixteen.[xx] Despite such concerns, the NYSPCC's continued commitment to law enforcement ensured that New York City courts had to deal with large numbers of prosecutions involving teenage complainants. So many statutory rape cases appeared in the courts in the first two decades of the twentieth century that this offense overshadowed all other forms of sexual violence.[xxi]

In employing the age of consent as a means of extending childhood, reformers and legislators were effectively seeking to extend to older girls the protective framework at work in rape prosecutions involving girls under ten years of age. As such, the treatment of child rape prosecutions represents a template that reveals both how jurors approached the girls and men brought into the courts by the new laws, and also what prosecutors had to do in order to make a case. Odem and Ullman examined the offence of statutory rape in isolation. However, when a single thread is pulled out of the fabric in that way, elements of the larger pattern, such as the relationship between child rape and statutory rape, are lost. The prosecution of child rape cases focused firstly on whether the act constituted the crime charged, and secondly on whether sufficient evidence that the act had taken place existed.[xxii] The acts alleged in child rape cases did not turn on the lack of physical strength that Powell had highlighted when he sought support for the new law: typically, pre-pubescent girls who had been subject to sexual assault described not a physical struggle, but being picked up, carried, having their clothes lifted, and their bodies penetrated. NYSPCC officers rendered such testimonies as narratives in which a man acted, and a girl was acted upon, narratives that made the girl an object, that emphasized her passivity. For example, the brief that an NYSPCC officer

prepared for the assistant district attorney prosecuting Raffaele Nicolini for the rape of nine-year-old Anita Lanza in 1886, included the following summary of her statement:

> Some time about the 1st June, while witness was at the premises 37 Crosby Street in the City of New York, where she resides with her parents, about 6 o'clock P.M., the prisoner seized hold of witness and carried her in his arms to his room in said premises. She was playing on the stairs at the time. After he had brought her into the room, he sat on a chair, took her on his lap, pulled up her clothes (she had no drawers on that day), pulled out his penis, put it in her privates and kept it there for a little while.[xxiii]

Admittedly, the advantages of size, strength and authority that adult men had over young girls like Anita certainly left those girls little scope for struggle, but clearly the NYSPCC officer preparing the above brief had not been concerned to elaborate what Anita herself had done.[xxiv] To argue successfully that narratives such as these described a rape prosecutors believed it to be necessary to convince juries that the passivity of the victim reflected her innocence and ignorance, rather than her consent. That approach reflected not the law as it stood, according to which an underage female's actions were irrelevant, but prosecutors perception that jurors' held a plastic sense of childhood, which made them unwilling to protect girls solely on the basis of their age. In the understanding attributed to jurors, childhood was defined primarily in terms of ignorance and dependence. Physiological immaturity suggested, but did not guarantee, the presence of those traits, and for this reason the language used by girls also represented a crucial marker of their ignorance and childishness.[xxv]

The approach of prosecutors reveals that, in their judgement, jurors' determination as to whether or not a girl was a child turned on whether she used the vague, simple and

euphemistic sexual language they expected of children. Girls typically either testified vaguely that the defendant "did something to me," or "done bad," or used the more descriptive, but sexually inexplicit, phrases "He took out his thing and put it in me," or "He put his privates in my privates."[xxvi] For prosecutors seeking to make a case, there was a tension between their fear of compromising such language and their need to clearly establish that the offense had taken place.[xxvii] They sought to negotiate that tension, firstly by asking leading questions that provided girls with language that was appropriate and details that were essential if their meaning were to be made clear to jurors, and secondly by convincing judges to allow girls to point to the parts of the body that they referred to in their testimony. An assistant district attorney pursued the former approach in a trial in 1916:

Q. You say you went into the back room? A. Yes.

Q. And then he pushed you on the couch; is that right? A. Yes.

Q. And then he unbuttoned his pants? A Yes, sir.

Q. After he unbuttoned his pants, did he do anything more? A. Yes, sir.

Q. What did he do after he unbuttoned his pants? A. He put it in me.

Q. You mean he put his private parts into your privates? A. Yes, sir.

At this point, the defense attorney, Solomon Sufrin objected to the form of the questioning. In an attempt to frustrate the assistant district attorney's strategy, Sufrin repeatedly argued that, as a result of the way in which the district attorney had interrogated the girl, "she personally did not say a thing."[xxviii] Defense attorneys also strove to thwart prosecutors by soliciting, or drawing attention to, instances where girls used 'bad language,' as in words such as "prick," or 'adult language' as in references to "sexual intercourse" or "connection." They

argued that such language revealed understanding, sexual desire and consent.[xxix] That argument drew strength from a middle-class predisposition to believe that girls who grew up in immigrant, working-class homes and communities, as those who appeared in child rape cases invariably did, fell into "degenerate habits and associations" at such a young age, that, as Jane Addams put it, they "cannot be said to have "gone wrong" at any one moment because they have never been in the right path even of innocent childhood."[xxx] No matter how young they were, in other words, working-class girls were unlikely to be children.

