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**“Creatures Devoid of Sense and Will”:
The Canadian Crime of Seduction
and
Its Early Victims**

By

Monica A. Burke, B.A.

**A thesis submitted
in partial fulfillment of
the requirements for the degree of**

Master of Arts

**Carleton University
Ottawa, Ontario
Monica A. Burke
2001
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**“Creatures Devoid of Sense and Will”:
The Canadian Crime of Seduction and Its Early Victims**

Submitted by

Monica Burke, B. A.

**in partial fulfilment of the requirements for
the degree of Master of Arts**

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Thesis Supervisor(s)

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Chair, Department of Law

**Carleton University
September 2001**

Abstract

During the nineteenth century, the stability of the traditional family and the sexual behaviour of Canadian citizens were linked to the moral stability of the nation. Due to this correlation, individuals and groups within society attempted to regulate immoral sexual behaviour to ensure the health and strength of the marriage and family. Certain elements within Canadian law were developed to address this issue of sexual immorality. The law of seduction in particular focused primarily on the sexuality of the single woman. The significance placed on the family status quo warranted legal initiatives that would preserve a single woman's sexuality in anticipation of marriage. While the rhetoric surrounding the criminalization of seduction was protection for the woman, the initiatives practically resulted in the regulation of and control over a single woman's sexual autonomy. This genuine objective of the law of seduction is examined through selected nineteenth century case studies.

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Introduction

While the structure of the family has changed dramatically during recent decades, during the nineteenth century it often symbolized the strength and morality of society. In particular, the marital foundation of the family was considered by many Canadians as the “structural underpinning of a stable and healthy society.”¹ Historically, the emphasis placed on the significance and ultimate survival of the family allowed the *traditional family unit* to enjoy a highly revered status. At the centre of the family’s success was the woman. While a married couple was legally considered one person,² much of the responsibility for familial stability during this era rested with the woman. Despite the widely held view of the importance of the family, socio-economic changes in the nineteenth century generated new strains on the family and challenges to the traditional patriarchal ordering of the family. The most powerful groups in society had the most influence on the state and as a result new public policies and laws were developed and administered in ways that reflected their particular views.

The impact of the industrial revolution in Canada was felt with full force at the end of the nineteenth century, and one of the aspects most completely affected by this development was the traditional home economy. Constance Backhouse states that during the late nineteenth century a woman was responsible for upholding family virtues, and instilling in the children the appropriate moral standards, “[i]ndustrialization left mothers and young children alone in the home, no longer tied to the necessary duties of cottage production. Faced with this domestic void, women came to occupy their time and energy by elevating motherhood to the status of a profession.”³ The nurturing character of a

woman therefore was pivotal with regards to raising her children and ensuring that her family remained happy and healthy.⁴

While a married woman during this era enjoyed a strong responsibility within the family home, she continued to be a “legal non entity”⁵ following her marital vows, a status long entrenched in common law. Due to her subordinate status, both socially and legally, the sacrament of marriage created a contradictory status for a woman. Simultaneously marriage was considered both “life’s most promising material enterprise”⁶ for a woman, and her “civil death.”⁷ Nonetheless, the nineteenth century marriage, and a woman’s pivotal role therein, continued to denote the health of both the family and the Canadian nation.

Contrarily, the status of a single woman resembled that of a man to a greater degree. Unlike her married counterpart, a single woman shared many (although not all) of the civil rights enjoyed by Canadian males.⁸ In particular, with regards to property, a single woman was “in the same position as men.”⁹

Nonetheless, due to the significant prestige bestowed on both marriage and the traditional family, the position of the single woman was of increasing concern. The social and legal constraints which faced married and single women were in many respects comparable. Within the social and legal framework of nineteenth century Canada, women found much of their lives regulated within a society where patriarchal values dominated. Whether a married woman was unable to control her property, or a single woman her sexuality, it was evident that the lives of Canadian women were often managed by institutions in an effort to maintain the traditional family status quo.

These controlling influences on women's lives form an important context to what is examined in the following chapters. The rhetoric surrounding many of the social and legal expectations imposed on a woman's life signified this element of regulation. Since the significance of the family was that many considered it the cornerstone of society, changes such as the growing number of single wage-earning women in urban settings were seen as a threat and many individuals and groups endeavoured to better ensure the survival of the family. For instance, several groups discouraged divorce, citing potential familial destruction and societal breakdown. Canadian law in turn reflected this apprehension, and marital dissolution continued to be extremely difficult despite new strains on the family and new economic opportunities for women. Therefore, many married women had their lives socially and legally controlled, whether or not the marriage was amicable, in order to preserve the traditional family unit. Moreover, single women who sought work outside the home, or participated in certain social activities, had much of their behaviour regulated for fear that these actions would ruin their chances of becoming wed.¹⁰ In doing so, the element of regulation which was initiated by reform groups, and which subsequently modified several aspects of Canadian law, was in essence a protective measure for the family status quo, not the women in question.

The principal focus of this thesis is to examine the criminalization of seduction as an aspect of the regulation of women's lives. The thesis seeks to demonstrate that the primary purpose of this offence was to govern the social and sexual lives of women. The form of legal regulation reflected in this particular area of law involved judgement of women's chastity and conduct.

The following chapters survey the interests and individuals responsible for initiating and administering measures to regulate the lives of women as well as the experiences of women with these measures, and present original research on seduction law within this context. The first Chapter will explore several social and moral reform groups who had as their mandate the preservation of morality and the traditional family. Furthermore, Chapter one will discuss whether the actions of the reformers influenced modifications to Canadian law with respect to morality. Chapter two will first briefly examine the legal status of married women during the nineteenth century. In addition, Chapter two will introduce the legal restraints which faced single women during their day to day lives. Specifically, the latter section of Chapter two will present the law of seduction and its role in the regulation and control of a single woman's sexuality. Finally, Chapter three will analyse selected nineteenth century seduction cases to empirically demonstrate that the criminalization of seduction resulted in the sexual control of these women and the protection of the familial status quo.

Detailed Chapter Descriptions

As will be discussed in Chapter one, during the nineteenth century many social and moral reform groups were founded in an effort to promote a healthy morality within their respective communities. Fearing social destruction, these groups cited many social ills as the causative factors in the potential downfall of a healthy society. Included in their agendas were prohibition, prostitution, sexual immorality and sexual regulation.¹¹ While each group selected a distinct element as the focal point of its crusade, many groups shared a common objective in their fight for morality. This commonality focused on the preservation of the traditional family, and the role of the woman within this unit.

In their struggle for morality the members declared that the fundamental issue was to preserve the family in an effort to achieve a “stable, ordered, and peaceful society.”¹² For the purposes of this Chapter, those groups to be discussed will include the Women’s Christian Temperance Union (WCTU), the Society for the Protection of Women and Children, and The Toronto Local Council of Women (TLCW).

This concept of preserving the family status quo will be a central issue introduced in Chapter one. Particular emphasis will be placed on how these moral reformers, instead of attempting to alleviate the social struggles experienced by many Canadian women, initiated law reform in an effort to preserve and protect the traditional family. While many married women struggled within their domestic lives (experiencing domestic abuse, for example), these reformers focused primarily on ways to *preserve* this matrimonial unit and the woman’s place within the private sphere. What is more, many reform groups led by women also believed strongly in the patriarchal structure of society. The irony of this aspect of the reform movement was such that it presented a paradox concerning the family unit, “it stood as both a symbol of woman’s sexual and social repression, and yet its preservation provided the motive force behind the movement for female emancipation.”¹³

By way of this information, the relationship between the reformers’ actions and the corresponding legislation will also be presented. Several groups believed that the only way to eradicate social evil in society was to establish laws to regulate *deviant* behaviour. This deviant behaviour ranged from intemperance to the sexual immorality of single women. The relationship between reform agendas and government action will further emphasize the fundamental issues which reformers mutually shared – the

traditional family, the woman's place within the home, and the national morality secured by preserving the status quo.

Chapter two will present the relationship which existed between the government and married and single women within Canada, illustrated primarily through the government's attitude toward the traditional family and its preservation. A woman's place in the home, among the family, was considered a significant element for familial stability. The laws regulating this position often perpetuated the subordinate status of married women and deliberately protected the patriarchal family configuration. Aspects of marriage legislation during the nineteenth century, and the consequent effect on the married woman, have been selected in order to illustrate this facet of regulation. Following her vows she no longer enjoyed her individuality, or any sense of autonomy, and the laws which restricted her life will be briefly presented.

In the second half of Chapter two, the specific relationship between law and single women will be considered to establish parallels between their experience and the social and legal regulation of married women. Although there is evidence which suggested a single woman's life resembled that of a man's (more so than her married counterpart), there is also evidence which strongly suggested that her life was not beyond the reach of Canadian law. Many in society, including those within the government and the social reform movement, wanted to preserve the traditional family structure and thus attempted to regulate the social behaviour of the single woman to ensure that she too would realize her potential as a wife, and nurturing mother. While her property rights may have been similar to that of a man, the single woman was legally regulated in an effort to preserve her ultimate status in the traditional family. Therefore, certain aspects

of sexual behaviour in particular, which compromised her prospect of becoming a married woman, were frowned upon and consequently targeted by both moral reformers and the government.

In order to further examine this element of sexual regulation of single women, nineteenth century seduction legislation will be introduced in Chapter two. Initially, the tort of seduction will be presented, and how its configuration preserved the father's influence and control over single women. This tort allowed a father to sue for damages, a claim for a loss of services, when his daughter was seduced. A discussion of the criminal law of seduction will follow, which illustrates the substantial amount of power wielded by Canadian law in regards to the private lives of single women. Both the tort and the crime contributed to a continuation of the patriarchal structure of the traditional Canadian family.

While Canadian law addressed forced and coerced sexual behaviour during the nineteenth century (for instance, both the rape and sexual assault law), criminal legislation concerning *consensual* sexual intimacy was not introduced until the 1880's. The crime of seduction was one element of this consensual sexual behaviour, and by examining the process of its criminalization we will consider the role that law played in the preservation of the traditional family status quo. Concern over single women 'astray' in Canadian communities caused panic among those in the reform movement and the government. The notion that these single women would become sexually familiar with men, and would thus not live up to their full potential in society, contributed to the criminalization of seduction and the subsequent control of a single woman's sexuality. When examining this legislation, it becomes evident that the protection of the family

status quo and the regulation of a single woman's sexuality were the primary objectives of the law.

The issue of *regulation* is a crucial aspect of this thesis, as it was the primary objective of the seduction legislation featured in Chapters two and three. The motivation behind the law of seduction was the protection of the ideal traditional family, and the elements of this crime and the procedure by which they had to be proven in court, served to support this moral ideal. For instance, convictions were determined by the previous chastity of the seduced single woman. If she was a virtuous young woman, then the law of seduction deemed her worthy of its protection. Conversely, a woman who was determined to be previously unchaste, was viewed as an insult to the preservation of the traditional family and was therefore *not* worthy of the law's protection.

As will be demonstrated by way of the seduction case studies, the statute by which seduction was criminalized effectively judged certain sexual behaviour of single women as immoral and unacceptable with regards to the structure of the traditional family. In Chapters one and two, we will see that the focus of the moral reform groups and those in government was to preserve this ideal notion of *the family* in an effort to sustain a healthy and stable nation. This included providing a healthy and safe home environment (through temperance), but it also maintained that women must act according to their chosen role in life in order for the family to survive (for instance, single working girls were discouraged from becoming involved with men who were not their potential husbands). In a similar vein, the seduction law targeted the sexuality of single women as that to be regulated in order to reach the objective of the traditional family status quo. The seduction legislation did not offer sexual regulation in the form of deterrence; a

single woman did not refrain from sexual intercourse because she feared having to disclose her intimate relationships in a legal setting. Nor did the statute provide regulatory measures merely by way of voyeurism. Seduction legislation did much more than simply invade the private thoughts of the single woman by forcing her to testify about her sexual history in public. Instead, the law of seduction regulated a single woman's sexuality through condemnation. By judging her sexual relations outside the matrimonial union as unacceptable, the law criticised the decision made by a single woman to become sexually active with a man who was not her husband. Furthermore, the law held this woman up as one who contributed to the destruction of the traditional family and a moral society because of her decision. In this light, the sexuality of the single woman was thus regulated by the applicable legislation.

Chapter three will elaborate on the information presented in Chapter two. Specifically, select seduction case studies will be analysed in order to confirm the ultimate regulatory objective of the seduction legislation. This legislation was introduced and passed by legislators who had as their primary goal the preservation of morality and the family, and the subsequent proper conduct of the single woman. The seduction legislation was not designed to protect single women from harm or sexual abuse by their male acquaintances, nor was it intended to offer redress to those women who were victimized. Instead, these case studies demonstrate that these women had their sexuality and moral conduct put on trial because they had transgressed the epitomized behaviour of a pure and virtuous woman. A single woman could not voluntarily become sexually involved with a male (who was not her husband) if the ideal family was to be upheld. This style of independence and autonomy with regards to her sexuality was unacceptable,

both socially and legally. If a single woman chose to flaunt her sexuality in this fashion, then seduction law would condemn her as one who both insulted the ideal family and posed a threat to the stability of a moral nation. Therefore, by examining the testimony of several seduced women in Chapter three I will illustrate the genuine intention of the law and the subsequent regulation of a single woman's sexuality.

To summarize, the initial discussion concerning the reform movement will introduce the idea of moral reform, and will clarify the significance which was placed on the traditional family unit, the basis for the moral reformers' concern over family destruction and the source of law reforms which are the subject of this thesis. The brief presentation of the legal regulation of the married woman underscores both the importance of the nineteenth century family, and the need to maintain the patriarchal configuration of society. The thesis focuses on the sexual regulation of single women by way of nineteenth century seduction law, and related case studies. This focus is an important element of the story of the moral reformers' public policies and law, and the experiences of women within the late nineteenth century.

Chapter 1: The Relationship between the Social Reform Movement and the State during the Nineteenth-Century

The regulation of morality within Canadian society was contested territory during the nineteenth century, one which variously resulted in conflict and cooperation between reform groups and the Canadian government. The common sentiment which seemed to be consistent among these groups and the government was the notion that in order to establish, and maintain, the vision of Canada as a strong young country, the moral grounding of the dominion must be at the forefront of the national endeavour. John A. MacDonald, for instance, proclaimed that, “without the proper moral foundation, the young dominion [Canada] would surely falter,”¹⁴ suggesting that morality played a prominent role when seeking to form a well-established and strong nation. Not only was there a need for a well structured government in Canada, but the citizens themselves also had to embrace the conviction of “self-discipline, whether that came in the form of going to church, working hard, or simply resisting the sins of the flesh or the bottle.”¹⁵ Furthermore, the moral foundation of Canada rested on the notion that there must be a societal structure that supported the traditional family unit, which in turn complemented and preserved separate spheres in which men and women carried out their daily lives.¹⁶

This moral foundation and the pursuit of improved citizenship provides a general notion to begin a discussion of Canadian reformers. Morality was a central theme in public policy during the mid- to late nineteenth century. What is more, there was a direct relationship between the motives and actions of reformers and the reform of substantive Canadian criminal law. These concerns and their relationship to reform, public policies and the law provide a framework for understanding how “moral concern(s) and the

assumptions on which [they proceeded]... influenced the development of the criminal law.”¹⁷ By examining the character (social class, gender, etc.) of the members, their corresponding objectives, and the subsequent alterations in Canadian law, one is better able to understand *what* and *who* was targeted in a sometimes sweeping movement to eradicate immorality and thus, improve social order.

