"My Secret Life": The Trial at Leeds
Author(s): Donald Thomas
Reviewed work(s):
Source: *Victorian Studies*, Vol. 12, No. 4 (Jun., 1969), pp. 448-451
Published by: Indiana University Press
Stable URL: http://www.jstor.org/stable/3826108
Accessed: 24/04/2012 13:17

Donald Thomas

"MY SECRET LIFE": The Trial at Leeds*

EDITORIAL NOTE: In the March 1967 *VS*, in separate reviews of Steven Marcus' *The Other Victorians*, Brian Harrison noted that "sexual attitudes in the nineteenth century illuminate many otherwise utterly unfamiliar social attitudes," and Mark Spilka forecast that *My Secret Life* would "become one of the vital quasi-literary documents of the nineteenth century." The recent trial, a view of which we reprint here, invited (one might almost say forced) students of Victorian Britain to examine the meaning and validity of such apparently straightforward generalizations. Professor Geoffrey Best of the University of Edinburgh, member of the Editorial Board of *VS*, is arranging a symposium to discuss the book and the trial (at which he was a defence witness) in the pages of *VS*. We expect to print something on the subject in the December or March issue.

SINCE THE OBSCENE PUBLICATIONS ACT, 1959, ADMITTED EXPERT EVIDENCE, court proceedings against a publisher have taken on something of the character of a Workers' Education Association lecture while evidence is given, and of a test match during the cross-examination.

Witnesses come and go like batsmen, scoring from careless questions and sometimes hitting out at the faster bowling. An academic who has been in the witness box for two or three hours assumes the stature of a batsman who has toiled through the heat of the day. But in the initial evidence such subjects as the sanitary conditions in Merthyr Tydfil during the 19th century; the seduction rate of domestic servants by their employers in the 1850s; or the censorship imposed on Victorian novelists by libraries like Smith's and Mudie's – all these things are carefully explained to the jurors, who one might suppose were present for no other reason than a genuine desire to hear as much of the literary and social history of the 19th century as could be made available to them.

When it is all over, a man is sent to prison for two years, he is fined £1,000, and ordered to pay a sum not exceeding £2,000 towards the costs of the prosecution, as well, of course, as paying the costs of his defence. During the trial of Arthur Dobson, bookseller and publisher, at Leeds assizes this month, any link between what was going on and the academic discussion of *My Secret Life*, which preceded it, seemed totally unreal. (It was compli-

* (Reprinted, courtesy of *New Society*, 128 Long Acre, London WC2)

cated by the fact that Dobson was subsequently to be tried for other less "worthy" publications.) Only after sentence was passed could one realise that that was what it was all about.

The case of *My Secret Life* is the first prosecution involving a historical document to be brought under the 1959 Act. First published in eleven volumes in 1888, or shortly afterwards, it records the life of "Walter" from the time of his birth in the mid-1820s until the early 1880s.

Its form is that of an autobiography which, according to "Walter," is based on the diaries he habitually kept. His obsession with sexual acts, most of them orthodox but some of them not, his conscientious detailing of his partners' genitalia, and his preoccupation with such non-erotic but taboo subjects as female urination, afford an obvious legal basis for charges of obscenity.

On the other hand his is a unique account, not just of a Victorian middle class lecher's rather repetitive sexual experience but, incidentally, of such aspects of Victorian society as the relation between domestic servants and their employers, the use and abuse of female agricultural workers, the nature of prostitution (including child prostitution) in London, and even the public school before Arnold. Yet, as John Cobb, Q.C., for the prosecution, demanded: if other Victorian literature like Logan's *The Great Social Evil* or Greenwood's *Seven Curses of London* discussed these problems in a more general way, what need was there of *My Secret Life*? Mr. Justice Veale asked whether, if one knew that child prostitution existed and that girls of ten were raped, there was any value whatever in reading a description of such a rape. It was J. A. Banks, Senior Research Lecturer in Social Science at Liverpool, who, in his evidence, answered this most succinctly. "We know it was," he said. "This tells how it was." (When the prosecution was first considered, the Director of Public Prosecutions had asked Banks for an opinion on the book. He did not advise a prosecution and, when it was brought, appeared as a defence witness.)

The likelihood seemed to be that the jury would find the book obscene but that a special defence might be possible under section 4 of the 1959 Act. This provision allows a jury to acquit a book, even if they believe it to be obscene, so long as they consider its publication to be for the "public good" in the interests of art, science, literature or learning. The onus of proving that it is for the public good is on the defence, but in theory it is less than the onus upon the prosecution to prove the book obscene in the first place.

So the trial of a book like *My Secret Life* is largely a presentation of defence evidence. Ten defence witnesses were called at Leeds assizes to explain to the jury the value of "Walter's" narrative to the understanding of Victorian literature and social history. John Mortimer, Q.C., for the defence, was sympathetic and encouraging, while John Cobb, as befitted a prosecuting counsel, was sceptical, incredulous and on occasion exasperated. Yet by the third day it seemed as if the defence had almost made its point, the cross-examinations were courteous and even amicable, so that it was sometimes hard to realise whose witness was appearing in the box.