In prosecutions that involved teenage girls who, under the amended law, had not reached the age of consent, assistant district attorneys tried to follow the same approach as they did in cases of child rape. In such cases, however, they found that approach more difficult to pursue, largely because teenage girls could not easily be fitted to the elastic sense of childhood that prosecutors attributed to jurors. In effect, prosecutors' efforts to win convictions for statutory rape, the offense based on the age of consent, fractured and complicated the new concept of extended childhood that the law promoted. It introduced a distinction between pre-pubescent and pubescent children, treating the latter as sexual children, and in so doing laid a foundation for the modern concept of adolescence.

The efforts of prosecutors to portray a teenage girl like Rosa Colletti as a passive child, whose ignorance rendered her a victim of sexual violence, ran into difficulties as soon as jurors saw the girl. A newspaper reporter expressed what jurors apparently felt when he described one girl as "a woman in appearance [although] a child in years," a description that stressed the incongruity between her appearance and her claim to childhood.[xxxi] If physical immaturity alone did not make a girl or boy a child in the eyes of most New Yorkers, physical

maturity did suggest to them the potential for sexual desire and a higher intelligence, qualities that they found difficult to reconcile with childhood. The fact that, in defining childhood, the law formally privileged age failed in practice to direct attention away from girls' bodies. This was particularly the case because, until the 1930s, most of the immigrant, working-class parents who appeared in New York City's courts could not produce either a birth certificate or some other evidence as to the age of their children. The absence of documentation resulted in a provision in the New York Penal Code that allowed the judge and jury to determine a girl's age by "personal inspection" -- by looking at her, but in practice that clause only exacerbated prosecutors' problems.[xxxii] NYSPCC officers used clothing and hairstyles to try to mark girls as children. To mask physical maturity, they dressed girls in the short dresses typically worn by children, and arranged their hair so that it hung down their backs. When, after calling a fifteen year old girl back to the witness stand so the jurors could form their own opinions of her age, one judge directed jurors' attention to her short dress and long hair, the defense attorney responded with a typical strategy. He questioned the girl as to whether, prior to being placed in the Society's care, she had worn a long dress, and had had her hair arranged on the top of her head.[xxxiii]

When teenage girls attempted to speak like children, defense attorneys aggressively challenged them. Relying on the presumption that intelligence came with physical maturity, attorneys insisted that girls like Rosa Colletti could use adult language; if they did not know what sexual intercourse was before the events of the case, their experience would have provided them with an understanding of it. In a case in 1916, for example, one attorney objected to fourteen year old Maria Stadler being allowed to testify in euphemistic language,

and by whispering to the stenographer. "This girl is not a baby," the attorney complained. "This girl had a child. She knows what happened, where it happened, how it happened, and she ought to tell her story before the jury." When he cross-examined Maria, she testified that Nicolo Alberti, the man accused of raping her, had "put his private thing into my privates." The defense attorney then attempted to ask Maria what a "private thing" was, in order "to show this girl never used these words before," and to find out "where she got this language from," but the district attorney objected. Instead, at the judge's suggestion, the defense attorney asked her "if she knows any other name for it." "I can't say it no other way," Maria answered. She was then confronted with a transcript from an earlier paternity proceeding against Alberti, in which she had testified that he had "sexual intercourse with me." Maria denied she had used this language.[xxxiv] Faced with the prospect of this type of attack, prosecutors increasingly encouraged teenage girls to use the phrase "sexual intercourse," rather than the more euphemistic language employed by younger girls.

To make a case for statutory rape, prosecutors attempted to argue that a teenage girl who used adult language did not, in fact, have an adult sexual understanding, but remained essentially a child. They did this, first, by invoking the girl's virginity, whenever they could, in order to emphasize that the girl possessed the innocence and purity, if not the ignorance, of a child. As one assistant district attorney put it in a particularly florid summation in 1901, "She is but a girl…She was a virgin when this man met her and she had no guile; she knew not of this sin. How is it today? Ah, he has blighted and blasted her life." The prosecutor followed up with a second, and frequently used, line of approach, invoking images of middle-class childhood, and of the jurors' own children, in order to argue that the understanding that

teenage girls, as revealed through their language, was not that of an adult. "Your children of 14 are going to school, not yet out of grammar school," the prosecutor pleaded, "and yet my learned friend would have you believe she was a mature woman, with all the senses and judgment of a woman."[xxxv] Even if a girl's language displayed some degree of understanding, so this argument went, her social role implied that that understanding was immature. Prosecutors tried to establish that teenage girls were children by suggesting that their understanding of what was happening to them was so immature that they could not be taken to have given consent, as so limited that it rendered them as passive as children.