Within the reform movement, there existed groups organized and led by both men and women who had as their mandate the formation and governance of morality of Canadian citizens. These groups adhered to a wide range of religious denominations, spiritual convictions and social criteria, and consequently each proposed a gamut of social issues as their chosen projects to pursue in hopes of achieving social harmony. Nevertheless, whether it was public health or urban reform,¹⁸ many social and moral reformers during the late nineteenth and early twentieth century agreed that there existed a need to establish order within Canadian communities to ensure that the society continued to grow as a healthy dominion. Thus, while each maintained an identifiable focus (i.e. prohibition, sexual education, women’s equal rights, etc.) within their reformation process, several groups shared a common thread which encouraged them to strive for morality by way of regulating and upholding the structure of the traditional family. In this Chapter I will discuss several nineteenth century reform groups that shared this common bond of the established familial configuration as the root of social morality. The philosophy proposed by these groups will be outlined in an effort to determine their perception of Canadian society, and clarify the motivation behind their need for regulation and reform. By examining their passions with regards to moral reform, I will illustrate their demands for morality to the government and outline the

extent to which the pressure employed by these groups affected, directly or indirectly, the lives of women and men of Canada.

In addition, an examination of the interaction between the Members of Parliament and those leading the moral reform actions is essential in order to understand whether a common ground was shared by reformers and those with the power to institute and implement legal changes, thereby ensuring morality. A crucial element which must be noted in light of this relationship, is that many of the reformers shared a common vision of a moral society. Another commonality was that some of the groups were “overwhelmingly voluntary bodies existing *outside* the state.”¹⁹ The groups regularly interacted with the personnel of the state, and the state in turn “responded to the pressure from these organizations and from public opinion moulded by the moral reformers.”²⁰ But, for all intents and purposes, these organizations consisted of concerned members of society who oftentimes were already, “devoted to moral, social, religious, and/or gender reform work.”²¹

Although the reformers successfully convinced the government to enact certain alterations to the law concerning morality, it has been suggested that a chasm often existed between the law on the books and the enforcement of these laws.²² When the changes were established legally, the police and court system²³ did not consistently apply the law in accordance with these changes. Instead, those within the legal system maintained their own moral agenda and were subject to local demands which subsequently complicated the enforcement of moral justice.²⁴ Judges, for instance, sometimes resisted legislative objectives and sought to maintain older common law approaches.

In addition, those within the government ignored many of the more controversial demands put forth by the moral reformers. Issues such as prohibition and sexual behaviour of individuals were oftentimes considered outside the proper scope of law, and ones which represented undue state intervention into Canadians' private lives. In many cases those in power were not prepared to step in and demand that constituents conform to such moral regulation. Nevertheless, this fact did not indicate that the government objected to the motivation of the reformers, or many of their beliefs. It was merely an indication that members of the government may have possessed an alternative opinion with regards to the role of the law in the lives of Canadians. Moral reform and its implementation did not reflect uniformity. Contradictions and complexities form an important part of the picture.

As previously mentioned, the reform groups introduced in the following section frequently shared a vision of a moral society. However, while it was suggested that the membership within these groups was primarily homogenous, each pursued diverse causes with the optimistic outcome being a stable and morally sound society.²⁵ In the midst of this moral objective, these groups declared that the preservation of the *traditional family*, and subsequently the regulation of sexuality, were the fundamental issues which would realize the moral standards they viewed as intrinsic for a stable society. In most cases, the organizations did not commence their social endeavours in an effort to regulate sexuality. Instead, some had as their roots a charitable function from which they proceeded. Nonetheless, by the end of the nineteenth century, many had become "reformist in orientation,"²⁶ the goal being the "creation of a stable, ordered, and peaceful society."²⁷ Throughout the body of this Chapter, the evolution of these reform groups

and their respective agendas will be clarified. While their initial preoccupation was often that of benevolence, the progression to issues of reform will also be addressed. These groups garnered a great deal of respect and attention from both the surrounding community as well as the legislators of the day. According to Mariana Valverde, these members were not viewed as “opinionated interest groups,” but rather “in many ways [were] treated as experts.”²⁸ By briefly addressing the initial and expanding motives of several reform groups in Canada, I will illustrate their general objectives. In addition, this Chapter will analyse the extent to which their activities altered the criminal law regarding the family and the sexuality of Canadian women.

The Traditional Family and *The Separate Sphere* Concept

During the late nineteenth and early twentieth century there was an implied understanding of what family life was and should be, and this philosophy was expressed through support for the traditional family unit. A girl was raised to strive for her ideal life, a marriage and family, while a boy was groomed to be the primary breadwinner in his family. The status of a woman within Canadian society largely reflected this notion of a paternalistic family structure. This was the life to which many nineteenth century women acquiesced. It is this status of a woman in Canadian society which is of particular interest here, as this depiction of women helps to outline the anxieties which concerned those involved in moral reform groups during this era. The traditional role of a woman created much controversy and spearheaded many groups to act in response to maintain this established status.²⁹

As previously mentioned, a girl was raised with the notion that marriage and raising a family was her ultimate destiny and one which she should endeavour to attain.

Nevertheless, after realizing this objective, a marital union often perpetuated her submissive status within society. When a man and woman were married, the permanent union brought two people together as one. No longer did a woman possess any individualistic qualities outside that of being a wife. Instead, “[w]ives found their roles more circumscribed. They were to be obedient, restrained, forgiving, and passive... they were to accommodate themselves to their husband’s desires. Legally denied any semblance of independence or autonomy, women were admonished to meet temper with meekness and harsh conduct with self-abasement.”³⁰ The legal arrangement surrounding a marriage consequently perpetuated and advocated this conviction, and the family unit was in essence the cornerstone for a happy and healthy society regardless of any apparent inequalities between the partners.

The concept of separate spheres for men and women was also a distinguishing characteristic of the family unit during the late nineteenth century, and this prevailing philosophy continued following a marriage. Women, as mothers, wives, and daughters were expected to remain within the confines of the home, thus fulfilling the requirements needed to ensure a stable family. Work outside the home was limited to domestic work, where a woman would simply shift the location in which she continued to perform the same duties as she had in her own household. In the late nineteenth century household, a hierarchical, patriarchal order prevailed, and the popular, even dominant, view of the role of women within this order was as mothers and keepers of the hearth.³¹ In 1856, Reverend Robert Sedgwick, a popular Canadian speaker, left no doubt about a woman’s proper domestic role in life when he stated,

Woman is the equal of man, alike in the matter of intellect, emotion, and activity, and... she has shown her capabilities in these respects... It would

never do, however, from these premises, to draw the conclusion that woman... is bound to exert her powers in the same direction and for the same ends as man... this were to forget her position as the complement of man and assume a place she is incompetent to fill.³²

This principle of the “ideal of true womanhood”³³ permeated Canadian society and helped to form what was interpreted as a healthy marital union and a stable family existence. Thus, when this model was challenged (for example, when a woman pursued paid work outside the home and away from the protection of her family), problems were anticipated by the various reform groups. Members felt it was imperative to take charge in order to re-establish this family unit when they suspected its potential demise. One can comprehend the progression of suspicions which initiated and consequently fuelled many segments of the reform movement. The potential deterioration of the family and the inevitable societal consequences were sufficient motivation for action. Activities which jeopardized established norms within society were perceived as contributing to the downfall of the community or society at large, and would thus be condemned by the reformers as in need of regulation and control.

As previously mentioned, many of the reform groups (based on their membership, gender, religious background, etc.) targeted a diverse set of social issues within their agendas to reinstate moral stability. Nevertheless, they were convinced that a stable family was the key to a stable society and in turn, the reformers usually spoke with one voice concerning *the family*.³⁴ Whether it could be stated that the groups were “architects of social patriarchy”³⁵ is dubious, but many advocated the adherence to traditional roles for men and women. Their success may have been rooted in the fact that they did not have many opponents on this issue,³⁶ but the reality was that this was the dominant way

of life which Canadians pursued and to accuse those members of deliberately trying to suppress women further would be unfair. It was true that many groups envisioned life as happier, healthier and morally complete with women confined in the home, and therefore change was not embraced since the outcome and possible consequences seemed precarious. Hence, several groups targeted family unity, morality, and ultimately the concept of sexual boundaries for women in their agendas to stabilize society. These groups endeavoured to defend the “patriarchal sexual code and the promotion of motherhood.”³⁷

While these groups challenged modifications to the traditional family and a woman’s role in that family, it is not accurate to suggest that the reformers were solely responsible for this form of patriarchal repression. Their chosen agendas and subsequent action did indeed affect the relationship between women and law during this period, but their activities did not complete the legal subjugation of women, as may be implied (if not stated overtly) in some historical treatments of the issue. While Jane Ursel asserts that many moral reformers were the “architects of social patriarchy,”³⁸ it is not accurate to conclude that the relationship between women and law at the end of the nineteenth century was as simple as that. Instead, the patriarchal structures inhabiting law and legal institutions were the result of a complicated amalgam of many social forces, only one type of which emerged from the activities of the moral reformers.

Women in the Role of Reformer

In Canada, during the late nineteenth century, anxiety about the disruption of the family and its possible collapse was partially stimulated by the emergence of industrialization and the societal changes which were believed to accompany it. While

areas of Europe and the United States had already experienced much of the upheaval associated with industrial capitalism, Canada had not “confront[ed] the social impact of industry and urbanization until the 1880s.”³⁹ This transformation in life directly challenged the established norms where women were concerned. No longer were women forced to settle for domestic work as the only alternative in employment pursuits. Instead, because of the expanding industrial pool, they had a number of employment opportunities outside the typical sphere of domesticity. For example, in Toronto “[t]ailors, dressmakers, furriers, corset manufacturers, and boot- and shoemakers employed almost 2,000 women out of a total female labour force of 6,000 in 1881.”⁴⁰ The same forces which “converted the family from a production to a consumption unit”⁴¹ had also provided women with an opportunity to leave the home in search of paid labour.⁴² Although the perils of such labour (low wages, less than perfect working conditions, long hours, etc.⁴³) were common, the perceived freedom for the female workers frequently outweighed the negative aspects.

As many single women decided to pursue these novel employment options, fears regarding family cohesion grew. Suddenly, the historical framework which constituted the family was in danger of disintegrating and reformers viewed this as one step closer to the destruction of a moral society. In the 1880s, for instance, when discussing the “costs and benefits”⁴⁴ of industrial capitalism, the morality of this development was a top priority. The presence of women “adrift”⁴⁵ in the workforce not only challenged long established familial norms, but their existence in this role as worker drew questions of morality. “[T]he woman worker presented a moral problem, the solution for which would necessarily focus on morality.”⁴⁶

The 'morality question' concerning working women and the potential demise of the family would lend itself to a paradoxical relationship that characterized the development of several reform groups organized and directed by females. Simultaneously, many women from these organizations felt the need to enter the public sphere in order to ameliorate the potential destruction of the family unit, thus working to protect the private sphere.⁴⁷ At the same time, these women faithfully laboured toward re-establishing the unit which was interpreted as perpetuating their subordinate status in society – the traditional family.

During the early part of the nineteenth century, women pursued charitable endeavours, whether on a personal level or through church participation.⁴⁸ Initially, benevolence through the church was considered an acceptable form of charitable involvement for women largely because it was recognized as "their only legitimate sphere beyond the home."⁴⁹ However, women progressively increased their participation within alternative elements of reform and consequently, "helped to found or administer orphanages, asylums, and refuge homes for destitute infants, children and women."⁵⁰ It was through these social mediums that women attempted to assist those who were considered less fortunate in society. This style of charity work also addressed areas of social welfare in which the government lacked motivation.⁵¹

Several of these prominent moral reform groups during the late nineteenth century were organized and led by women. These women felt the need to establish groups that served to protect society from the social evils which resulted in the demise of a stable and secure family and community. Many of the women within the organizations were middle-class and were married to prominent businessmen or professionals, a position

which financially allowed them to pursue the causes they regarded as deserving of their time.⁵² This effort by the female reformers may have appeared to some as curious, in that this progression into the public sphere presumably challenged their God-given roles as nurturers within the home. Nevertheless, these women asserted that this move unequivocally adhered to their maternal instincts. Most advocated the patriarchal family model,⁵³ with the husband as the provider and the wife as nurturer, and truly believed that this type of social work merely took their roles as mothers to the next level. To justify such a radical departure from their traditional responsibilities within the home, these female reformers suggested that they were now fulfilling their mothering roles “on a national scale.”⁵⁴ The members believed that what they were doing was “morally right” and in fact “God’s work.”⁵⁵ They still embraced their fundamental role in life. Their strong adherence to the family thereby presented a paradox: “[I]t stood as both a symbol of woman’s sexual and social repression, and yet its preservation provided the motive force behind the movement for female emancipation.”⁵⁶

While these women strongly believed that their “feminine touch”⁵⁷ and expertise were required in order to alleviate the social ills within society, it was uncertain whether their genuine focus was the well-being of those less fortunate.⁵⁸ Many of the reform groups headed by females appreciated that their objective was to establish a stable and moral society in which to live. Such a healthy society would in turn ensure the presence of a happy and healthy family life for those within the community. Due to the high esteem which the traditional family enjoyed, this goal was interpreted by the members as one with the greatest rewards. Therefore, while these women undoubtedly had the best interest of the recipients in mind, the primary goal was not that of relieving poverty, for

instance, but the preservation of a pure and honourable society, “a society where the needs of those being served were and are secondary to those of the society as a collective entity.”⁵⁹

While service remained a factor within their agendas, by the end of the nineteenth century these groups shifted their focus, whereby their work began to reflect a reformist strategy. This move further illuminated the notion that they were not concerned with the personal improvement of those in need, but instead with the moral condition of the family and the society. The members wanted to create a stable and moral society and work toward influencing the government to initiate the corresponding legislation which would complement their values regarding the family. Studies of these female reform organizations suggested that their “self-professed purpose”⁶⁰ was the promotion of social reforms which promoted motherhood and strengthened the family. Given that the state was viewed as a “weak moral agent”⁶¹ during this time, these reformers recognized that they must take the initiative to ensure the family would remain intact and to further prevent moral breaches by individuals which would jeopardize the stability of society. What follows is a brief examination of a select number of reform groups who advocated this traditional family conviction and its correlation to the moral righteousness of Canadian society.

