

Consilium XLI

Translated by Patricia Coyne

Argument

Erminius was accused of having violated a young woman and he was thrown into prison. The Fisc wanted the young woman to present herself to midwives for an examination. Three midwives were summoned; two of them reported that a virgin had been violated, while the third strongly asserted that a virgin had not been violated. The first two based their statement on the separation of the little skins of the uterus, on the somewhat more open passages than are usually found in a virgin, on the changed colour of the uterus itself and on certain other, slighter indications. The third was not disposed to detect anything from these or other indications which might demonstrate that a virgin had been violated, but on the contrary she based her opinion rather on the thinness of the nymphae, on the dryness of the uterus itself, on the odor emitted from the body, on the fact that there was no change in her voice and on other signs which usually are associated with untouched virgins. Because of this disagreement among the midwives, it was decided that the judge should request the opinion of doctors; and so I was summoned with another colleague of mine, a man well versed in anatomy. After we had examined the reports of the midwives, we stated that the response should be as follows.

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Summary

1. No little skin which may demonstrate virginity is found naturally in virgins.
2. In a woman who has frequent intercourse there can sometimes be observed to be absent from the signs of virginity those which are deduced from the integrity of the hymen.
3. It cannot be inferred from the width of the passages that a virgin has been violated, nor from narrowness of the passages that she has not been violated.
4. The colour of the uterus and its parts is not changed from a single sexual congress, but from the congress having been repeated several times in succession.
5. When a virgin is forced immediately after her menstrual purges, no signs of violation can appear. This is quite obvious.
6. A huskier voice does not occur in deflowered virgins after a single sexual act or from a gentle act of sexual intercourse, but from violent and very often repeated ones.
7. Bruising of the breasts does not appear in a young girl violated only once, but from several repeated encounters with a violator.
8. The veins of the neck of a deflowered virgin sometimes become thicker, and when this may occur.
9. Virginity is a certain quality abiding from nature and therefore is presumed to be present.

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1. Greater credibility in this case must be given to the one midwife who affirmed that a virgin was not deflowered than to the other two midwives who inclined to the opinion that one had been deflowered; and the reason is because the one midwife set down an opinion more similar to and more in agreement with the opinion of all the doctors; for those indications which were brought forward to prove the contrary by the other two ought not to influence us because they are either false, or without substance and foolish, or are less certain; and finally they can bring forward nothing in the way of conclusive proof. For in respect to the separation of the little skins of the uterus, as those two midwives kept asserting, it is certain that they spoke thus because they were pronouncing in accordance with the common way of women rather than because in the case of the young woman they recognized anything about these pertinent to the truth of the matter; since it should be evident that the little skin called the hymen, about which the midwives do much prating, is in no way found in virgins naturally constituted, as we prove elsewhere from the common opinion of doctors and especially of the more recent anatomists: *lib. 4 harum quest. Tit. 2. quest. 2.* Because if by hymen or little skin the previously mentioned midwives understood the true hymen, which to be sure may be present because of the coherence and composition of the four little pieces of flesh existing behind the nymphae in the uterus, we still state that they could not have recognized that a virgin had been raped from their laceration; for it is certain, (which the Fisc itself did not dispute), that Erminius, if it is given that he did indeed deflower the young woman, could have had congress with her just once; for he had remained until

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the third hour of the night in the home of a friend; he had already sought his own home by the fourth hour, as is confirmed by the testimony of witnesses; but the rape is presumed to have been committed after the third hour of the night, whence it is not likely, if everything is considered correctly, that Erminius had knowledge of the virgin more than only a single time; therefore, if it is granted that he knew her at all, given that he knew her only once, it is not possible that any violation of these little pieces of flesh should be apparent from a single encounter, and so the midwives cannot affirm from this that a virgin had been deflowered, because if coition has not been repeated, those little pieces of flesh which separated after the first carnal union are rejoined by the medium of the blood which they pour out, so that in themselves they offer no proof of violation. Thus the excellent *Severin. Pinaeus Anatomicus expertissimus lib. 1. de not. virginis, cap. 6.* has said concerning this that it is possible for visible, recognized signs of virginity to be evident even in a woman who gives birth from her uterus, those signs, of course, which are determined from the integrity of those little bits of flesh; hence it must be said these midwives in no way recognize the true hymen which is formed by the connection of those little pieces of flesh, but foolishly think it is that little skin, which the common but false opinion of men may accept for the hymen and which is never found in any virgins who have a naturally constituted uterus, as has been demonstrated. But even given that these midwives might have been so learned and experienced, which I did not believe to have been the case, that they could recognize the true hymen, that is the previously mentioned connection of those little pieces of flesh, they still could