Even these efforts could not encompass girls who used the language of ruin to describe what had been done to them. These girls spoke of the defendant as having "ruined" them; they referred to the sexual act as having constituted their "ruin," and to themselves as "ruined." In using this language they spoke like adults, conveying an understanding of the consequences, if not necessarily the nature, of sexual intercourse. A girl who had sexual intercourse outside marriage, whatever the circumstances, was ruined, both physically, in having lost her hymen, and socially, in having lost her respectability, and, therefore, having diminished prospects of marriage and independence.[xxxvi] Working-class girls and families who spoke in these terms saw teenage girls as adults not children. They often initiated statutory rape prosecutions not primarily to see men punished for acts of sexual violence, but to put additional pressure on men to make right a girl's ruined status by marrying her. For example, Ellen Marcus, testifying in the Magistrates Court in 1901 about whether she had willingly had sexual intercourse with William Cahill, made it clear that her family's goal in charging Cahill with rape was to force him to marry her:

Q. Did you make an outcry or was it done by your consent?

A. I made no outcry because he promised he would marry me.

Q. Then you consented to it, is that it?

A. Under marriage, yes, sir. If he married me then there would be no trouble now, but he didn't marry me and he promised right along he would marry me, and he promised two other parties that he would do the right thing, but he has not done it, and that is all we want him to do.[xxxvii]

For the Marcus family, and other working-class families, the legislation to increase the age of consent had not extended the status and protections of childhood to teenage girls; it had created instead something akin to a fornication statute, an offence that punished sexual activity because of its extra-marital character, rather than its violent nature.

Many male offenders saw the offence of statutory rape in the same light, that is, as related to the concept of ruin. When confronted by police or NYSPCC officers, a majority of males admitted, as had did Louis Morelli in my opening example, that they had sexual intercourse with an underage girl. They offered those admissions even though it was often against their interests to do so, since such as admission provided the only evidence that satisfied the legal requirement that a girl's statement be corroborated. Only approximately one in every ten defendants joined Morelli in following that admission with an unsolicited offer of marriage. Other men agreed to marriage when a girl or her family proposed it, or after she or a family member had followed up their proposal by bringing a charge of rape. William Cahill married Ellen Marcus in the interval between his arraignment and the grand jury hearing. In light of such behavior, and left with little scope to portray the girls as

children, NYSPCC officers and assistant district attorneys generally went along with efforts to make a marriage rather than trying to make a case.[xxxviii]

When jurors came to decide the outcome of a prosecution, teenage girls' physical maturity and the extent to which they used adult language frequently overshadowed prosecutors' efforts to portray them as children, whose behavior reflected childish ignorance rather than consent. Once jury members determined that the girl before them was not a child, they looked to the girl's character. When they saw what they regarded as signs of a bad character -- evidenced by previous sexual experience, extensive sexual knowledge, or the exchange of sex for some kind of payment -- they generally nullified the law, either dismissing the case, or acquitting the defendant regardless of the evidence. Grand juries also dismissed cases when the parties married; even though the law did not recognize marriage as a defense, most district attorneys and many judges joined juries in accepting marriage as a remedy for the consequences of pre-marital sex.[xxxix] When juries saw no evidence that a girl had a bad character, they generally followed the law and indicted and, to a lesser extent, convicted men who had been charged with statutory rape, although generally on less serious charges. The resulting pattern of fewer indictments and convictions in statutory rape prosecutions than in child rape prosecutions laid bare the law's failure to extend to teenage girls the same legal status as that possessed by children and the same degree of protection accorded their younger sisters (see Table 1).

TABLE 1: Outcomes of Rape Prosecutions, 1906, 1911, 1916 and 1921.[1]

	First Degree Rape prosecutions involving a female ten years of age or younger	Statutory Rape Prosecutions	First Degree Rape prosecutions involving a female 18 years or older
Total Number of Cases	27	370	54
Number of Men indicted by Grand Jury as a proportion of cases	96%	72%	56%
Number of Men who went to trial	11	75	10
Men convicted by trial jury as a proportion of cases that went to trial	54%	44%	70%
Total convictions as a proportion of total cases	65%	51%	28%

(Source: Closed Case Files of the Manhattan County District Attorney)

[1] This table includes only my sample years after 1906 because the records of cases dismissed by the grand jury do not survive for the earlier years, and those case files therefore offer an incomplete picture of jurors' actions.