Women's Christian Temperance Union (WCTU)

The first local Women's Christian Temperance Union (WCTU) was formed in 1874, while the first provincial union was formed in Ontario in 1877 and the Dominion Union was established in 1883.⁶² The group boasted a membership of 10,000 by 1900⁶³ and was generally a non-philanthropic group established primarily by Anglo-Saxon,

Protestant, middle-class women who strongly believed in the evil consequences of alcohol. In accordance with convictions, their mission was to impose prohibition.⁶⁴ Though the Union's movement for prohibition will be the primary focus in this section, the WCTU also lobbied against smoking, and obscene literature, while establishing a department dedicated to social purity. According to Mariana Valverde, the WCTU not only wanted to ban one particular substance (in this case, alcohol), they were interested in total reform of "both the spiritual and physical lives of its people."⁶⁵

For many temperance workers, intemperance "stood out as the most visible and... the most threatening of all urban social problems."⁶⁶ Not only did drunkenness threaten the health of one's body and mind, it was also directly associated with the disruption to the social order.⁶⁷ Furthermore, alcohol was charged with breaching the moral code of society. It was morally wrong in the eyes of these reformers and consequently was christened the "foe to morality."⁶⁸ Men who drank were accused of wasting both time and money on a substance that could only spell destruction for their home life. Liquor had no virtuous purpose in society. Instead it only victimized women and children. "[I]t [liquor] turns men into demons, and makes women an easy prey to lust."⁶⁹ By imposing this threat upon women, children and subsequently the family, intemperance directly threatened the inherent balance within society.⁷⁰ The removal of this immoral behaviour, in the eyes of the reformers, presented one less "environmental source of social instability."⁷¹

The WCTU was one of the most aggressive female reform groups during this era, and their radical demands on the state reflected their passion concerning prohibition.⁷² The members abandoned the "voluntary appeal"⁷³ approach to intemperance, convinced

it was more influential to demand the government implement a “compulsory temperance law”⁷⁴ which ultimately forced individuals into a state of prohibition. Prohibition “complemented its members’ religious beliefs, helped those in need, and protected their members’ own interests.”⁷⁵ The association between intemperance, immorality, and crime left the female reformers no choice in their minds but to adamantly lobby the government, demanding action. While other female reform groups adhered to the notion that they must change the individual to complement the society, the WCTU believed that the power of the state was necessary to “change the norms of society since it believed only legislation could ensure a temperate society.”⁷⁶

In the opinion of the WCTU, this form of state intervention was more effective than working directly with those who were drinkers.⁷⁷ The temperance members proceeded to plead their case on a number of levels, including a religious and social platform. Firstly, within the Protestant religion, intemperance signified a major social problem since it “removed moral inhibition and self-restraint from man and thus prevented him from fulfilling his primary function - the saving of souls.”⁷⁸ This religious “moral guilt”⁷⁹ applied not only to those men who imbibed, but also to those men who manufactured alcohol, as they too were looked upon as perpetuating the social disintegration of the family and the society at large.⁸⁰ Hence, for a religious man to ignore drinking as an obvious religious infraction seemed incomprehensible to the temperance workers. Secondly, because alcohol was visualized as a “foreign element”⁸¹ in society, and the root of social disorder, female temperance reformers saw no other alternative than to force the state to take legislative action. In this respect, the members of the WCTU became more involved within the public sphere than many other women’s

organizations during this era. As indicated by Wendy Mitchinson, the reformers believed that “governments responded best to public pressure”⁸² and accordingly, the women became vocal within a public arena in an effort to rally public support. The members revealed what they believed was a connection between intemperance and sexual immorality, and furthermore viewed this association as a direct threat to their middle-class way of life.⁸³ As women, they realized they were oftentimes the victims of alcohol, as were their children, and they saw this disruptive element as an “invasion... into their homes.”⁸⁴ Notably, these women demanded participation within the public sphere⁸⁵ in order to establish prohibitory legislation in an effort to protect the private sphere which they considered to be their territory. Within the public sphere, the women hoped to convince the government that their state power must be utilized to modify the norms⁸⁶ and ensure a temperate society.⁸⁷ These female reformers charged intemperance as a threat to their “middle class virtues of thrift and Christian morality”⁸⁸ and thus, strove to conquer such instability within the public realm.

These women inevitably faced an uphill battle where reform was concerned. They endured criticism and ridicule from anti-feminists who strongly adhered to the dominant ideology that a woman belonged in the home and not in the public sphere attempting to eradicate social evils, “not out pursuing reformation in the welfare realm.”⁸⁹ According to some, a woman was far too weak and feeble-minded to assert herself in such a manner, and should not endeavour to venture into the public sphere as an advocate. As was declared in the *Daily Mail* in 1872, women in Ontario had thankfully not progressed to the point of demanding such participation outside the home. “The women of this country have no claim to be considered strong-minded. Thank Heaven for it... they are

content to stay at home and cultivate the domestic arts... [t]hey do not harass the community with public lectures.”⁹⁰

The Canadian government acceded to the demands of the WCTU factions, and agreed to implement and/or support several social welfare programs. For instance, the WCTU members lobbied for changes within the factories, whereby separate washrooms for the male and female workers were provided. As well, the women worked to establish reforms dealing with child labourers in order to decrease the number of children working near dangerous machinery.⁹¹ An additional victory championed by the WCTU saw the implementation of “scientific temperance”⁹² within the school system. This educational reform was initiated by the WCTU as a measure of ensuring that vulnerable children did not succumb to the evils of alcohol. In 1884, George Ross, the Minister of Education in Ontario, and an honorary member of the WCTU, accepted a petition on behalf of the group signed by 4,333 people which explained that “in a large majority of the cases, [the] habit of drinking is contracted by children without any correct knowledge of the nature of alcoholic liquor and its effects upon the human system.”⁹³ As a result of this pressure, in 1885, scientific education was initially placed in the curriculum as an option, but following further demands from the WCTU, the government made “temperance instruction compulsory” in 1893.⁹⁴

The greatest attempt at reform by these women was prohibition. The women of the WCTU pursued several avenues in an effort to accomplish this daunting task, among them, petitions and plebiscites. As they had done in 1884 with the introduction of scientific temperance, the members utilized petitions as a way to garner attention from the government concerning prohibition. As previously mentioned, since WCTU

members believed the government responded to public pressure, they used such petitions to demonstrate public support. By obtaining signatures from those in the community, the WCTU was convinced that this was sufficient evidence for those in government to implement legislative changes regarding prohibition. In their minds, the petitions proved that Canadians agreed alcohol served no other purpose than to directly destroy the family, and hence the society. The women presented these petitions to all levels of government with the hopes of establishing new, tougher laws concerning alcohol.

This action saw limited success. The government generally responded to the petitions by “granting a plebiscite on the question [of prohibition].”⁹⁵ A plebiscite was an opportunity for individuals to voice their concern about a particular controversial subject, and if there existed enough support for the issue, the government was able to act without the chance of “political reprisals.”⁹⁶ As part of their efforts, the WCTU members distributed literature which implored constituents of the community to vote for a member of the government who supported their action for prohibition. The women appealed to those “who possessed the right of suffrage [men] to exercise this right in the interest of temperance and total abstinence.”⁹⁷ The WCTU went so far as to support the establishment of a new political party in hopes that this move would guarantee the victory for which they were struggling. This party eventually floundered and with the subsequent introduction and defeat of the prohibition plebiscite on September 28, 1898, the WCTU questioned whether the government acted in the best interest in society.⁹⁸

These women had placed a great deal of faith in the government to create a stable society and instil a sense of morality through legislation, and they were consequently disappointed when those in power declined the appeal to do so.⁹⁹ It was their

understanding that the state was an “agent in society and as such had a responsibility to do not what shall punish wrong-doing so much as what shall tend to right doing.”¹⁰⁰ Instead, the government legalized the alcohol trade and the WCTU members alleged that this move, “for a price, for revenue, [made] the whole nation, women and all, party to its own degradations.”¹⁰¹

Despite this setback, the members of the WCTU continued to fight for what they believed was a crucial element in society. The traditional family had to be sustained and protected from elements which placed it in jeopardy. As women, they viewed their roles beyond that of mothers within the home; they appreciated the fact that they had a duty to protect their children and family. Previously, during an Ontario WCTU meeting, a member, Mrs. Harvie declared, “We may not stand in the council chamber, legislative hall or win name and fame on the battlefield... [but] in our homes, in the training and educating of our children, we are establishing a firm and lasting foundation upon which shall be reared our national superstructure.”¹⁰² This statement indicated that although many of the members acknowledged their limited participation within the public sphere, they nonetheless believed that their skills (as women) to obtain a moral society existed outside the domestic realm.

While those in the WCTU fought to establish measures which would alleviate many social ills within society, there were others who advocated social purity in an effort to maintain this social stability. The members of the WCTU, for instance, perceived alcohol (among other elements) as a contributing factor to the destruction of the nineteenth century family, as well as a direct threat to their Christian, moral existence. Other members within the social order movement pursued alternative means to achieve a

similar end. One of those individuals was D. A. Watt who, with the assistance of his fellow members of the Society for the Protection of Women and Children, attempted to strengthen the legal parameters which protected women and girls from the dangers of sexual exploitation. As will be discussed, Watt was diligent in his attempts to advance the regulatory measures by which the sexuality of single women in Canada would be defended. Nevertheless, the overtones of Watt's reform movement also demonstrated a similar foundation shared by those within the WCTU. The maintenance and stability of the traditional family was crucial when attempting to establish a stable and moral Canadian society. As opposed to alcohol as the crux of the movement, Watt selected female sexuality as the focal point for his struggle against immorality.

D. A. Watt and the Society for the Protection of Women and Children

Prior to codification of the criminal law in 1892, the state dealt with sexual immorality by way of a combination of statute and common law. Instead of "trying to shape the conduct and values of its citizens to prevent"¹⁰³ any sexual misconduct, individuals were punished following any moral breaches. This method was complicated due to the fact that the criminal law was considered a "blunt and ineffective tool"¹⁰⁴ for dealing with behaviours which were neither clearly right nor wrong. However, following codification, the Canadian government established a "remarkably comprehensive system"¹⁰⁵ with respect to the sexual protection of women and young girls. This process of change was not wholeheartedly to the credit of the government and its members within the Department of Justice. Instead, given that the federal government was considered (by some reform groups) to be a "weak moral agent,"¹⁰⁶ certain reformers felt it necessary to challenge the government to provide the appropriate legislation which guaranteed

continual growth and prosperity of the country. The reformers believed this would help to realize the moral national dream.

D. A. Watt, and his Montreal-based group, The Society for the Protection of Women and Children, made a substantial contribution with respect to the final version of the Criminal Code sections dealing with sexual misconduct. In particular, Watt helped establish further legislation designed specifically to protect women and girls. Watt believed that in order to maintain the social stability in society, immorality and the behaviour which it subsequently encouraged, had to be legally regulated. It was his opinion that “the public conscience is, for the most part, created and maintained by statute law, and by scarcely anything else.”¹⁰⁷

From Watt’s perspective new legal interventions should not be confined to areas of civil law such as child protection, family and labour. The ideal Criminal Code should also reflect a preventative methodology, not one which solely worked on the basis of punishment. In addition, he believed strongly that the Code must adhere to, and perpetuate, the moral nature of the society. “Of all the preventable [sic] agencies nothing can equal a decent, reputable and moral Criminal Code, not so much in its punitive character as in its deterrent, and especially in its educative character.”¹⁰⁸ As previously mentioned, it was this moral philosophy which incited many reform groups to work toward the coveted moral society. As was the case within the WCTU, Watt’s Society argued that there existed many social evils within Canadian cities which threatened to destroy the family and society. In order to alleviate such behaviour, it was imperative that the government implement legal regulations preventing the spread of these ills.¹⁰⁹

During his crusade against sexual immorality, Watt communicated with the Department of Justice by way of formal pamphlets and bill proposals. This literature particularized his suggested revisions with regards to the existing legislation pertaining to the sexual protection of women. As will be elaborated in greater detail in the next chapter, Parliament formally criminalized seduction in 1886.¹¹⁰ In the years to follow, the criminal guidelines surrounding seduction were altered substantially, and Watt continually pressed the government for stricter procedures which would penalize the sexual predators and procurers of young women.¹¹¹ Between 1889 and 1892, Watt and his colleagues communicated to the Minister of Justice nineteen times, inundating the department with his literature and proposals, all the while denouncing the inadequate existing legislation.¹¹² According to Watt, the present Dominion law governing issues of morality was deficient in that it was,

...inadequate, immoral and unjust, - Inadequate in that it does not protect minors from incitement to debauchery, - Immoral in that traffickers [sic] in vice and betrayers of trusts are not punishable,... - Unjust in that while rich and guarded girls are given protection under the whole term of their minority, poor and friendless girls are given no protection beyond their eleventh year of childhood.¹¹³

Among the proposed amendments brought forth by Watt in his 1890 *Moral Legislation*¹¹⁴ pamphlet was the need for legal consideration of the procurement of young girls, the importance of raising the age of consent, and the need for further protection against the abduction of unmarried girls.¹¹⁵ The Society, in accordance with other groups during this time, felt that the strict regulation of individual sexual practices in society secured a moral and thus, stable society. In essence, Watt's moral reform work gave "strength to the belief that only within the institution of marriage was sexual activity morally acceptable."¹¹⁶ As was the case with the members in the WCTU, Watt firmly

believed that it was the responsibility of the federal government to safeguard the sexual morality and social stability of Canadian communities. By way of law reform, Watt and others were provided with a “vehicle for social change [the Criminal Code] and a means to put ideas into law (Parliament).”¹¹⁷

Although the vision held by the WCTU and the Society for the Protection of Women and Children differed slightly in their reformist approach, the two groups possessed a common bond. While the WCTU targeted alcohol as the primary causative factor for familial destruction, Watt’s society attempted to protect the sexual vulnerability of young women in an effort to regulate sexual misconduct both within and outside a marriage. In each instance, the goal was to restore a morally sound society. Both groups sought to secure this objective by situating the family unit as the fundamental component in society. Morality, in and of itself, was a controversial issue. In both instances, the groups managed to secure, if only in part, several noteworthy goals by way of legislation in their mutual fight for morality and stability within their respective communities.

Not unlike the WCTU and the Society led by D. A. Watt, the focus for many reform groups during the late nineteenth century remained fixated on the preservation of the traditional family structure (including the sexuality of individuals within this institution), which in their opinion directly “gauge[d] society’s health.”¹¹⁸ Because women were considered the “keepers of society’s virtues and finer attributes,”¹¹⁹ this struggle for familial stability invariably resulted in an explicit examination of the role of women in the society. This notion of women as keepers of virtues simultaneously enabled many women to become involved in the public sphere as moral reformers striving for morality (WCTU, Young Women’s Christian Association, National Council

of Women), while it helped to foster the myth that the sexuality of women required additional protection and regulation if they were to successfully fulfil this role as moral guardians.

A further case in point which focused on societal morality occurred in Toronto during the early part of the twentieth century. The position of single, working-class women especially in urban settings was placed under intense scrutiny by both moral reformers and the local government. In 1898, C. S. Clark, a prominent journalist, described Toronto as “beautiful... [and] one of the finest cities on the continent in point of beauty, wealth and intelligence, as it is unquestionably the leading commercial city of the west.”¹²⁰ However, Toronto was perceived by many moral reformers as succumbing to the immoral patterns of the larger American cities, such as Chicago and New York, thus threatening their reputation as “Toronto the Good.”¹²¹ Perpetuating this moral panic in Toronto was the introduction of the “new urban villain: the white slaver.”¹²² While Torontonians were treated to “salacious reports of seduction [of women], sexual enslavement, and breathtaking rescues by the forces of morality,”¹²³ moral reformers conceptualised this as an opportunity to draw attention to the obvious presence of vice and immorality within their city. Consequently, they also viewed the ‘white slave trade’ as an additional motive for state intervention and support for their attempts to restore moral order. Leading this movement for politicisation of immorality was the Toronto Local Council of Women (TLCW). Members of this council pressured the city council to formally investigate what they believed to be an invasion of vice and immorality in their city which endangered the social stability of Toronto.