The tone of questions in cross-examination came to resemble that of the member of an audience who raises awkward and contentious issues at the

end of a lecture. At least, that is how it appeared from the point of view of a defence witness like myself.

Despite the provision in the 1959 Act that a book must be judged as a whole, and not on the merits of selected passages, it is unavoidable that both defence and prosecution should cite particular passages and that these should assume a greater importance in the case than may be desirable. Most defence witnesses for *My Secret Life* were faced with the incident in book 2, chapter 9, in which "Walter" has sexual intercourse with a ten year old girl whom he has met in Vauxhall Gardens, and were asked if this was not the most evil passage they had ever read.

The obvious answer came from Professor Steven Marcus, author of *The Other Victorians* (about Victorian pornography and drawing heavily on *My Secret Life*), who had flown from New York to give evidence for the first time in a trial of this kind. He inquired, as if in real doubt, "Do you mean that question literally, Mr. Cobb?" When assured that it was meant literally, Professor Marcus admitted that, appalling as the rape of this child was, he had read of more evil things in the concentration camps of the 20th century and in the employment of boys as Victorian chimney sweeps who were dead by 13 from their occupational disease: cancer of the scrotum. No one suggested that knowledge of these things would be better suppressed.

A prosecuting counsel will, naturally, pick on such passages as these. There is a desperate temptation for a defence witness, fearing that he may be given no other quotation to justify, to attempt justification of a prosecution-chosen passage. The wiser course was followed by Professor Geoffrey Best, Professor of History at Edinburgh, who, with Professor Marcus, bore the brunt of the prosecution's attack. John Cobb produced a passage in book 1, chapter 11, in which "Walter" describes an act of sodomy with a prostitute. He demanded what value such a description had for historians of the 19th century. "None whatever," said Professor Best simply.

The cross-examination of Professor Steven Marcus seemed at first to be an indictment of his motives in writing *The Other Victorians* and including in it passages from such novels as *The Lustful Turk* (1828). John Mortimer rose and protested that it was *My Secret Life,* not *The Other Victorians* which was on trial.

When the discussion returned to *My Secret Life,* Professor Marcus pointed out that, apart from its documentary value, "Walter's" account had some literary merit and that minor characters, like Mrs. Pender, were novelistically presented. Cobb read out an account of sexual intercourse between "Walter" and Mrs. Pender, whom he described as not a woman but a perineum. "She may be a perineum to you, Mr. Cobb," said Marcus gently, "but she's a woman to me."

The prosecution also suggested that as well as being valueless, the book might be a fraud. In Cobb's view, a reference by "Walter" to "ten shillings," might imply ten-shilling notes. Along with the use of the word "fuck," this indicated – he thought – a post-Victorian fabrication. (Cobb's second point was based on the belief that "fuck" has its origin in a lawyer's mnemonic for "Felonious and Unlawful Carnal Knowledge," which would certainly have surprised those writers like Rochester or Wilkes, who used it so

freely in the 17th and 18th centuries.) The collective incredulity of the defence witnesses and the evidence of David Foxon, Reader in Textual Criticism at Oxford, established that, obscene or not, *My Secret Life* was undoubtedly a Victorian document.

The experience of cases like this, and the *Last Exit* prosecution, must raise certain questions about the working of the 1959 Act. That Act assumes a distinction between literature of some value, which may nonetheless be obscene, and mere pornography. It assumes sufficient discrimination on the part of jurors to distinguish between the two kinds of writing – helped, or confused, by rival sets of expert evidence about these two kinds.

More than that, it demands that jurors should weigh the advantages of a book's publication "for the public good" against the danger that it would corrupt its readers. (Despite references to "those into whose hands it is likely to fall," once a book is published, under the present law, it is published for everyone, and it is hard to see how it could ever be otherwise.)

One can have misgivings about the present system without questioning the literacy of jurors or the care with which they may read the book, though these are important factors. The law requires from jurors a type of objective reading rare enough among professional critics of literature.

The choice between two sets of expert evidence may be no easier to make. The fact that one set of witnesses finds merit or value in a book, even though the others do not, might argue for its acquittal. Yet in both major cases in which there has been conflicting evidence, the defence has failed. Such defence evidence appears to have much less effect on jurors than either witnesses or the architects of the 1959 Act would like to believe. And as for the public good, few jurors are likely to free a book, which they consider may corrupt its readers, because it would be useful for the study of the Victorian period.

And will the particular book "deprave and corrupt" its readers, anyway? This question – which since 1868 has determined the guilt of a publisher – is one upon which evidence is not admitted in court. It is a matter for the jury alone.

Institute of Science and Technology,
University of Wales