On the other hand, jurors' willingness to convict some men, rather than entirely nullifying the law, did change the status of teenage girls. It removed them from the ranks of adult women, who enjoyed legal protection only when they resisted a physically violent sexual assault to the limit of their strength. The low conviction rate for men charged with raping adult women – less than half that for men charged with raping children -- demonstrates how rarely jurors considered that women offered sufficient resistance to establish their lack of consent (see Table 1).

Prosecutors struggled to make a case in statutory rape prosecutions from the very first, and, in 1892, only six years after the legislature raised the age of consent in New York, their struggles provoked changes in the law. The Legislature enacted an amendment, drafted by the leaders of the NYSPCC and the New York purity reform movement, that specified two

categories of rape. The ostensible purpose of the amended law was to make clear that statutory rape need not involve the physical violence that juries associated with rape. But the amendments also introduced a distinction between young girls and teenage girls that qualified the extent to which the law extended the category of childhood. Rape in the first degree replicated the existing definitions, except that relating to the age of consent; sexual intercourse with a woman under the age of consent in "circumstances not amounting to rape in the first degree" became second degree rape. Second degree or statutory rape was a lesser offence, carrying a sentence of up to ten years in prison, rather than the five to twenty years applicable to first degree rape. These amendments were coupled with a new clause that defined as first degree rape any act of sexual intercourse with a female when, "by reason of mental or physical weakness, or immaturity, or any bodily ailment, she does not offer resistance."[xl] The reference to immaturity opened the way for teenage girls to be treated differently from younger girls: second degree rape recognized teenage girls as sufficiently immature to warrant a protection not available to adult women, but not sufficiently immature to warrant the protection the law gave to physically immature, pre-pubescent girls. In practice, in the years after 1892, teenage girls received even less protection than the law allowed. By 1921, in response to the failure of the amended law to solve the problems prosecutors faced in portraying teenaged girls as children, district attorneys had transformed the distinction between rape and statutory rape from one based on age and circumstances, to one based simply on age. In that year, they prosecuted for second degree rape all seventy-three of the men alleged to have had sexual intercourse with a girl aged between eleven and seventeen years, and prosecuted for first degree rape all those men alleged to have had sexual

intercourse with a younger girl. In effect, that practice meant that, notwithstanding the circumstances in which the act took place, no man who had sexual intercourse with a teenage girl could be guilty of first degree rape, of having committed a violent sexual assault. The actions of prosecutors defined any sexual act with a teenage girl as by nature less violent, and less criminal, than an act with a younger girl.

The transformation that the practical workings of the legal system wrought in the idea of extended childhood flowed back into evolving notions about childhood itself, creating a division that became a foundation for the modern concept of adolescence. Both the outcome of prosecutions, and the behavior of the teenage girls whom they encountered in courts, forced reformers to abandon their view of the teenage girls as simply children. In 1913, the editors of *Vigilance*, the journal of the American Purity Alliance, sought a response from leading reformers to their proposal that eighteen years should become the uniform age of consent. Those reformers who replied rejected the idea of extending childhood in that way. In the first place, they argued, public opinion – by which they meant the opinions of the men on juries who had to enforce the law – did not see girls in their late teens as children, and would not enforce an age of consent of eighteen years. Moreover, the respondents themselves agreed with that view. Reformers' attempt to account for the behavior of teenage girls as the product of external forces, such as overwork, poverty, the absence of family, and white slavery, failed to entirely explain the behavior of girls who rejected the authority of their parents, displayed sexual understanding, expressed sexual desire, and consented to men's sexual advances. As a result, reformers looked to forces operating from within the girls themselves to explain girls' behavior. By 1913, Ada Sheffield, a member of the

Massachusetts Board of Charities, reflecting the view of the other leading purity reformers who responded to *Vigilance*, saw "the average girl of sixteen" as possessing an essentially adult understanding: "[She] may not realize beforehand what is the full price that must be paid for wrong-doing -- few of us do," Sheffield argued, "…but she does know, in the great majority of cases, that she ought not to be unchaste." "[A] girl of sixteen," Sheffield boldly asserted, "is not a child."[xli]