Moral Panic - The White Slave Trade

The story warning communities of the “white slaver”¹²⁴ and the sale of their women was not locally contrived within Toronto, nor was the alleged trade a problem unique to Canada. This moral panic had an international character and was brought forth primarily by the 1885 exposé by English journalist W. T. Stead entitled, “The Maiden Tribute of Modern Babylon.”¹²⁵ In this disclosure, Stead set out to prove that women were being sold internationally by the diabolical white slaver and therefore, Canadians must acknowledge the presence of this social evil lest their community succumb to similar immoral destruction. In doing so, Stead enlisted the help of a former procuress and the two convinced the parents of one Eliza Armstrong to sell their daughter for several pounds. Stead published his findings shortly thereafter and the “first wave” of the white slave panic eventually reached Canada that same year.¹²⁶ However, it was the “second wave,” between 1909 and 1914, which substantially convinced Canadian moral reformers of the existence of white slavers and the danger they presented to the public.¹²⁷

The task of convincing the Canadian public of the moral dangers looming in their cities was not simply a matter of citing Stead’s personal narrative of the international traffic in women. These groups had to demonstrate that although “white slavery was invisible in Canada itself... Canada was not as healthy and pure a nation as was generally believed.”¹²⁸ Reformers had to establish that the problem did not solely affect women in England, France and elsewhere in Europe, but Canadian women were being sold across the borders and were also directly affected by the white slave trade within Canadian borders. The first step to accomplish this task involved emphasizing the danger facing Canadian women. According to the reformers, Canadian girls were procured by slave

traders in Europe and the United States after they ventured beyond their safe and protected Canadian communities. The reformers chose to speak of the evils as 'self-evident' to most Canadians. This was noted in 1914 by W. L. Clark, the Methodist sex educator, when he addressed a group of adolescent boys asking, "Does she [your sister] know the dangers of bad men and bad women who travel the country... for the sole purpose of stealing pure girls to be sold in the horrible market... Visit some of the foreign countries and you will find there American and Canadian girls."¹²⁹ Once the reformers established a solid foundation which clearly illustrated the indisputable presence of vice threatening Canadian women internationally, they were better able to inform the public that "not all was well at home."¹³⁰

Many reform groups seized upon this compelling issue and confronted the white slave trade with determination. Besides the aforementioned issues which threatened to destroy the family and surrounding community (such as prohibition, and providing legal protection for vulnerable young women), the reformers identified yet another concern which spelled disaster for the social stability of their society. Sexual disorder was the causative factor of social disorder, and Torontonians realized that it was imperative to reinstate sexual order just as it had been necessary to "clear the slums and purify [the] water."¹³¹ Included in the groups involved in this cause were the Moral and Social Reform Council of Canada (which became "the premiere organization... to rid Canada of the scourge of white slavery"¹³²), the National Committee for the Suppression of the White Slave Trade (1912) (a subcommittee of the Reform Council), and The National Council of Women of Canada (NCWC) (who situated the issue of white slavery at the top

of their agenda following the 1912 Quinquennial Convention of the International Council¹³³).

Many reformers battling the white slave trade selectively chose to focus on the vulnerability of women within the scope of the trade. In particular, female reformers took it upon themselves to alert women about the potential perils which they would encounter outside the protective boundaries of their family and respective communities. In 1905, women attending the International Council of Women convention brought back warnings to parents of “pure country girls” (those most in danger) in their local ridings stating, “Men and women who make it [their] practice to deal in human flesh, go to small towns and... induce unsophisticated girls to go to the city.”¹³⁴ Due to the influx of women to the larger cities in pursuit of the new employment opportunities, this strategy employed by the reformers conceivably fell on sympathetic ears. Although no concrete evidence was presented which substantiated the fears fuelled by the moral reformers, their wisely selected rhetoric concerning cases of unsuspecting and innocent women meeting their ruin was enough for many in society to support and act on this hysteria. “Fears not fact, were the building-blocks of white slavery narratives and the movement that mobilized Canadians into a war against the supposed traffic in women. The time for proof was over... the time to act was at hand.”¹³⁵

At this time, members of Toronto’s reform groups were convinced that their city was quickly becoming riddled with vice and immorality, and following in the footsteps of previously mentioned moral activists, these individuals also determined that the only way of re-establishing social stability was to attack vice through legislation. In 1912, the NCWC reiterated this sentiment when they proclaimed their goal to ratify anti-

prostitution legislation by exclaiming, "Shoulder to shoulder, let us attack this evil, and attack it at a vital point - the law... for purity is the very foundation of national life."¹³⁶

Prostitution was considered to be *the* social evil during this time, and it jeopardized elements in society which comprised its very foundation - the traditional family unit (including the separate sphere conception), the purity of Canadian women (which itself was fundamental to a traditionalist approach of the family), and the moral base on which Toronto (and other Canadian cities) was founded.

To the credit and gratification of many reform groups, the Canadian government amended the Criminal Code in 1912 and in 1913 to reflect the menace of prostitution and the white slave trade.¹³⁷ Following a barrage of briefs and reform proposals penned by the NCWC and the Moral and Social Reform Council of Canada, Parliament modified the code in a manner which penalized procurers for leading women down the path of degradation.¹³⁸ New offences were added to the 1913 Criminal Code, such as, "concealment in a bawdy-house, abducting an immigrant woman to a brothel, and exerting control over a woman or girl for the purposes of prostitution."¹³⁹ These modifications spoke to the value which Toronto reformers placed on the protection of the sexuality of their female members.

The Toronto Local Council of Women and the Toronto Social Survey Commission of 1915

Although many reformers interpreted the legal amendments to the Criminal Code as a victory, others demanded further action still, convinced that "Toronto the Good"¹⁴⁰ continued to suffer from the existence of immorality. The Toronto Local Council of Women (TLCW) prompted further action when they pressured the city council to execute

an investigative vice survey in an effort to explore the “morality and safety of young women.”¹⁴¹ Encouraged by similar reports produced by the “Committee of Fifteen” in New York (1902) and the Chicago Vice Commission in 1911, the female reformers in Toronto wished to emulate these surveys in order to prove that, “the problem of urban vice did not exist only in the minds of social purity fanatics.”¹⁴² Furthermore, the reformers acknowledged that by providing the state with a formalized and scientific evaluation of vice in the city, legislators would be forced to accept the results as credible, and thus the process of re-establishing moral stability within Toronto would be the next logical step. With that, the TLCW marched to the City Hall in an effort to vocalize their concerns and begin the process necessary to institute their own Toronto Social Survey.¹⁴³

The survey was approved by city council on October 27, 1913 and the TLCW president, Florence Heustis, was a participant in this “fact finding” mission to explore, “the troubling specimens of urban life.”¹⁴⁴ Surprisingly, the survey skimmed over its initial aim, that of the white slave trade, in three pages and a combination of their “distrust of the moral pitfalls of big city living, coupled with their association of women with urban allurements, washed over the canvas of the survey report.”¹⁴⁵ What became the focal point of the survey was the suspicion and subsequent alarm surrounding the social life of the single, working woman in Toronto. The debate concerning the leisure pursuits of these females proved to be an “epilogue to the earlier controversies”¹⁴⁶ around women’s employment pursuits in the initial phase of industrial capitalism. Ironically, although women during this era continued to face obstacles within the work force, including low wages and dangerous working conditions, those issues did not constitute concern for these noted reformers. Instead, this fact-finding mission resulted in the

reformers discovering, much to their dismay, that working women in Toronto were willing and able to pursue social pleasures during their time-off. Those pleasurable pursuits troubled members of the Commission board. The supposed “immorality” of these single women outweighed the weak and unsubstantiated presence of the white slave trade. The women presented a challenge to the traditional family unit which reform groups upheld as the measuring stick of morality. The women belonging to the YWCA (Young Women’s Christian Association), for example, lamented that without the “communal, religious and family supervision of a woman’s free time... a vacuum [was created] that drew working girls directly to vice.”¹⁴⁷

What followed was the construction of *the* social evil in society - prostitution. Whereas the reformers had already attempted to fight the evils of prostitution in their respective cities, they were now faced with a greater dilemma which they categorized as the “occasional prostitute.”¹⁴⁸ Neither the police nor the law, they suggested, could adequately address this dilemma. Those labelled an occasional prostitute did not necessarily trade sexual favours for money. Rather, the Survey determined that these women, “socialized with a variety of men out of desire for fun and not necessarily marriage.”¹⁴⁹ The Survey concluded that although, “out-and-out prostitutes, as a class, [were] known to have existed always, and in a large city their presence in considerable numbers [was] more or less to be expected,”¹⁵⁰ the arrival of the “occasional” and her illicit sex trade was not easily segregated in areas of the community which would offer those respectable citizens a sense of moral preservation.¹⁵¹ Without the “physical borders of their urban dens,”¹⁵² Toronto was faced with the spread of sexual immorality created by these “good times girls.”¹⁵³ This point depicted similar conclusions as were found in

the examination of the WCTU. These reformers not only feared the disruption of life for the respectable class, but these single women directly challenged their traditional and God-given role in life. The very notion that the women were interested in relationships outside of a marital tie was unacceptable to many members during this era and consequently required regulatory initiatives.

Responsible locations associated with this sexual immorality included dance halls, skating rinks, amusement parks and theatres.¹⁵⁴ The reformers likened the consorting of men and women at these social functions to occasional prostitution. Furthermore, they did not trust that these women were able to, “impose limits necessary to channel heterosexual familiarity in courtship and confine sex within marriage.”¹⁵⁵ Therefore, as was presented previously, reformers felt the need to intervene in a dire effort to restore *order* to what they perceived to be complete sexual *disorder*. Women were once again targeted by these groups and subsequently their social lives were scrutinized and attempts were made by groups to redirect their (single, working women) interests to areas which provided a healthy, safe and protected outlet for their social desires. These pursuits would help them reach their full potential as women in society, that of a wife, mother and keeper of virtues.

With the emergence of the occasional prostitute, those on the Commission were driven to curb the social appetites of the single working woman in Toronto. In their opinion, this form of leisure time was not acceptable if a woman was to remain the keeper of virtues and the family unit was to remain the cornerstone of a moral and healthy society. By challenging the established norms of the community, these females posed a direct threat to the traditional family. Women’s ultimate role in life, as a wife

and mother, was threatened by consorting with men who were neither their mate nor a prospective husband.

This behaviour, and the subsequent anxieties exhibited by the social reformers in Toronto, was reminiscent of the attitude demonstrated by the reformers struggling for prohibition (WCTU) and for sexual protection for young women (D. A. Watt). In the end, these individuals fought to retain the notion that a moral society was synonymous with a healthy society, and that causative factors such as alcohol, and sexual relationships outside marriage, flew in the face of this conviction. As previously noted, these groups were able to garner a large amount of support, both within their local communities, and within the Canadian government. They, “commanded a great deal of respect and were in many ways treated as experts, not as opinionated interest groups.”¹⁵⁶ By distributing literature, drafting bills and proposed legislation, and signing petitions, the reformers were able to influence those within their community that the need to keep a moral society alive was fundamental, and in order to do so these particular issues must be dealt with promptly. The reaction to the reformers from those within the legal system varied depending on the issue at hand. Nonetheless, these reformers accomplished several substantial victories, including amendments to the Criminal Code. Those within the legal system were oftentimes cautious, and frowned on intervention into the private lives of Canadians. However, in some cases an adjudicative approach was justifiable and the required changes in legislation followed. These common themes within the reform agendas allow for a clear examination of their motives and goals. In this depiction, their ideas regarding morality and the subsequent need to distrust and control the sexuality of women was profound.

In the following Chapter this discussion surrounding the role of women will be elaborated in relation to Canadian law. The moral reformers focused on the preservation of the traditional family, and presented the initial legal regulation of women's sexuality during their crusades for morality. What follows will be an examination of specifically how the law viewed the family and consequently, married and single women during their daily lives. First, a discussion regarding the legal status of married women will be briefly presented. The notion that marriage and the traditional family was the cornerstone of society (which had to be protected both socially and legally) will be further explored in relation to its effect on women. Second, a further examination of the regulation of a single woman's sexuality will be explored through the law of seduction. Both the tort and crime will be highlighted in an effort to elaborate the importance of family ties and the patriarchal structure of late nineteenth century society. The primary concern in the following Chapter is the manner in which the traditional family structure was protected by law. The position of women, as moral and keepers of virtues, will be emphasized in an effort to illustrate the extent to which the family was legally protected often to the disadvantage of married and single women.

Chapter 2: The Status of Married and Single Women and the Legal Regulation of Sexuality in the Nineteenth-Century

As previously discussed, the more rigorous historical literature on Canadian women during the nineteenth century suggests women lived a restricted and regulated existence. According to this work, women were frequently relegated to a second-class status, and were consequently viewed as occupying a submissive position, relative to men, within society. This literature also indicates the difficulties confronting women if and when they attempted to establish a lifestyle more similar to that enjoyed by men. This is not to say that all women suffered equally because of the patriarchal structure of society, nor is it a statement which condemns all men for perpetuating a male-dominated attitude in Canada. But, many women unquestionably faced challenges and disapproval from society during their lives when attempting to enjoy the same privileges offered to their male counterparts.

This Chapter will explore the most formalized expressions of the status of women by exploring the legal position occupied by both married and single women during the late nineteenth century. Legal status was not merely symbolic. The way in which a woman was regarded, and consequently governed, by the legal system had serious practical consequences for much of her way of life. It has been suggested that the Canadian legal community performed a complementary role to that of the moral and social regulators, in that it legally structured an environment which perpetuated the primary role of the married and single woman – her fundamental role within the private sphere. A woman's deviation from this natural role of wife, mother and nurturer was interpreted as an attack on the family, and therefore it was understandably a contentious

issue which initiated response from both the moral and legal components in society. It is this legal response which is of particular interest in this Chapter and will thus be explored to gain a better understanding of a woman's status according to Canadian law. In particular, an examination will be offered of how the traditional view of marriage fuelled the legal initiatives which served to perpetuate and sustain a marital commitment and the patriarchal structure on which it was based. Certain elements of married woman's property law has been selected as the focal point to analyse in an effort to provide a brief account of a married woman's legal status and her limited rights within this union. In addition, this Chapter will provide an introduction to the legal regulation of the single woman's sexuality. Principally, elements within nineteenth century seduction legislation¹⁵⁷ will be examined to clarify the concept of legal regulation of single women. This information will establish the necessary framework for an in-depth discussion of the seduction case studies to follow in the next Chapter. The central issue to be explored within the representations of both the married and single woman is the existence of a common objective within the legal framework of nineteenth century Canada. In order to authoritatively validate the significance of the traditional family, and thus sustain a healthy society, legal initiatives were introduced which had as an overarching objective the legal preservation of the family status quo. Moreover, even though Canadian law distinguished between married and single women in certain legal areas (for example, property law), there nevertheless existed a fundamental commonality which resulted in the regulation of their lives, regardless of their marital status.

Although the institution of marriage during this era was interpreted as "life's most promising material enterprise,"¹⁵⁸ for a woman it was often simultaneously indicative of

her “civil death.”¹⁵⁹ For a married woman, her husband became both her legal representative and her moral guardian.¹⁶⁰ The legal interpretation (and therefore the legislation which followed suit) regulating a married couple was entrenched in the belief that in law, a husband and wife were one person, and that person was the husband.¹⁶¹ Socially and legally, to acknowledge separate interests of a husband and wife was “undesirable,” and was rationalized as a threat to the stability of the traditional family.¹⁶² Therefore, the authoritative role in a marriage was occupied by the husband, and Canadian law operated to ensure that this union, and the roles within it, remained static.