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not have observed the laceration of these in the young woman, for the reason that, since the young woman, as it is supposed, was known only once by Erminius and Erminius is endowed with a very small membrum virile, and moreover, since the examination was made after twenty days had passed from the supposed defloration, only a very shameless woman would presume to recognize a violation against a virgin.

3. Moreover, we have judged to be entirely worthless another indication based on the width of the passage of the uterus itself observed in the young woman, since the integrity of a virgin cannot be argued from the narrowness of these passages, nor the defloration of a virgin from their width, because it is well known that in respect to the constitution of the uterus women differ among themselves in narrowness and width and in smallness and largeness no less than males differ with respect to thinness or thickness, shortness or length of the penis; as you will discover, from those virgins against whom no suspicion of defloration can be imagined, that some have passages so open and wide, indeed even so moist, that not even the most used prostitute could have passages as moist and wide and open, so that if they are joined to a man endowed with a small membrum virile, since their passages have been made larger, they would be able to conceive only with difficulty, not just because of the previously mentioned width of the passages, on account of which they are unable to hold fast and embrace male semen, but also because the very pleasure of coitus in both is significantly diminished, whence conception can follow less readily. On the other hand, some women are endowed with a uterus so narrow and dry that even if they are excited innumerable

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times a day, yet they are accustomed to experience not even a moment of the sexual embrace and indeed some of them even abstain from coitus for much of the time, easily reverting to almost the same state which they had when they were virgins and, just as if they were deflowered for the first time, they shed blood in coitus if they have intercourse with a man again, as can be observed in the case of widows who, even if they have born several children, lead a chaste life and who have remained many years away from men. But in our case such useless indicators of destroyed virginity are brought forward by these midwives because they were not able to observe more potent proofs and they do not have better proofs because they are ignorant.

4. Wherefore, they deduce a no less empty proof of defloration from the changed colour of the uterus itself and easily demonstrate from this and from the preceding evidence that they do not know how to judge as they should in respect to this matter concerning which they were summoned that they might report as if they were expert. Moreover, it is well known that the colour of the uterus and of its parts is not so easily changed from only a single, unrepeated act of sexual intercourse, especially when the woman has a rather wide passage, as is observed in the young woman, and the man is endowed with a small membrum virile as is the case with Erminius. And when these conditions occur in the opposite way, then, because of repeated friction and the violence sometimes suffered, at least in first unions, the labra and nymphae and the other parts of the uterus itself easily change colour from red to a lighter shade. But even given that with the wideness of the passages providing no obstacle and the smallness of the

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membrum virile the parts of the uterus could change their natural colour from a single act of intercourse, it is certain that this change of colour is not permanent, but is erased after the first days have barely passed, unless intercourse is repeated; but the investigation of the rape of the young woman was made on the twentieth day from the day on which she is presumed to have been deflowered and afterwards she was not known further by Erminius. Therefore, the midwives were not able to observe any change of colour of this kind in the parts of the uterus of the young woman and thus they could not pick out any evidence, not even the slightest sign, of defloration.

5. We should add to this that whenever the defloration of a virgin has followed immediately after a menstrual cleansing, as clearly happened in our case, not only can no change of colour be observed in the private parts of the woman, but no tearing of the membranes nor anything else which could clearly show any sign of defloration, unless the man had a penis too big with respect to the uterus of the woman involved, which did not occur in this case, or unless the sexual intercourse had been repeated in the following days.