But if purity reformers no longer thought that a teenage girl was a child, neither did they believe that she was an adult. They seized on psychologist G. Stanley Hall's concept of adolescence to explain the behavior of girls in their early teenage years, and they did so in terms that distinguished those girls from adults. In a sense, jurors, teenage girls, and their communities drove reformers into the arms of psychologists. Hall argued that puberty brought a "rapid spurt of growth in body, mind, feelings and a new endowment of energy," changes that broke up the stable personality of the child and initiated the period of storm and stress that Hall labeled adolescence.[xlii] Hall's ideas recast current understandings of extended childhood so as to recognize the presence, in the years of puberty, of only a qualified immaturity, an immaturity that reformers distilled down to the trait of psychological immaturity. As Judge Ben Lindsay, the leading juvenile justice reformer of the early twentieth century, put the matter in 1925, teenage girls were "physiologically awake with the desires of maturity without the intellectual restraints and sophistication of maturity. They are women with the minds of children; and for many of them, the burden and the responsibility are too much.… Sex overwhelms them before their minds and their powers of restraint and judgment are mature enough to cope with it."[xliii] In effect, reformers changed their approach

to sexually active girls to bring it into line with their view of teenage girls as adolescents. In the Progressive era, they sought, by promoting preventive reforms -- sex education, the regulation of amusements, the establishment of girls' clubs led by educated women, the passing of laws that bolstered parents' ability to discipline their daughters -- to "fortify the innocence of childhood" against the threats brought by puberty.[xliv] If Hall, and the psychologists and psychiatrists who followed him, 'invented' adolescence, working-class girls, and the men from their communities who sat on juries, created a space, even a need, for the new concept of adolescence, helping thereby at once to anchor and to disseminate it.

A reconsideration of the age of consent as constituting an ultimately unsuccessful effort to extend the concept of childhood so as to include teenage girls highlights how, at the turn of the twentieth century, modernity fractured childhood. That fracturing, which separated sexual children, those in the years around puberty, from younger, innocent children, was a necessary precondition for the emergence of teenagers as a separate class positioned between childhood and adulthood, for their reconceptualization as adolescents. By their response to statutory rape prosecutions, jurors, prosecutors, and reformers provided a foundation for the recognition of this new age group: jurors, by convicting some men prosecuted for statutory rape rather than entirely nullifying the law; prosecutors, by continuing to prosecute men who had sexual intercourse with teenage girls, but for a lesser offence than that with which those who had intercourse with younger girls were charged; and reformers, by abandoning efforts to increase the age of consent beyond sixteen years. By 1930, the prosecution of statutory rape had extended recognition of the new status of teenagers into American society, in the process altering social relations in New York City. Ruth Filakovsky's encounter with Bruno Bizella

and Peter Klein in a cafeteria on 14th Street, in December 1930, one month after she had run away from home, followed the pattern of Rosa Colletti's encounter with Louis Morelli fourteen years earlier, the example with which I began. But Ruth Filakovsky and the two men exhibited a concern with age that Rosa and Morelli had not displayed. Soon after Bizella and Klein approached Ruth, they inquired as to her age. The fifteen-year-old girl answered that she was nineteen, a lie intended, as she later admitted to an assistant district attorney, to make Bizella and Klein understand that she was "old enough." Satisfied that Ruth was an adult, Bizella and Klein offered her a ride in their car, a ride that ended at an address in Broome Street, where Ruth had sexual intercourse with both men. Like most men did in New York City by that time, Bizella and Klein asked the age of the girl with whom they were seeking to have sexual intercourse because they recognized that, even a girl who appeared to be sexually mature, and to desire sex, had to be eighteen years of age in order to engage in sexual intercourse. The slang term "jailbait," which first appeared in the 1930s to describe underage girls like Ruth, shows clearly that ordinary Americans understood the role of the law in constituting teenage girls as unable to consent to sexual intercourse and, thereby, as sexually distinct from adult women. This neologism reminded men that prison awaited those who, holding to older ideas, paid attention to a teenage girl's physical maturity and sexual desires, rather than to her age. [xlv]

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[i] District Attorneys Closed Case File (hereafter DACCF) 109033 (1916) (Municipal Archives, New York City). I have altered the names of all the parties to the cases discussed in this article.

[ii] "The fundamental reason for the arbitrary character of the verdicts of our juries," Train argued, lay in "the general misapprehension that the function of the jury is to render "substantial justice" – a misapprehension fostered by public sentiment, the press, and even in some cases by the bench itself, to the complete abandonment of the literal interpretation of the jurors' oath of office." See Arthur Train, *The Prisoner at the Bar: Sidelights on the Administration of Criminal Justice* (New York, 1926), 266, 269. Under New York state statute, eligibility for jury service was restricted to men, between the ages of twenty-one and seventy years, who were residents of the city and citizens, who owned real or personal property worth at least $250, who were in possession of their natural faculties, who could read English. and who had no crimnal record. Men who pursued a long list of occupations, including clegymen, lawyers, teachers, physicians, journalists, firemen, and engineers, could

claim an exemption from jury service. See *Laws of New York, 1909*, chap. 35. The behavior of juries made their role in the legal system a target of calls for reform in the early twentieth century; for a discussion of these reform campaigns, see Eric Fishman, "New York's Criminal Justice System, 1895-1932," (Ph.D. dissertation, Columbia University, 1980).