Conversely, a single woman’s legal status outwardly appeared to be preferable to that of a married woman. For example, it was declared that a single woman enjoyed similar property rights to that of a man. She could “own, manage, bequeath, buy and sell property.”¹⁶³ In 1900, Clara Brett Martin proclaimed that the common law had “never thought fit to impose disabilities on single women”¹⁶⁴ and thus, the *feme sole* dealt with her property in the same fashion as would a man. However, within the Canadian legal framework (in particular, in the seduction legislation to be discussed in the following section), there existed an unwavering attempt to also regulate a single woman’s activity and to impress on her the supremacy of the traditional family unit and her ultimate role within that unit. Simply because she was not married did not suggest that she was exempt from control by Canadian law. In particular, the disabilities to which Martin referred were still present in the form of legal regulatory measures, some of them new, regarding her sexuality. Therefore, whereas the married woman was legally controlled by her husband, with the law performing an indirect role as the governing body of the matrimonial union, the single woman, without a direct male patriarch, was subjected to

the law as the direct source of control and regulatory power over elements of her moral existence. Both of these legal representations of women will now be examined.

Married Women and Their Rights within the Marital Union

Respecting the woman who has a bad husband, with no law to protect her whilst he lives... and taunted with her very helplessness by him... she is to be pitied. They talk a great deal about slavery... the laws for married women are almost as bad.¹⁶⁵

As we have seen, marriage was declared the “source and life of Christian civilization... and... the foundation for the future prosperity of the country.”¹⁶⁶ The emphasis on marriages in the nineteenth century was such that Constance Backhouse charged contemporary Canadians of being “obsessed with the notion of the institution of marriage as the structural underpinning of a stable and healthy society.”¹⁶⁷ Yet, under the common law a married woman was long considered a non-legal entity,¹⁶⁸ and consequently she possessed no independent legal existence while a part of this sacred union. When she accepted this highly revered societal position as a wife, she ultimately gave up her legal identity and became subsumed under the identity of her husband.

The Upper Canadian Law Journal in 1856 expressed this position when it pronounced that a woman did not possess the same civil rights as that of her husband. “The natural rights of a man and woman, are... equal; entering the married state, the woman surrenders most of them; in the possession of civil rights before, they merge in her husband; in the eye of the law she may be said to cease to exist.”¹⁶⁹ The law viewed the husband as the sole arbiter within the family, premised on the common law and reinforced by the sacramental view of marriage, and considered the two individuals as one. “[M]arriage made two persons one flesh, and gave the husband dominion over the wife.”¹⁷⁰ Furthermore, many nineteenth century families were regarded as an economic

unit, and thus to legally or socially recognize the husband and wife as two separate entities within the union was unfavourable and could potentially threaten a family's financial stability.¹⁷¹

A married woman gave up not only her legal identity following the vows, but in addition, her personal possessions became a matter of contested territory. The concept of property, and the distribution thereof, was a crucial element with regards to the unequal balance of power within the marital union. As noted by Lori Chambers and Marylynn Salmon, the relationship between “property and personal status [were] intimately linked... and the extent to which women own[ed] and manage[d] property [was] an important baseline for learning how men and women share[d] power in the family.”¹⁷² Following a marriage, the man assumed responsibility for his wife's “antenuptial debts, contracts or torts,”¹⁷³ and was directly responsible for all of her actions during the marriage.¹⁷⁴ This illustrated how a woman occupied a disadvantaged position, both within the marriage, and within the surrounding society due to her legal marital status. The woman's lack of possessions in the form of property and legal rights to hold her husband accountable for his actions regarding this property, left her in a virtual “legal limbo.”¹⁷⁵ This status undoubtedly wreaked serious havoc on her ability to challenge any potential abuse whether physical or in the form of property mismanagement by her husband, which might have transpired during the marriage and which maintained a woman's dependence on her husband.

It should be emphasized that not all marriages during this period were unfavourable, and indeed many couples lived happily with one another without the need for special provisions ensuring that an equal balance of power prevailed between a

husband and wife.¹⁷⁶ However, if a woman did find herself within an abusive or irreconcilable marriage, she did not possess the necessary legal support or resources whereby she could realistically rectify the situation. The very fact that the law did not recognize a woman separately from her husband, inherently placed her in a disadvantaged role both within the private sphere (her unhealthy marriage) and in the public sphere (within the legal and social realm). This legal approach reflected the law's long-standing 'hands off' approach. Instead, the law placed its trust in the "good faith"¹⁷⁷ of husbands, and thereby only interceded to preserve the ideology of the traditional family. The legal machine was implemented and operated in order to maintain the status quo, not to interfere or disrupt the well established marital structure. In the eyes of the law, the husbands fulfilled the role of guardian upon marriage and therefore, it was the law's duty to merely uphold this familial structure. It was precisely this extreme vulnerability of women within a marriage which was in need of modification. The common law concept of "legal unity"¹⁷⁸ between a husband and wife, a concept which fuelled property law during this era, was in need of reconfiguration to establish a woman as both a separate entity from her husband and an individual distinct from her husband's property. The modifications occurred slowly, and nineteenth century legislation began to reflect a minor shift in attitude with regards to women and their rights as individuals within the married state.

Many of the subsequent modifications regarding a woman's property rights were introduced and implemented between the late 1850s and 1870s,¹⁷⁹ and were consequently opposed by individuals who cited the correlation between additional rights and familial destruction. By fashioning any discord regarding married women's property legislation

on the preservation of the family and the threat to social stability, these additional property rights for women were presented as detrimental. They would separately recognize a husband and wife as individuals as opposed to a family unit. This antithetical opinion was summarily offered by the Toronto *Daily Mail* when they proclaimed that “[a]s to women it may be questioned whether our Legislature, in substituting for the ancient spirit of the Common Law new theories of the wife’s independence of the husband, has not overstepped the limits of prudence and endangered the harmony of wedded life.”¹⁸⁰ Presumably, upon marriage, a woman was adequately legally protected by her husband, and therefore, opponents such as those from the *Daily Mail* claimed there was no need for the law to provide further measures by which a woman may be safeguarded within her marriage. What is more, while adhering to the belief that a woman no longer required legal assistance following a marriage, many opponents to the reform of married women’s property law ascribed to the notion that men did not abuse their position as husbands and providers. This was not to suggest complete naiveté toward the presence of family violence within mainstream society, but it provided insight to such overt resistance to change as was demonstrated by the *Daily Mail*. “[T]he subsequent sections of the Act give wives in Ontario powers which they never ask[ed] for, which they would be better off for not possessing, and which, if they exercise, put an end to domestic happiness.”¹⁸¹

Again, a society built on strong, permanent marriages was widely heralded which, in the eyes of many, equalled a secure and indestructible nation. Marriage was the “bedrock upon which all other social relationships were constructed”¹⁸² and thus, Canadians were “proud to declare that their marriages were exceedingly strong – models

of virtue and purity.”¹⁸³ In the minds of many Canadians, marriage was not merely the joining of two individuals as one (although as previously discussed, this element of the union also carried a great deal of importance for women in particular), but this institution played an intricate role in maintaining and structuring order among individuals, both male and female alike. The importance of marriage was such that its dissolution was in the eyes of many influential persons comparable to destruction of the society itself. “The institution of marriage represented the divinely ordained method of ordering the home, of controlling and legitimizing passion and sex, of structuring relations between males and females, and of procreating and nurturing the future generation.”¹⁸⁴

These attitudes reinforced the legitimacy of legal regulations which ensured that Canadian marriages were not dissolved. The law and the family (as institutions) could even be seen as mutually dependant institutions.¹⁸⁵ Politicians, legislators and social and legal actors within Canadian borders fully utilized this close connection to develop new legal interventions as an “effective instrument to bolster the Canadian family”¹⁸⁶ and to secure the “future prosperity of the country.”¹⁸⁷

While single women had not yet entered into a matrimonial union, social reformers and legal actors strongly believed that these women needed to appreciate the importance of the Canadian marriage and family. In light of this philosophy, legal initiatives were undertaken to ensure that single women would also be in a position to fulfil their ultimate duty as a wife and mother. Married and single women had many facets of their lives regulated and controlled in order to achieve and preserve the traditional family status quo. While the position of married women improved somewhat

as a result of legislative change in the late nineteenth century, the same could not be said about single women.

Single Women and Legal Regulation

As we have seen, under common law a woman's very identity and moral existence was suspended upon marriage, whereas a single woman retained that element of legal control over her existence absent from the lives of married women. For example, the law allowed a single woman many civil rights regarding her property, rights similar to those enjoyed at law by men. A member of the National Council of Women of Canada proclaimed in 1900 that single women from

time immemorial bought and sold, kept shop and farm and inn, driven to market, collected their rents, made their investments, sued their debtors... and in a word lived their life exposed to nothing worse than a good deal of time-honored and heavy jesting about their "single blessedness."¹⁸⁸

It was within this realm of life that a single woman, unlike her married counterpart, was able to boast a hint of independence. However, in spite of the fact that a single woman escaped some of the civil restrictions imposed on a married woman, this did not suggest that she existed beyond the control of the Canadian legal system entirely. Based on the preliminary discussions in the previous section, it will be proposed that there existed two interrelated elements of nineteenth century thought which also accounted for the extension of the legal regulation of single women. First, by virtue of the importance placed on marriage (and its understood correlation to national unity) by the legal community and general society, single women consequently found aspects of their lives targeted by Canadian law before they entered into matrimony. In view of the ideology that a woman should strive to procure a husband and raise a family, many single women were discouraged from any behaviour which implied deviation from this

traditional custom. Many single women who pursued a career, did so under the assumption that it was a temporary measure. Carolyn Strange points out that “[m]ost would move on to their civilian duties as wives and mothers. Once married, women would work under the gentle command of their husbands and in the service of their children and community.”¹⁸⁹ In addition, several leisure activities (such as dancing and skating), which presumably compromised the character of a single woman, were forbidden in many social circles for fear of revoking her chances of matrimony.¹⁹⁰ The philosophy which linked the traditional family and marital bliss to national unity once again presented itself in the forefront of Canadian legal thought. Challenging the institution of marriage, even prior to entering into the marital union, flew directly in the face of legislators who attempted to ensure a healthy nation state. “Family and law were twin pillars of Canadian society... the efficacy and soundness of both were to be reaffirmed and strengthened by assuring the state of marriage.”¹⁹¹ Therefore, although single women had not yet consented to a life of matrimony, and all the legal restraints that it entailed, the law attempted to influence their choices regarding this decision through legislation.

The second element of life which promoted the legal regulation of single women reflected the dramatic familial changes brought about by industrialization. During the last quarter of the nineteenth century, Canadian women began to enter the work force and secured jobs which ushered them out of the traditional domestic life of servants. Many single women in Toronto, for example, left their homes to work in stores and factories. “Until 1881 domestic service was the single greatest employer of women, yet its dominance of the female job market was... challenged, [as] more than half of Toronto’s

women workers had turned to work in city workshops, stores, and factories.”¹⁹² It was this shift from the overarching protection and guidance of their families, to their emerging independence, which made these single women vulnerable, and problematic, in the eyes of many social reformers and legislators. The potential loss of patriarchal control over these women led to fears of familial destruction, marital dissolution and national disorder.¹⁹³ Thus, state interference was welcomed by society if the stability of the marriage and family was in jeopardy. “If old-fashioned respect for the sanctity of the sacrament of marriage was no longer sufficient to maintain the integrity of the marital home, then various facets of the law should be employed to put a halt to the disintegration of Canadian marriages.”¹⁹⁴ Hence, although many women were attracted by the freedom from “family responsibility and scrutiny,”¹⁹⁵ reformers and legislators were not prepared to ignore the pitfalls of such autonomy and therefore, they worked to implement legal guidelines in lieu of familial authority.

There existed an element of discrimination in the different ways the law of property treated married women and single women. Yet at the same time, there was a similarity of treatment in the way Canadian law was used to control their behaviour and to promote the idealized state of marriage. Relevant legal concepts performed a function similar to that of marriage legislation. Instead of providing the single woman with protection against sexual advances, the law dictated the appropriate sexual behaviour of these women.

During the nineteenth century, there existed legislation which addressed coerced and unwanted sexual activity (for example, rape and indecent assault). However, what is of sole concern in the following section is the issue of voluntary sexual activities between

men and women during the latter part of the nineteenth century. The criminal law of seduction will be the focus for the remaining section, as this law focused on the consensual component of sexual behaviour where “the parties, particularly females, are factually consenting.”¹⁹⁶

The criminalization of seduction was aimed at those single women who had found themselves “propelled into the new cities, alone and unprotected, without access to paternal backing.”¹⁹⁷ This legislation also had an air of control and regulation, as Karen Dubinsky notes. “The criminalization of voluntary sexual activity served to entrench the legal and parental regulation of women and punish[ed] women who transgressed cultural prohibitions of female desire.”¹⁹⁸ In its aspect of control, the criminalization of seduction was not dissimilar to the various marriage legislation reviewed earlier in the Chapter. It is my argument that these laws were intended to maintain the traditional family status quo. By maintaining control over single women, the seduction legislation ensured that they too did not stray from their selected role of wife and mother.

A brief analysis of the tort of seduction will follow, highlighting its original objective with respect to the autonomy of single women, and the legal control exerted by their fathers. Inasmuch as the tort signified the use of direct patriarchal control over women, it is important to examine the initial premise on which certain activity was elevated to the status of tort prior to introducing the criminalization of this activity. Subsequently, the crime of seduction will be examined with reference to its years of development and the motivation for its criminalization. By way of this information, a comprehensive representation of a single woman’s control (or lack thereof) over her sexuality may be offered. The seduction legislation “worked to police their behaviour,

reinforcing the idea that women fell into two categories: the innocent victim and the designing vixen.”¹⁹⁹

The Tort Of Seduction

Seduction was not a new phenomenon to Canadians during the late nineteenth century. The tort of seduction was “based on a centuries-old common law rule that allowed an employer to sue someone who had injured his or her servant... [and as] early as the seventeenth century, fathers had begun to use the action to avenge the seduction of their daughters.”²⁰⁰ Prior to the criminalization of seduction in 1886, cases in tort were numerous. The tort was considered “one of the most popular civil actions in nineteenth-century Canada.”²⁰¹ Initially premised on the theory that a master had full control over his or her servant, the tort allowed those in a position of authority to sue for damages if the services of their servant were suspended. Compensation was paid to the master in lieu of any damages which a third party may have inflicted on the servant. Because a servant was considered property owned by the master, any compensatory action was deemed justifiable.²⁰² Due to the ever-changing social climate which transformed the law of master servant, the tort of seduction was later utilized almost exclusively by fathers seeking restitution, on the grounds of loss of service, for the seduction of their daughters. “[A] father would sue the seducer just as he would have been entitled to sue a neighbour who had lured away from his estate a particularly talented stable-boy.”²⁰³ This draws a notable parallel. Just as the servant was considered the property of his/her master, and a married woman was the direct property of her husband, so too was a daughter regarded as the possession of her father. “[T]he tort of seduction thus came to represent a legal extension of property rights in women.”²⁰⁴

Inasmuch as the daughter was considered the property of her father, she herself did not possess the power to bring a suit against a man who had seduced her. The father (or mother in the case of a deceased father) was the plaintiff, and only he himself was permitted to legally avenge the seduction of his daughter.²⁰⁵ What was ironic about this element in the tort, was the fact that if the daughter was seduced while employed as a domestic servant (and therefore under the authority of her master), her father had no legal footing on which to bring a seduction case against the seducer. Based on the stipulation of loss of service, the seduced girl had to reside with her family in order for any case to proceed.²⁰⁶ Therefore, prior to the *Seduction Act* of 1837, if the master (or someone with whom he was acquainted) was the seducer, no action could succeed at the suit of the father, and it was unlikely that the employer would “exercise that right.”²⁰⁷

Accordingly, the primary considerations when suing for seduction encompassed the above mentioned loss of service prerequisite. This point introduced yet another ironic component of the predicament. The impact that the seduction had on the female was irrelevant. Whether she had been physically and/or emotionally affected by the incident was moot. What mattered was the possibility that her father would have to carry the costs of maintaining his daughter following her seduction. In effect, the father had to prove that the defendant “debauched and carnally knew [his daughter], and that she thereby became pregnant and gave birth to a child.”²⁰⁸ Assuming the daughter would be incapacitated during and following the term of her pregnancy, the tort of seduction allowed a father to collect monetary compensation for the services she would thus be unable to perform. In order to better appreciate such a loss, Constance Backhouse describes how intrinsic the services of a daughter were during this era:

In a typical nineteenth-century farming family, a daughter would have been intimately involved in the productive work of the household... Although sex-role divisions generally kept young girls from labouring in the fields, many would have done some outside work... Farm children were expected to repay their parents for their upkeep by working for the family until the age of eighteen to twenty.²⁰⁹

Prior to 1837, the continued financial burden of raising an illegitimate child and the emotional distress experienced by a seduced woman were not compensable. The courts were solely interested in the immediate compensation to the father. Although a woman was able to seek additional legal damages following a seduction, in the form of a “promise of marriage suit, or paternity proceeding,”²¹⁰ none of these factors were taken into account during a trial for seduction.