6. But there are other indications much slighter than the ones previously mentioned which are brought forward by these ignorant midwives, as those which are deduced from a deeper voice, from bruising of the breasts and from the rather swollen veins of the neck. For with regard to a deeper voice, it is evident that this certainly happens, as we said happens with the changed colour of the parts of the uterus, not from a single, simple, non violent act of sexual intercourse, but that the voice becomes deeper with

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repeated, multiple and violent acts of intercourse; besides, this young woman has been endowed by nature with a husky little voice, as witnesses examined on behalf of Erminius and even the mother of the young woman attest; this indeed was very appropriate, since the young woman had been endowed with thicker parts of the neck, especially the veins; as a result, since these midwives would never have heard the young woman speaking at any other time, it is not strange that, if now hearing a voice somewhat deeper than is customarily observed in other young women, they tried to produce from this a sign of defloration, which they could in no way have done if they had been acquainted with the natural quality of the voice of the young woman in question. To which I add this, the deepness of a voice does not depend as much on sexual intercourse as it does from giving birth and emission in women; whence we deduce that, even if it had been observed in the virgin that her voice had been changed and from being rather light and thin had become rather deep, this did not occur from defloration but from a discharge of semen or from emission made perhaps in dreams.

7. With respect to the bruising of the breasts which these midwives also foolishly imagine they saw in this young woman, it must be stated that they are completely blind, since those also are signs which are not present here and cannot be present, yet which they in all seriousness affirm to be present. For bruising, as also with the other indications noted above, does not appear in the breasts from a single and smooth sexual union with a man or from simple defloration, but in particular from often repeated sexual union and expressly from sexual union engaged in with force and violence; for

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this change of colour may be from a flowing of blood from the veins of the uterus to the breasts, for since the uterus has a very great deal in common with the breasts, because of the repeated motion and heat produced in sexual intercourse either the blood itself or the hotter vapours dispersed from the uterus easily transfer themselves to the breasts, and when this happens the nipples of the breasts are endowed with a duskier colour than allotted in nature; they darken; although if this should happen from only a single sexual union, unless the sexual union is repeated, not long afterwards the discoloration is completely gone and the nipples of the breasts return to their natural colour on account of the dispersion of the vapour or as a result of the thinner blood which flowed to them; yet, howsoever the matter comes about, it is certain that this indication of defloration is so slight as to amount to nothing at all.

8. It is said further that the veins of the neck in those who have been deflowered do not become thicker from the defloration, but that this happens only when sexual union has been repeated several times or defloration has taken place with much violence and anguish, which factors do not apply in our case as is clear from what has been said above. And truly, how do the midwives dare to affirm that the young woman has thicker veins in her neck than she had previously if they never examined her in respect to their appearance? For this thickness of veins should be attributed to the condition which they attained before the presumed defloration; for just as some men have heavier members and parts than others, so the veins in the neck of some virgins are thinner and in others thicker, as occurs also in the case of the young woman who for a similar cause

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has a richer voice than young women are accustomed to have. And the deposition of these midwives appears to have been influenced by these signs, since from useless indications and from those which in fact do not exist they try to ascertain that a virgin had been deflowered.

9. Therefore, the false and futile depositions of these midwives having been refuted, there remains only the true deposition of the other midwife, supported on firm foundations since she has shown herself to be more skilled and more experienced than the other two, and so her position must be accepted as the truer one, namely that a virgin was not deflowered since no indications were observed or could be observed in respect to the condition of those little pieces of flesh, or tearing of the membranes, no enlarging of the passages made by force, but only what was given to the young woman by nature, no change of colour of the parts of the uterus is present, but it appears to preserve its own natural colour completely, and no deepening of the voice whatsoever happened recently, no bruising on the nipples of the breasts, no new thickness in the veins of the neck could be observed, but on the contrary from the smallness of the nymphae and the dryness of the uterus itself, from the odor given out from the body and from many other indications demonstrated by the more experienced midwife, it can be concluded that a virgin had not been deflowered, 9. thus, since virginity is one quality abiding from nature and in fact is presumed to be present *Mascard. de Probat. concl. 1410. num.1. Tom.3.*, it is clear that since no firm proof could be brought forward to the contrary, the young woman must be presumed to be a virgin, and Erminius did not

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deflower her and she was not deflowered or her virginity lost by any other hand whatsoever according to the deposition of the one midwife who was far more experienced than the other two.