[iii] Statement of Rosa Colletti, "taken by Officer F., in [NYSPCC's] rooms, January 20th, 1916"; NYSPCC Report of Investigation; and Brief, in DACCF 109033 (1916).

[iv] Mary Odem, *Delinquent Daughters: Protecting and Policing Adolescent Female Sexuality in the United States, 1885-1920* (Chapel Hill, 1995); Sharon Ullman, *Sex Seen: The Emergence of Modern Sexuality in the America* (Berkeley, 1997), 28-44.

[v] Deborah Gorham, "The "Maiden Tribute of Modern Babylon" Re-examined: Child Prostitution and the Idea of Childhood in Late-Victorian England," *Victorian Studies* 21 (Spring 1978): 353-379; Judith Walkowitz, *Prostitution and Victorian Society: Women, class and the state* (Cambridge, 1980). The two earliest analyses of age of consent campaigns in the United States, those of David Pivar and Ruth Bordin, focused on describing the place of the campaigns in the institutional and organizational history of American purity reform. Neither study offers the critical reading of the nature of those campaigns provided by Gorham and Walkowitz. See Ruth Bordin, *Women and Temperance: The Quest for Power and Liberty, 1873-1900* (1981, New Brunswick, 1990); and David Pivar, *Purity Crusade: Sexual Morality and Social Control, 1868-1900* (Westport, Conn., 1973).

[vi] John D'Emilio and Estelle Freedman, *Intimate Matters: A History of Sexuality in America* (New York, 1988), 229.

[vii] Jane Larson, ""Even A Worm Will Turn at Last": Rape Reform in Late Nineteenth-Century America," *Yale Journal of Law and the Humanities* 9, 1 (1997): 1-71, especially 19-22.

[viii] Gorham.

[ix] Sharon Ullman's study is particularly striking in this regard, quoting several passages from the transcripts of statutory rape prosecutions that invoke childhood, but not addressing those comments at all (Ullman, 32, 40-41).

[x] This article is drawn from a larger study of sexual violence in New York City in the period 1880-1950. My central source is a sample of all the cases of rape, abduction, seduction, sodomy, and carnal abuse that I could find in the District Attorneys Closed Case Files in every fifth year, beginning with 1886 and ending with 1946. For the sample years before 1920, I also examined the Court of General Sessions Case File for each of the cases I found in the District Attorneys records, and, if it survived, the trial transcript.

[xi] Jeffrey Moran, *Teaching Sex: The Shaping of Adolescence in the 20th Century* (Cambridge, Mass., 2000).

[xii] See Odem, 8-16, 30, 36-37.

[xiii] Adam Powell, Editorial, *The Philanthropist* 1, 1 (January 1886): 4-5. For analyses of the age of consent in these terms see Pivar; Bordin; and Odem.

[xiv] For other writings by purity reformers that linked the age of consent to rape, see Georgina Mark, "The Age of Consent," *Union Signal* (December 3 1885), 4; Emily Blackwell, "Age of Consent Legislation," *The Philanthropist* 10, 2 (February 1895): 1; and the comments of WCTU President Frances Willard in *The Philanthropist* 2, 2 (February 1887), 3.

[xv] Powell, "Editorial," 4-5.

[xvi] For the new discourse of development, and for efforts to extend childhood, see Howard Chudacoff, *How Old Are You? Age Consciousness in American Culture* (Princeton, 1989); David Macleod, *The Age of the Child: Children in America, 1890-1920* (New York, 1998), 24-26, 139-152; Carolyn Steedman, *Strange Dislocations: Childhood and the Idea of Human Interiority, 1780-1930* (Cambridge, Mass., 1995); and James Kincaid, *Child Loving: The Erotic Child in Victorian Culture* (New York, 1992).