The modifications which occurred subsequent to the *Seduction Act* of 1837 altered the basis for a seduction suit somewhat, but none of the legal revisions advanced the status of the seduced female. Nor were they intended to. Two specific and interrelated changes warrant mentioning. First, following 1837, a father no longer had to prove the loss of services, but could now sue the defendant exclusively on the premise that he had seduced his daughter, and violated her chastity. Second, because the prerequisite of loss of services was no longer in place, the law did not require that the daughter reside with her parents. Whereas, prior to 1837, “the law [gave] no remedy to the parent for the mere seduction of his daughter, however wrongfully it may have been accomplished,”²¹¹ the parent could now seek justice on the basis of the seduction itself. Coincidentally, these elements simultaneously reflected the changing pattern of the Canadian family, while maintaining a woman’s subordinate status. As single women now pursued employment outside the safekeeping of their family homes, the law reflected the powerlessness of a father to sue the employer if the employer were in fact

the seducer. At the same time, the new Act “froze the legal relationship between fathers and daughters into a feudal proprietary mold at precisely the moment when urbanization and industrialization were beginning to take hold.”²¹²

Not without its critics, the new Act was condemned prior to and following its enactment by many on the basis that it “encourage[d] immoral tendencies.”²¹³ Suspensions toward the motives of single women²¹⁴ were raised and many legislators feared that the laxity of the Act would allow for abuse by “undeserving females.”²¹⁵ The undeserving females were those who would manipulate the legislation for purposes of extortion. For example, in *Hicks v. Ross*, the presiding judge proclaimed that it was “the prospect of damages that led to sexual intercourse in the first place.”²¹⁶ In *McCreary v. Grundy* the judge claimed, “the law ought not to allow damages to be given for mere acts of prostitution.”²¹⁷ These admonitions underscored the philosophy that fallen women of “indifferent character”²¹⁸ were not deserving of this legislation, but would potentially reap the unmerited benefits of the law.

The function of the tort of seduction on the surface appeared obscure, as many of its specifications embodied conflicting and contradictory conceptions. The seduced female, although labelled a “vehicle of her family’s loss,”²¹⁹ nonetheless had her character brought before the court. Her previous sexual activities and her chaste character were continually questioned and challenged by the lawyers. While the female, considered a form of property, could not consent or refuse sexual advances, the courts nevertheless based their decisions on whether she had disgraced her family in the past. The theory was “that an ‘immoral’ daughter had contributed less to domestic happiness of her father prior to the seduction, and the amount of compensation he deserved should

be thereby reduced.”²²⁰ Therefore, although the female could not “give what she did not own,”²²¹ the very notion that she had given her chastity away in the past was enough to warrant minimal compensation. “A piece of property could easily be valued according to whether it had been damaged prior to the event in question.”²²²

The Criminalization of Seduction – 1886

Taking into consideration the development of industrialization, the changing pattern of the Canadian family, and the evolution of a woman’s status, certain individuals proposed that a seduced single woman, as opposed to her father, should be given the right to launch a suit for seduction. In that vein, the *Canada Lancet* and the *Canada Law Journal* criticized the inadequacies of the existing tort of seduction in 1874. The former proclaimed that “the law seemed to despair on giving the wretched victim [of the detestable selfish crime of seduction] any adequate reparation,”²²³ while the latter claimed “it was ‘high time’ that the form of action for seduction, as at present recognized by the law... be abolished altogether, and ... the right of action given directly to the party seduced.”²²⁴ Although the point raised by both journals reflected the reality of the situation, no changes were initiated for almost a decade following the commentaries. In addition, while there may have existed an element of consensus regarding the tort’s inadequacies, not everyone within the legal community or society at large agreed on the manner or extent of any modifications.

In spite of the fact that many legislators and social reformers concurred with the need to institute modifications, the legislative initiatives which resulted in 1886 only preserved the disadvantaged position of the seduced single female. Much of the legal framework and subsequent case law perpetuated the allegations that such legislation had

at its heart the regulation and control of single women. The element of power was never transferred to the seduced woman. Following criminalization, the seduced woman was still unable to launch a case against her seducer, and thus found herself at the mercy of the male participants in the case. In attempts to “add the force of national criminal law to the more private, civil action”²²⁵ reformers instead “transpose[d] the problem of seduction from the family to society as a whole.”²²⁶ Moreover, the criticisms launched against the proposed legislation served to legitimise the assertion that there existed two categories of women, “the innocent victim” and the “designing vixen.”²²⁷ In both scenarios, a single woman’s sexuality was regulated, judged, and condemned, while that of her male seducer escaped unscathed.

John Charlton and the Initial Seduction Legislation

John Charlton, a Liberal Member of Parliament, was deemed one of the most ardent supporters for legislation offering extensive protection for women and children. He couched his dissatisfaction for the existing principles by appealing to Canadians’ convictions on the “relationship between a strong morality and a strong state.”²²⁸ Believing that seduction, in particular, and the “degradation of women,”²²⁹ was an affront to the morality of society, Charlton vowed to establish a law which would provide protection to vulnerable women. In his opinion, this would enable Canadians to preserve their morality and consequently strengthen their nation. However, Charlton did not advocate a “positive or autonomous female sexuality”²³⁰ whereby the control and power to sue be yielded to the seduced woman.²³¹ Instead, he “purported to speak for thousands of ladies”²³² when he presented legislation to his male contemporaries in the House of Commons which would criminalize the act of seduction. Though Charlton appealed to

the chivalric temperament of his fellow members of Parliament, he simultaneously faced a barrage of criticism and was berated for his proposed bills.²³³ It is precisely this controversy which led to the 1886 seduction law, and which is of particular interest when substantiating the contradictory framework that embraced the criminalization of seduction. Carolyn Strange and Tina Loo suggest that, while the legislation was designed to safeguard single women from the wiles of men, the statute only “worked to police their behaviour, reinforcing the idea that women fell into two categories: the innocent victim and the designing vixen.”²³⁴ Karen Dubinsky also asserts that although the seduction law advocates “*expected* that their legislation would help innocent and victimized maidens claim redress against wily, powerful men,”²³⁵ in effect a different story resulted. This legislation only served to protect the status quo around a woman’s morality and the traditional family. The sexuality of women was regulated by the law of seduction in order to preserve her morality, and her status within the family as a wife and mother.

In 1882, endorsed by many social reformers²³⁶ (including D. A. Watt of the Montreal Society for the Protection of Women and Girls), Charlton proposed a bill which “introduced the concepts of seduction – as opposed to forcible, coercive attack – into law.”²³⁷ Neither violence during the assault, resistance from the woman during a sexual overture, nor a woman’s verbal consent or lack therefore, would be consequential when establishing the presence of seduction.²³⁸ Constance Backhouse suggests that Charlton’s bill articulated the context by which society deemed non-marital sexual relations “proper,”²³⁹ while Karen Dubinsky states that the “law was interpreted by many complainants as a means of channelling sexual behavior into ‘appropriate’ institutions, namely, marriage; it was about ensuring childbirth in wedlock.”²⁴⁰ Both of these

assertions add credence to the allegation that the seduction legislation was preoccupied with preserving the traditional family status quo, and ensuring that the single woman realized her desired position with that unit.

That part of the proposed legislation which isolated the question of the woman's sexual character also demonstrates the objective behind Charlton's initiative. In all prosecutions under the proposed law, a conviction depended on proof of the female victim's previous chaste character. A man's sexual past, and the question of his chastity, would not be scrutinized as a formal requirement of the law. At the same time, even though the woman's sexual history was a formal legal requirement, the relevance of that history to the question of whether a seduction had taken place irrespective of the formal legal requirements was questionable, to say the least. The formal requirement to present evidence of this sort led to humiliating experiences for the complainants in these cases. Furthermore, it was apparent that women considered impure, or sexually corrupt,²⁴¹ were not deserving of the protection of the law, and this further supports the idea that, ultimately, the criminalization of seduction was intended to protect women, not for their own sakes, but for the role they played in the preservation of the traditional family as a moral ideal. To the extent that the criminalization of seduction assisted in the movement toward preservation of the traditional family, the character of the 'victim' became a central question both of morality and of law.

While Charlton battled to secure the criminalization of seduction, male members of Parliament and society expressed their antipathy for such legislation, and their consequent distrust for the single woman it proposed to represent. One prominent argument was premised on the idea that the seduced woman should not be absolved of

her role in a case of seduction. Another contention claimed that a single woman was capable of, and responsible for, protecting her own chastity. Others argued that the criminalization of seduction would surely lead to measures of extortion by designing women. Canadian writer, Goldwin Smith, for instance, objected to the criminalization of seduction when he stated that such an act was not a crime in the “legal sense”²⁴² and a man should therefore not be charged for the offence as it involved more than one party. Moreover, Smith argued that this law would only exonerate the seduced woman as a “guiltless victim... [a] creature devoid of sense and will.”²⁴³ Many members of Parliament vehemently disagreed with the proposed law and expressed that a single woman was responsible for her own sexuality and therefore it was moot to provide any legal remedies which would provide reparation for the loss of her chastity. For example, Senator Alexander W. Ogilvie declared that “the bill would lift responsibility from women, where it properly belonged... A virtuous woman as a rule can protect her own honour.”²⁴⁴ Sir Alexander Campbell, the Conservative Minister of Justice, concurred with Ogilvie’s assertion, and added that in cases of seduction, both parties are equally guilty for the indiscretion. Furthermore, Campbell cited the mutual opinions of “two of the most eminent judges in Canada”²⁴⁵ one of whom stated

Women should be made to understand that they must guard their own honour and chastity. As the law now is, they are too frequently the seducers and tempters, and then obtain, or their parents for them, damages. Give them additional terrors of a criminal prosecution and the effect on public morals will be indeed edifying.²⁴⁶

Thus, the responsibility of warding off sexual advances was placed on the shoulders of the single woman, as was the accountability for her chastity. Thomas R. McInnes, of British Columbia, expressed his suspicion with regards to single women

who, if the legislation was passed, would have an opportunity to manipulate young, innocent men into having an illicit connection with them;

Take for instance a young man of fifteen or sixteen who is sole heir to a large property, and a designing girl of nineteen or twenty seduces him and then takes an action against him for seduction... [T]he boy would have no alternative but to leave the country or be imprisoned in the penitentiary, or what is worse, to condone the offence by marrying her.²⁴⁷

Prime Minister Sir John A. MacDonald also supported the opposition to the proposed legislation when he warned Charlton that if seduction were to become a criminal act, Canada would risk losing many “great... young men.”²⁴⁸ He suggested that many men accused of seduction had already fled the country rather than face unwarranted criminal sanctions.²⁴⁹

Notwithstanding these and other commentaries, the “Charlton Act” was passed in 1886 and it was thereafter considered a crime to seduce and have illicit connection with a previously chaste girl, between the ages of twelve and sixteen. Furthermore, it was a crime for a man, under the promise of marriage, to seduce an unmarried female of previously chaste character under the age of twenty-one.²⁵⁰ In the following years, there were additional modifications to the law. In 1890, guardians and employers were made subject to prosecution if they seduced their wards or employees respectively. In 1892, women travelling upon ships were protected against seduction by ship-masters and officers.²⁵¹ However, for the purposes of the next chapter, only the seduction of girls between the ages of twelve and sixteen, and the seduction under the promise of marriage, will be examined. In addition, due to the changes which resulted in the Codification of the Criminal Code in 1892, sections 181 and 182 of the seduction legislation will also be utilised in the examination of the case studies.

Although Charlton, and other advocates of this legislation, may have had a genuine concern for the safety of single women, the legislation fell short of its objective when put into practice. Karen Dubinsky cites that “despite the chivalrous rhetoric advanced by proponents of the new law, women’s stories of sexual betrayal were simply not believed by the legal system.”²⁵² The reality was, that the sexual lives of single women had become controlled and regulated in a climate where “pre- or extramarital sexual activity on the part of the woman”²⁵³ was punished, while that of the man went virtually unnoticed. The single female complainants in criminal trials of seduction found themselves in a difficult situation. Since consent was not considered relevant, the woman had to convince the jury that she had been coaxed or tricked into having sex with the male accused. The courts were interested in how long the couple dated before the woman consented to any sexual overtures. “Being coaxed [was] how many women described this process, and here they could display marked degrees of morality.”²⁵⁴ Furthermore, if the woman were involved in a relationship with the male seducer, and had consented to the advances under the promise of marriage, she had to convince the jury that she had acquiesced based solely on that promise. During the trial, the woman would have to “reconstruct the precise timing of the proposal”²⁵⁵ to ensure that the request (for her hand in marriage) did not occur after the first sexual encounter. The seduced woman also had to establish her previous chaste character in an effort to substantiate the charge of seduction.

As will be discussed in the following Chapter, although it was the male accused who was formally charged under the law, the central characteristics of the seduction trial focused almost exclusively on the seduced woman. Regardless if she had been involved

in a personal relationship with the man,²⁵⁶ the woman was responsible for justifying the sexual behaviour between the two. During these seduction trials we find confirmation of Carolyn Strange and Tina Loo's assertion that "[the] seduction law legally defined what most Canadians believed: good girls could be seduced; bad girls could not."²⁵⁷

In the next Chapter, I will present selected seduction case studies from the late nineteenth century in an attempt to verify the assumption that this law served to perpetuate the notion that a woman's sexuality must be confined to a marital commitment. Various prosecution files will be introduced in order to confirm that the concern was not for the women who were seduced, nor was the legislation designed to provide compensation for the woman. Instead, the objective was to preserve the morality of single women, and ensure that they remained suitable for and deserving of their position within the traditional family. Second, the testimonies from seduced females will be presented and analysed to verify that *they* were on trial, not the male accused. Statements regarding the woman's previous chastity and the presence of a promise of marriage will be the focal points when analysing the cases. Both of these factors will demonstrate the genuine force behind the seduction legislation. The seduced woman, the victim of the crime, had to *justify* her actions to the court and demonstrate how she had been wronged.