[xvii] Blackwell's leading role in the New York Committee led to her election, in 1895, as one of the inaugural vice-presidents of the American Purity Alliance. See Pivar, 106-7, 149-150, 187; and Blackwell's articles on the age of consent, "Address by Dr. Emily Blackwell," *The Philanthropist* 1, 3 (March 1886): 8; and "Age of Consent Legislation," 1-2. *The Philanthropist* records Elbridge Gerry's involvement in the meetings and activities of the New York purity movement. For the NYSPCC, see Elizabeth Pleck, *Domestic Tyranny: The Making of Social Policy Against Family Violence from Colonial Times to the Present* (New York, 1987); and Lela Costin, Howard Jacob Karger, and David Stoesz, *The Politics of Child Abuse in America* (New York, 1996).

[xviii] *Laws of New York, 1887*, chap. 693, 900; and *Laws of New York, 1895*, chap. 460, 281.

[xix] For the NYSPCC's role in the legal system, see *Laws of New York*, *1881*, chapter 130, 114; *The Nineteenth Annual Report of the New York Society for the Prevention of Cruelty to Children* (New York, 1894), 7; and *The Twenty-Third Annual Report of the New York Society for the Prevention of Cruelty to Children* (New York, 1898), 6-8.

[xx] "Letter from Hon. Elbridge T. Gerry," *The Philanthropist* 10, 6 (June 1895): 5; and "Legal Protection for Girlhood," *The Philanthropist* 11, 2 (February 1896): 10.

[xxi] See Table 1 later in this article.

[xxii] In practice, the question of evidence, and in particular, the question of whether prosecutors produced evidence to corroborate a girl's testimony, as the law required, was often subordinated to the question of whether the act constituted a crime. If jurors decided that a man had raped a girl, they often paid little attention to whether the corroboration requirement had been fulfilled, and convicted him with little regard for the evidence. The large number of convictions appealed, successfully, on the grounds that the prosecutor had not provided corroborating evidence that can be found in the appellate record hints at the extent of that practice. My analysis of prosecutions in Manhattan County found numerous additional cases that were not appealed in which men were convicted despite the lack of sufficient evidence to satisfy the legal requirements; see my "Sexuality through the Prism of Age: Modern Culture and Sexual Violence in New York City, 1880-1950," (Ph.D. dissertation, Rutgers University, 1998), 77-82; and my "Signs, Marks and Private Parts: Doctors, Legal Discourses and Evidence of Rape in the United States, 1823-1930," *Journal of the History of Sexuality* 8, 3 (January 1998): 372-385.

[xxiii] Brief, Court of General Sessions Case File (hereafter CGSCF), People vs. C. P. (indicted September 1886) (Municipal Archives, New York City). Note: In my citation of the Court of General Sessions case files I have retained the defendants' actual initials since these records

are grouped by month of indictment and filed alphabetically by the defendants name, and thus can only be accessed with this information.

[xxiv] For further discussion of the rape of children in the years 1886 to 1921, see my "Sexuality through the Prism of Age," 45-86.

[xxv] For the plasticity of popular, nineteenth century notions of childhood, see Gorham, 371; and Joseph Kett, *Rites of Passage: Adolescence in America, 1790 to the Present* (New York, 1977), 11-14.

[xxvi] For discussions of the importance attached to the language used by children testifying in rape cases, see Jerome Walker, "Report, With Comments, of Twenty-one Cases of Indecent Assault and Rape Upon Children," *Archives of Pediatrics* 3, 5 (1886): 280, 329; and Gurney Williams, "Rape in Children and in Young Girls," *International Clinics* 23 (2nd Series) (1913): 252, 256-7.

[xxvii] For examples of the difficulty girls had in making clear what happened to them, see *The Morning Journal*, 22 June 1891 (District Attorney's Scrapbook, Municipal Archives, New York City); and *The Thirty-Eighth Annual Report of the New York Society for the Prevention of Cruelty to Children* (New York: 1913), 27.

[xxviii] Trial Transcript Collection (hereafter TTC), Roll 273, Case 2157 (1916), 9-10, 102 (John Jay College of Criminal Justice, New York City).

[xxix] For example, see TTC, Roll 98, Case 611 (1906), 22; and TTC, Roll 46, Case 250 (1901), 131. For other evidence of how such language was interpreted, see *People v. Shaw*, 142 N. Y. S. 782, 158 App. Div. 147 (1913); Robert Woods and Albert Kennedy, eds., *Young Working*

Girls: A Summary of Evidence from Two Thousand Social Workers (Boston, 1913), 89; and the discussions in Bryan Strong, "Ideas of the Early Sex Education Movement, 1890-1920," *History of Education Quarterly* (Summer 1972), 148; and Jesse Battan, ""The Word Made Flesh": Language, Authority and Sexual Desire in Late Nineteenth-Century America," *Journal of the History of Sexuality* 3, 2 (October 1992): 223-226.

[xxx] Jane Addams, *The Spirit of Youth and the City Streets* (New York, 1912), 46. For similar arguments by other middle-class reformers, see Ruth True, *The Neglected Girl* (New York, 1914), 77, 87, 93; and Woods and Kennedy, 42, 88-89.

[xxxi] *The Morning Journal*, 16 July 1886 (District Attorney's Scrapbook). For examples of similar statements, see *The Morning Journal* 27 October 1886 (District Attorney's Scrapbook); *People v. Marks*, 146 App. Div. 13 (1911); *People v. Lammes*, 203 N. Y. S. 741 (1924);

[xxxii] *Laws of New York, 1884*, chap. 46, 44.

[xxxiii] Court of General Sessions Trial Transcript, 24 July 1901, in CGSCF, People v. F. S. (indicted July 1901), 17-18. For other examples, see TTC, Roll 19, Case 74 (1896), 88; and DACCF 113254 (1916). On children's clothing, see Jo Paoletti, "Clothing and Gender in America: Children's Fashions, 1890-1920," *Signs* 13, 1 (1987): 136-143.

[xxxiv] TTC, Roll 273, Case 2157 (1916), 2-16.

[xxxv] TTC, Roll 49, Case 264 (1901), 152, 165-6.

[xxxvi] For the concept of 'ruin,' see Arthur Towne, "Young Girl Marriages in Criminal and Juvenile Courts," *Journal of Social Hygiene*, 8 (July 1922), 292; Joan Jacobs Brumberg,

"'Ruined' Girls: Changing Community Responses to Illegitimacy in Upstate New York, 1890-1920," *Journal of Social History*, 18 (1984), 250; and Odem, 43-47, 51-52.

[xxxvii] Transcript of Arraignment in Magistrates Court, April 18 1901, 4, in DACCF 34760 (1901). For a detailed exploration of this practice, see my "Making Right a Girl's Ruin: Working-class Legal Cultures and Forced Marriage in New York City, 1890-1950," (unpublished manuscript).

[xxxviii] *Ibid*; "Sexuality through the Prism of Age," 211-216.

[xxxix] For legal officials' support of marriage, see my "Making Right a Girl's Ruin."

[xl]For the problems enforcing the increased age of consent that led the NYSPCC to call for an amendment to the law, see "The Amended Penal Code -- First Successful Case of Prosecution," *The Philanthropist* 3, 2 (February 1888): 3; "Editorial," *The Philanthropist* 6, 3 (March 1891), 4; and Elbridge Gerry, "Memorial," Supplement to *The Philanthropist* 6, 3 (March 1891): 9-10. For the new law, see *Laws of New York, 1892*, chap. 325, 681.

[xli] "Age of Consent Discussion," *Vigilance* (May 1913): 20-22. Both Sheffield and Frederick Whitlin, the General Secretary of the Committee of Fourteen, a New York City anti-prostitution organization, warned against raising the age of consent beyond what public opinion would enforce (p. 21). These concerns echoed those Elbridge Gerry had expressed in 1895; see Note 20. For the failure of reformers' efforts to explain the behavior of teenage girls as the product of external causes, see Jane Addams, *A New Conscience and an Old Evil* (New York, 1912), 21, 150; Ruth Alexander, *The Girl Problem: Female Sexual Delinquency*

in New York, 1900-1930 (Ithaca, 1995), 35-41, 59-65; and David Langum, *Crossing Over the Line: Legislating Morality and the Mann Act* (Chicago, 1994), 158.

[xlii] G. Stanley Hall, *Adolescence*, (New York, 1904), vol. 1, 314, 326, 370-371; vol. 2, 120-121. On Hall, see Moran, 1-22; and Alexander, 38-40.

[xliii] Ben Lindsey and Wainwright Evans, *The Revolt of Modern Youth* (Garden City, NY, 1925), 81-82. For similar statements by other reformers, see True, 58; Woods and Kennedy, 8-9; and Addams, *A New Conscience*, 101.

[xliv] For preventive reforms, see Alexander, 42-52; Moran, 23-67; and Addams, *A New Conscience*, 100. Further evidence of the shift in the strategies pursued by reformers can be found in the pages of *Vigilance*. By the 1910s, discussions of sex education had taken the space in the periodical earlier occupied by discussions of the age of consent.

[xlv] DACCF 185489 (1931). For further discussion of the new concern with age in social relations in New York City, and of the lenient treatment that prosecutors and grand juries accorded to men charged with statutory rape who had asked the age of the girl with whom they had sexual intercourse, evident in the 1930s and 1940s, see my "Sexuality through the Prism of Age," 410, 425-429.