Chapter 3: The Crime of Seduction – Case Studies

As we have seen, in the late nineteenth century, there were both moral reform pressures and legal structures which served to regulate the lives of women in Canada. As noted in Chapter one, several moral reform groups during this era advocated restrictions on women to ensure that they would realize their ultimate role in society – that of a wife and mother. It was clear that these groups were concerned about the preservation of the traditional family which was equated with a moral and healthy society. A woman's role within this unit, and subsequently her sexuality, required additional regulation lest she abandon her *proper place*. Accordingly, these reformers launched moral investigations, petitioned government, and warned society of the perils which were imminent if the morality and sexuality of women was not properly governed.

Within the law the primacy of the family was also assumed. As discussed in Chapter two, the common law reflected the highly revered status which was bestowed on the Canadian matrimonial union (no matter how inequitable the union may have been). As previously discussed, while a single woman had not yielded herself to the position of wife and mother, the philosophy surrounding the traditional family increasingly affected her life. While the moral reformers frowned on the notion of single women socializing with men, and thus took action to prevent such fraternizing, those within the legal community also envisioned the proper behaviour of a single woman and therefore advocated legal initiatives which would preserve her moral character.

This respectable moral conduct of single women, and the legal strategies taken to guarantee its existence, will be the focus in this Chapter. In particular, the law of seduction has been selected in order to illustrate the continuum of action taken by the

moral reformers and the Canadian government to preserve the status quo of the family unit. The objectives of the reformers and the consequential laws affecting women will be further emphasized by presenting selected seduction case studies to elaborate the legal regulation of single women in Canada during the late nineteenth century.

It will be argued that the seduction legislation was conceived and implemented in an effort to secure the moral behaviour of single women, and to maintain the structure of the traditional family. While it may be stated that John Charlton and other advocates of this legislation had the best interests of single women in mind, the results of implementation of this law did not reflect this arguably praiseworthy intention. Instead, as will be presented, single women involved in seduction trials were often humiliated when they had to justify their sexual behaviour, and were rarely compensated for this public and legal embarrassment. As Karen Dubinsky asserts, those who advocated the law of seduction believed that this legislation would “help innocent victimized maidens claim redress against wiley, powerful men.”²⁵⁸ Nevertheless, the law of seduction further victimized these maidens because they were responsible for justifying their sexual behaviour and therefore their worthiness for protection by the law.

During many seduction prosecutions, although the male defendant was the individual formally charged with the crime, it was the female victim who had her character legally scrutinized. The single seduced woman had to justify her actions and prove to the court that she had only consented to the sexual advances of the male perpetrator based on a promise of marriage. Furthermore, her chaste character was carefully investigated due to the fact that the seduction legislation did not contemplate a woman whose character was “loose” or “morally corrupt.”²⁵⁹ Therefore, not only did the

woman have to validate her reasoning for engaging in sexual activity with the male in question, she was also responsible for establishing her previously chaste character in order for the trial to proceed. All of this was required, even though she was not the one on trial. The male defendant, on the other hand, did not have his character questioned by the courts, nor was his chastity an issue for debate.²⁶⁰ The legislation which Charlton had brought forth on behalf of single women, questioned their lifestyles, scrutinized their personal choices, and challenged their proper place in society.

For the purposes of this Chapter several cases of seduction²⁶¹ will be presented and examined in light of the information already established in the previous Chapter. What is of particular importance is the premise on which the seduction legislation was advocated. As previously suggested, although Charlton (and his fellow supporters) undoubtedly had the best interests of single women in mind, the legislation merely reinforced the notion purported by Sir John A. MacDonald, that "... only the brazen-faced woman, the woman who is regardless of her character, that will, for the sake of the advantage of getting a husband... or for the purpose of avenging herself... take advantage of this Bill."²⁶² By compelling the seduced woman to prove her chastity and justify her motives for consenting to sexual activity, it will be argued that the legal system only perpetuated the embarrassment experienced by these women, and offered no form of reparation for their encounter. While the male perpetrator faced a possible legal penalty for his indiscretions,²⁶³ the seduced woman faced public and familial humiliation, and in many cases became pregnant as a result of the sexual encounter(s).²⁶⁴

Two applicable provisions were put forth by Charlton and passed in Parliament in 1886 under the heading "An Act to punish seduction, and like offences, and to make

further provision for the Protection of Women and Girls.” They eventually appeared in the Act 49 Vic. Chap. 52, as follows:

Whereas it is expedient to make further provision for the punishment of offences against chastity: Therefore...

1. Any person who –
  - (1.) Seduces and has illicit connection with any girl of previously chaste character, or who attempts to have illicit connection with any girl of previously chaste character, being in either case of or above the age of twelve years and under the age of sixteen years, or –
2. Any person above the age of twenty-one years who, under promise of marriage, seduces and has illicit connection with any unmarried female of previously chaste character and under eighteen years of age, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as hereinafter provided.²⁶⁵

The following analysis of several early seduction cases will explore fundamentals that were consistent throughout the prosecutions. The first section of this Chapter will address several cases in which the female seduced was under the age of sixteen and above the age of twelve.²⁶⁶ In these particular cases, the young women were often faced with pregnancy and the insincerity of deceitful older male companions. Even though they were young women, and plausibly taken advantage of and deceived by older men, they were still responsible for establishing their chastity and justifying their consent. The stipulation of the promise to marry will also be considered within this section. The issue of matrimony often arose as an element within the testimonies and its significance will be briefly explored.

In the second section of this Chapter, the considered cases involved women who were under the age of twenty-one and seduced under the promise of marriage by a male accused who was above the age of twenty-one.²⁶⁷ It is apparent through the testimony of

the seduced women in these cases they appreciated the importance of establishing that they acquiesced to the sexual encounter(s) only because of a promise made to them.

Crucial as well to these selected cases in both sections of this Chapter, will be the issue of proof of chastity. The statements provided by the seduced woman demonstrated her appreciation for the significance of this evidence within the case. The societal attitudes toward female sexuality and the requirements of the statute, created an atmosphere of obligation and blame on the shoulders of the seduced female. And, throughout these cases, we will hear stories of “courtship gone awry,” in which the man “reneged on his commitment to marriage... or because the woman discovered the man was already married.”²⁶⁸

Seduction of a Girl under sixteen years and above twelve years of age

The Queen vs. Peter Dingham – Wellington County, 1890

In 1890, Peter Dingham, from the County of Wellington, was charged with the seduction of and illicit connection with Sarah Jane Lovell. At the time of the alleged seduction, Sarah was unmarried and sixteen years of age, while the defendant was above the age of twenty-one.²⁶⁹ As was revealed during the testimony, Dingham had accomplished the seduction by promising to marry Sarah before the sexual encounter. The incident in question, according to Sarah, had taken place on the 14 September 1890, at which time she had known the defendant for several months. This case illustrated many of the above mentioned elements of a seduction trial, but moreover, it presented additional material which added to its uniqueness. As Sarah would soon discover, Dingham was a married man with nine children.

Dingham had approached Sarah's father in January 1890 with a request to board at his home with him and his daughter. Shortly after the initial request, George Lovell accepted Dingham's proposition and allowed him to move in. George testified immediately that Dingham had specifically stated that he was a single man. To substantiate this claim further, George insisted in his testimony that Sarah had also heard this confession from Dingham.

Sarah testified that she had known Dingham since January 1890 when he began boarding at her home. Sarah admitted that she became fond of Dingham, as well as the fact that the two had been alone numerous times in her father's house. After several months of living under the same roof, Dingham asked Sarah to marry him. Sarah claimed that he had proposed marriage to her on the 14 August 1890, to which she replied, "I said I would if he was a single man – he then said he was a single man." From there, Sarah claimed he "had something improper to do with me" and that she had relied on his promise to marry her in return for the sexual act.²⁷⁰

Dingham apparently took Sarah's affirmative response to marriage as consent to pursue her sexually. She alleged that Dingham wanted her to do with him what he thought "he ought to do with me." On the 14 September 1890, Sarah apparently refused, but Dingham proceeded to force himself on her. She testified that she was "not one of that kind," which presumably was indicative of her chastity. The defendant reassured her that if she allowed him to "accomplish his purpose," he would then speak to her again about marriage. Sarah testified that Dingham threw her to the ground and had sexual intercourse with her, after which she cried out. The defendant instructed her to be quiet, or he would hit her. Fearing physical repercussions from her father following the

seduction,²⁷¹ Sarah did not tell him of the incident and proceeded home with the defendant. Three weeks after the seduction, Sarah stated that Dingham had not since mentioned marriage to her. Finally, he suggested the two of them take a trip to visit his mother, where he promised Sarah they would then become husband and wife.²⁷² Without her father's knowledge, Sarah agreed to follow Dingham and went to his mother's home.²⁷³

The defendant was arrested for the seduction of Sarah after her father George had retrieved her from Dingham's home. Due to the fact that Sarah believed Dingham had "led her astray" with his promises, she supported the prosecution. In an effort to avoid prosecution, Dingham claimed the two were actually married.

Throughout Sarah's testimony, she maintained that the defendant had promised several times to marry her. He had done so approximately seven months after their initial meeting in January; before "[h]e accomplished his purpose" on the 14 September 1890; prior to their trip to his mother's home; and several times throughout their involvement. Furthermore, Sarah swore that she was a chaste girl. She testified that "I have never had anything to do with any man before[;] I was a chaste girl till the Prisoner seduced me." Moreover, she testified that she had "laid down with [the] prisoner on the bed at my father's house... [and] didn't make any out cry then." It was unclear from this declaration whether Dingham had forcefully seduced Sarah repeatedly, other than the incident she described on the 14 September 1890, but Sarah never *specifically* stated that she willingly had sexual intercourse with Dingham.

Even though she testified that she "lay down" with Dingham, and made no "out cry then," this did not indicate that the event was not one of force. She also mentioned

that there was no one near her house, and “I knew that if I cried out nobody would hear me.” This statement gave the impression that Sarah had acquiesced, not because she consented, but because she realized she had no choice.

Sarah later admitted that she had not wanted to give up the charge against the defendant for leading her astray, but suggested that the prisoner’s testimony had initially caused her to do so. Nevertheless, she eventually changed her story and once again supported her father with the charge against Dingham for seduction. Dingham pleaded not guilty, and replied “nothing” when asked for a statement. A verdict of “not guilty” was returned in response to this seduction charge.

This case demonstrated several of the elements of seduction. The promise to marry was put forth by the male defendant, and the female victim subsequently offered the testimony of previous chastity. Although Sarah did not repeatedly pronounce her previous chastity, she undoubtedly appreciated that this element of her testimony was crucial. She insisted that prior to her involvement with the prisoner, she was a chaste girl. Moreover, her father substantiated her claim of chastity, when he stated, “my daughter has never had anything to do with any other man.” This fact was crucial to the testimonies given, and the strength of the case.²⁷⁴

With regards to the promise of marriage, Sarah testified that the defendant had promised her his hand in marriage prior to the first sexual encounter and that she had relied on that promise during the subsequent sexual encounter(s). Her statements did not suggest that she had consented to the sexual intimacy, only that she took consolation in the fact that he made that promise. However, because the case did not allow for insight into the defendant’s testimony, it was difficult to interpret whether Dingham associated

the promise of marriage and the sexual activity as an exchange, or whether he thought the promise was totally unrelated to his sexual advances and forceful seduction of Sarah. What does seem clear however, is the fact that while Sarah relied on the promise of marriage throughout their sexual relationship, she confessed that she refused Dingham's sexual advances on the 14 September 1890.

The Queen vs. William Thistle – Perth County, 1892

Margaret Varner testified that she had known the defendant William Thistle for over two years when he was charged with her seduction.²⁷⁵ The charge against Thistle was the seduction of a previously chaste female under the age of sixteen and over the age of twelve.²⁷⁶ Margaret's father Moore Varner stated that he believed Thistle to have seduced his daughter "In and prior to the 1st day of August 1891," a charge to which Thistle pleaded not guilty.

On the 1 July 1891, while out on a drive, Margaret stated that Thistle had had sexual intercourse with her. The incident occurred after Thistle had 'paid attention' to Margaret at her sister's home, and after the two had been out on drives together on several occasions.²⁷⁷ She claimed that the episodes of sexual intimacy were repeated several times. Margaret insisted that, for instance, between the 1 July 1891 and the 12 July 1891, the two had had sexual intercourse three times. After the 12 July 1891, Margaret testified that the "defendant had connection with me very often."²⁷⁸ In her statements, Margaret verified that the defendant was well aware of her age, and maintained that on several occasions she informed him that she was only fifteen. "[The] defendant knew how old I was, he knew that from me. He asked me my age."²⁷⁹

The assertion put forth by historian Christine Stansell is that many seduction cases depicted a “barter system” between two individuals “where a woman traded sexual favors for a man’s promise to marry.”²⁸⁰ Stansell contends, however, that the barter system did not occur between two equal individuals. Instead, a woman lived up to her part of the bargain, and risked becoming pregnant, before the male was forced to follow through with his end of the deal.²⁸¹ This was precisely the outcome of this case. Margaret had yielded to Thistle’s sexual advances on a promise he made to her from the beginning. “He said if he did me any harm he would marry me.”²⁸² Margaret discovered that she was pregnant during the month of September, and informed the defendant of her condition on numerous occasions. Margaret repeated several times throughout her testimony that she had indeed told the defendant about the pregnancy.²⁸³ According to Margaret, Thistle acknowledged that he was the father of the child and stated that he would see her through the ordeal. She stated that she believed he would do everything he could for her. However, instead of offering his hand in marriage to Margaret, Thistle promptly sent her to two physicians who consequently prescribed drugs in an unsuccessful effort to induce an abortion.²⁸⁴

As was the case in the previous trial, Margaret Varner had to prove that she was indeed a previously chaste girl and had not had connections with any other men prior to her involvement with the defendant. One element of the case, which made that difficult however, was the fact that Margaret initially lied to one of her doctors as to the paternity of her child. According to Margaret, Thistle had convinced her to name her current boyfriend Neil as the father.²⁸⁵ Whereas in the previous case Sarah had not reiterated her

chaste character, Margaret repeated her proof of chastity in an effort to invalidate her lies from her previous statements to the doctor and friends.

On three separate occasions during her testimony Margaret insisted that she had never had sex with any man other than the defendant, and that prior to her relationship with Thistle she was a chaste girl. In the first statement, she verified her chastity after testifying that Thistle admitted he would marry her if anything happened to her. While Margaret did not contend that she had *only* consented to the sexual behaviour because of that promise, it appeared plausible that she agreed to commit herself to him based on the fact that she trusted he would keep his word if anything detrimental were to occur. She then reiterated proof of her chaste character when she stated “I am sure I never had connection with any other man – I never told Thistle I had – nor any other man or person.” This statement, although not elaborated in the testimony, could be understood as a counter against a possible accusation that she had told Thistle otherwise. Finally, Margaret admitted that nothing intimate had ever transpired between her and Neil. She denied they engaged in any sexual activity, and testified that everything she had told the doctor about Neil’s paternity was a lie.²⁸⁶ This presumably was the most challenging aspect for Margaret during her testimony.

What is interesting to note in this case is the absence of any corroborating testimony to support Margaret’s statements of chastity. Although Neil testified that he himself had never engaged in any sexual activity with Margaret, he could not speculate as to her relationship(s) with other men. Neil maintained that he was aware of Margaret’s “trouble,” and said the two had discussed it, but he could not verify the paternity of the child since she had lied to both him and the doctor about the matter. There were also

those individuals who testified as to the presence of an obvious relationship between Margaret and Thistle. Several people claimed to have seen the two “driving” together during the summer months. Furthermore, those who testified to this fact added that they had never seen Thistle driving with anyone else. This testimony could have reasonably corroborated Margaret’s claim to the paternity of her child but, while this testimony might have established Thistle’s apparent commitment to Margaret, there were no individuals brought forth to support Margaret’s statement that she had not been with any other man.²⁸⁷ As in the Dingham case, William Thistle was also found not guilty for the seduction of Margaret Varner.

Unlike the Dingham case, however, Margaret found herself in a particularly difficult state. Not only had she given up her chastity to a man who no longer appeared trustworthy, she had also become burdened with an illegitimate child. As Karen Dubinsky notes, many charges of seduction were pursued after a woman found herself to be pregnant, “and often the complainant’s parents played a significant role in the prosecution.”²⁸⁸ Margaret’s father supported the charge against Thistle, and he presumably had done so for the same reason many fathers had brought forth civil actions of seduction. It was likely that Margaret’s father would now bear the burden of not only raising his daughter, but also an illegitimate child who would not have the support of a father. Peter Ward contends that although many seduced and subsequently pregnant women found themselves ostracized by both their family and surrounding community, many women “enjoyed the support of their families, and probably, the *toleration* of their neighbours.”²⁸⁹ Nonetheless, with that said, Ward admits that the family was not *always* there for their seduced daughters, and acknowledged that a woman’s marriage prospects

following an illegitimate child were seriously threatened. During this era, as previously discussed, marriage and family were an intricate element in society. Marriage was thought to be the cornerstone of morality and equivalent to a healthy and stable community.²⁹⁰ For that reason, to suggest that seduced girls, such as Margaret, would not have faced a difficult and challenging life following her seduction would be unrealistic. Regardless of the outcome of the case, if her marriage prospects were diminished, or became non-existent, as Ward contends, then one could speculate that life for Margaret would have been complicated at best. Contrarily, Thistle undoubtedly would not face the same public shame and ostracism which faced Margaret. The societal views of sexual relations outside marriage were narrow, but the views toward a woman who had transgressed the sexual norms were much more detrimental than for men who had done the same.²⁹¹ “[U]nwed mothers occupied a rather ambiguous position in public opinion. Having breached prevailing codes of respectable sexual deportment, they were guilty of a delinquency which was generally condemned.”²⁹² Therefore, not only had Margaret been forced to prove her chastity within the legal setting, she now faced additional humiliation from within her own community.

The subsequent cases in this section occurred following the codification of the Criminal Code of Canada (1892). Therefore, the provisions related to the seduction of a girl under the age of sixteen and over the age of twelve were amended. The age limit for the seduction of a girl had been raised from twelve to fourteen years of age, and the age limit for a seduced woman under the promise of marriage had been raised to twenty-one.²⁹³ The new sections of the Code were as follows:

181. Every one is guilty of an indictable offence and liable to two years imprisonment who seduces or has illicit connection with any girl of

previously chaste character, of or above the age of fourteen years and under the age of sixteen years.

182. Every one, above the age of twenty-one years, is guilty of an indictable offence and liable to two years imprisonment who, under promise of marriage, seduces *and* has illicit connection with any unmarried female of previously chaste character and under twenty-one years of age.²⁹⁴

The Queen vs. Alexander Fawcett – County of Dufferin, 1896

Margaret Black was fifteen when she was seduced, and had illicit connection with Alexander Fawcett. Margaret's father claimed that Fawcett had seduced his daughter on the 9 March 1896. However, this was not the only day on which it was alleged the two had engaged in sexual activity. Fawcett supposedly had sexual intercourse with Margaret on the 11, 14, 18, 21, 26, 28 March, and the 1 and 4 April 1896. Because Margaret had just turned sixteen on the 17 May 1896, Fawcett was charged under section 181 of the Criminal Code.²⁹⁵

Margaret testified that she had known the defendant since February of 1896 and had become well acquainted with him at her brother's home. As was the case with Sarah Lovell, Margaret too had spent many instances with Fawcett alone in the home of her brother and sister-in-law. She stated that they remained in the house while her relatives would retire.²⁹⁶ Also similar to the Lovell case was the marital status of the defendant. Margaret testified that he was a married man. The primary difference between the two cases was the fact that Dingham had kept his marriage a secret, whereas Margaret was aware from the beginning of the relationship that Fawcett was a married man. Margaret claimed that when she first met the defendant, she believed he was not married, but before long she met his wife at their home and realized he was wed.²⁹⁷

According to Margaret, Fawcett had sex with her for the first time on the 9 March 1896. She also stated that each time the defendant visited her at her brother's home the two had intercourse.²⁹⁸ She testified that she knew the reason Fawcett asked to visit her the night of the 9 March 1896. "He said he wanted to come out to have a talk with me. I understood he was coming out to make love to me." Margaret also insisted that she had never before had any sexual intercourse with any other man besides the defendant. She claimed that she was not a widow, nor had she ever been married in the past and that "no man had ever done that to me before, nor tried to do so." As was the case with Margaret Varner, there were no other witnesses brought forth to substantiate Margaret Black's claim of previous chastity.

The Black case did not provide the detailed information as was present in the previous two cases. Nevertheless, similar to the Varner prosecution Margaret's father also supported the charge of seduction against Fawcett. However, unlike the Varner case, there existed no certainties that indicated any deceit on the part of Fawcett to necessarily warrant the charge. Although he was a married man, it appeared that Margaret was aware of this fact from the initial stages of the relationship. Furthermore, there was no promise of marriage made to Margaret by Fawcett in return for sexual favours. Nor was there any apparent violence or threat of violence to the girl made by Fawcett. Finally, Margaret had not suggested that she had become pregnant as a result of the sexual behaviour. It would appear as though it was a mutual engagement between the two individuals which was frowned upon for a number of reasons. First, as previously mentioned, sexual activities outside of marriage were not tolerated, especially for a young, single woman. Thus, her father would have feared for both the reputation of his

daughter and his family, and consequently consented to the prosecution against the man who had defiled Margaret. Second, her father no doubt appreciated the fact that because Fawcett was married, there was never any intention for him to marry his daughter. This fact would have indicated that Margaret had engaged in a sexual relationship with no chance of ever having her partner as a husband. Finally, Margaret's father may have also been concerned about his daughter's future marriage prospects. If she was known as a girl who had given up her chastity to a married man this would have seriously impaired her likelihood of finding another suitor.

While the Fawcett case bore some similarities to the Dingham case, Fawcett was found guilty of the seduction of Margaret Black. Both men were married when the alleged seduction took place, yet the verdicts reached in the cases differed substantially. What is interesting to note, is the fact that of all three cases presented thus far, the Fawcett case was the only one which suggested the existence of a mutual, and consensual relationship. However, Fawcett was charged and found guilty, while the other two men who had also seduced these single women were found not guilty. Furthermore, while section 182 stipulated that "If the man is married and the girl knows it there can be no offence under this section,"²⁹⁹ this proviso did not apply under section 181.

This case, unlike the previous two, involved two individuals who were aware of the circumstances and had proceeded to engage in a sexual relationship despite the consequences. Whereas Margaret Varner had been promised a marriage proposal, and became pregnant as a result of her familiarity with Thistle, and Sarah Lovell had also been promised a future marriage and was consequently forced into having sex with Dingham, Margaret Black, for all intents and purposes, appeared to be a willing

participant during the sexual liaisons. Unlike the previous illustrations of “courtship[s] gone awry,”³⁰⁰ the Fawcett case seemed to be more synonymous with a consensual, sexual relationship between two lovers. While not confirmed in the verdict, the fact that Margaret Black *knew* of her lover’s marital status, and pursued a sexual relationship with him nonetheless, may speak to the issue of the regulation of her sexuality. A man who seduces a woman who knows nothing of his marital status (as was demonstrated in the Dingham case), may have been viewed as a seducer who had not fully corrupted the moral ideal of a woman. While she engaged in sexual activity with him, her moral perspective of the world may still be considered untarnished, as opposed to the woman who *knew* of her lover’s married state. This woman, like Margaret Black, was a willing and knowledgeable partner who was possibly seen as completely corrupted in body and mind by her seducer. Due to this contrast, the moral ideal held by those in society may have sought to punish the man who had successfully physically defiled and mentally contaminated a once pure and chaste woman.

Nevertheless, the fact remains that, if a conviction were to be achieved, then each woman was required to give evidence as to why the sexual activity occurred in the first place. As a result, these complainants, far more than the accused, risked personal and family humiliation through these prosecutions.

The Queen vs. Joseph Brooks – County of Muskoka, 1896

Joseph Brooks was charged with seducing and having illicit connection with Fanny Armishaw on the 12 January 1896.³⁰¹ Fanny was a previously chaste girl, and had been fifteen at the time of the alleged seduction. In addition to Fanny’s testimony, her

father William provided an account of the relationship which developed between his daughter and the accused.

According to William, Brooks and Fanny had become well acquainted after he had left Brooks in charge of his children (including Fanny) on the 12 November 1895.³⁰² William became aware of Brooks' romantic intentions toward Fanny, and had given his consent for marriage when Fanny had turned sixteen. He acknowledged that the two had gone out several times to parties.³⁰³ However, only when William realized that the relationship had progressed to include sexual intimacy did he withdraw his consent for marriage.

Fanny testified that she had initially met Brooks two years earlier, seeing him first at church, and then during his visits to her father's home. She too stated that Brooks had initiated a romantic relationship when he first professed his love for her at the beginning of their acquaintance. He subsequently promised to marry her when she was eighteen.³⁰⁴ Fanny testified that she had not reciprocated Brooks' feelings of love until she visited his home for three weeks.³⁰⁵ In addition she stated that, "during those three weeks he made approaches to have illicit connections with me."³⁰⁶ As did William Thistle, Brooks promised Fanny that if anything went wrong following the sexual intimacy he would marry her.³⁰⁷ Fanny admitted that she believed that this conduct was wrong, but due to the fact that she loved Joseph and because of his "continual asking," she consented to the sexual advances. Fanny estimated that the two had had intercourse on numerous occasions but was unsure of the exact number.

As a result of their relationship, Fanny became pregnant and her father was soon aware of her condition. He escorted her to a doctor to confirm his suspicions,³⁰⁸ and

proceeded to confront Brooks about her pregnancy. Brooks acknowledged that the two were involved sexually and that he wanted to marry Fanny. William Armishaw refused his proposal and at one point sent a mutual acquaintance to Brooks' home to instruct him to never go near his daughter again.³⁰⁹ This witness also confirmed that Brooks had admitted to his involvement with Fanny and had stated that he was prepared to do anything (including marriage) in his power to make amends.

Although Fanny was only fifteen, her testimony suggested that she and Brooks had begun a mutual and consensual relationship which had developed over the course of two years. She admitted that she had fallen in love with him, and based on these feelings she had consented to the sexual advances. While Fanny also testified that she acquiesced due to Brooks' repeated requests, the majority of her testimony implied that she was ready to marry this man and had given her chastity to him willingly. Her testimony did not insinuate that the basis of the sexual intimacy was trickery. In addition, there was no record which illustrated that Fanny had attempted to prove her previous chastity. She did confirm that she was only fifteen when the first sexual incident took place, and that she initially thought this type of behaviour was wrong, but aside from those two statements nowhere in her testimony did she attempt to maintain her previous virtue. Nor did her father, in his testimony, attempt to clear his daughter's name or establish her previous chastity. Instead, Fanny divulged that on one occasion (at least), while Brooks stayed at her home, the two engaged in sexual intercourse. "I remember one Sunday morning going into the defendants bedroom and getting in bed with him. Our rooms were not locked and we had intercourse in my bed, with my consent." She also testified that following those incidents, "subsequently I did consent to marry [him]."

This prosecution against Brooks seemed unreasonable since the defendant had not broken his promise, nor had he fled the situation after he realized Fanny was pregnant. In that scenario, Fanny's father may have worried about the extra burden he would have suffered by raising an illegitimate grandchild. What was unique about this case, in comparison to the Thistle prosecution, was the fact that Brooks was *willing* to marry Fanny and follow through on the promises he had made in the past. One witness admitted that Brooks had told him he wanted to marry Fanny, but that her father had forbidden the two from ever seeing each other again. Hence, it appeared dubious for William to deny Brooks' request for his daughter's hand in marriage.

With regards to the Brooks prosecution, there was no verdict recorded following the court date. In addition, there was no record of a trial in any of the surviving newspapers of the day.³¹⁰

In this particular instance, the law of seduction was once again utilized in an effort to exercise the patriarchal control over a single woman. William advocated the prosecution realizing that his daughter's chastity had been compromised. As with the previous cases, William was no doubt concerned about *his* reputation, the reputation of his family, and Fanny's tarnished character. Her sexual behaviour outside the confines of a marriage was unacceptable, regardless whether Brooks intended to marry her. The fact remained that the activity in which the two engaged was forbidden and not considered appropriate for a young, single woman. The seduction law was in place to ensure that this type of conduct was not tolerated and that Fanny was condemned for having willingly participated in an activity which contributed to the erosion of the moral society.

Brooks and Fawcett

Several commonalities existed between the Brooks case and that of the Fawcett prosecution. First, both Fanny and Margaret (Black) appeared to have *consented* to the sexual advances of their male seducers. In the Fawcett case, no promise of marriage was proposed, but Margaret consented to the sexual relationship regardless. Furthermore, she was aware of Fawcett's marital status and continued to pursue the relationship. Margaret's testimony did not suggest that Fawcett, at any time, forced her to consent to the connections,³¹¹ and she admitted that the two continued the sexual relationship within the confines of her brother's home. Similarly, Fanny Armishaw, while she had received a promise of marriage from Brooks, consented to his sexual advances and admitted that she had fallen in love with the defendant during their two year acquaintance. Furthermore, Fanny testified that she had said yes to Brooks' proposal of marriage during one encounter between the two.

The second commonality which linked the two cases was the fact that their fathers had become involved with the charges of seduction after the discovery of a sexual relationship. Presumably, Margaret's father was not prepared to have his daughter in a situation where no marriage would result. It was likely that the prospect of his daughter involved with a married man did not please him, nor would it have been welcomed with open arms by the community. Moreover, her father no doubt feared that Margaret's marriage possibilities would be compromised by the fact that she would no longer be chaste. The reaction presented by Fanny's father was perhaps more complicated, but still displayed the common sentiment respecting Fanny's inappropriate sexual activity and the consequent exercise of patriarchal control. While his daughter had become pregnant,

there was a gentleman who was willing to marry Fanny and presumably raise their child with her. Yet, Fanny had transgressed the traditional and respectable behaviour of a single woman when she became sexually involved with the accused. Regardless of Brooks' intentions, in the opinion of Fanny's father (and Canadian law), Fanny's actions had already insulted the traditional family status quo.

As Karen Dubinsky notes, many seduction cases were the "result of ongoing and mutual relations between two lovers... [and] [a]s such, the seduction law often acted to contain the sexual behavior of women..."³¹² This was the rationale during the prosecutions against Brooks and Fawcett. The cases involving Fanny and Margaret (Black) clarify the intrusiveness of the seduction law, and the genuine intention which it performed. The legislation demonstrated the extension of the civil action of seduction into the realm of criminal law. What had once been the role of the father (during a civil action) to pursue the alleged seducer had been entrenched in the Canadian criminal law. The two girls had both consented and admitted to the sexual relationship with the accused male. As well, Fanny was guaranteed a husband even though she had become pregnant, and Margaret did not appear concerned over whether her relationship would ever amount to more than a mutual sexual liaison.

As previously argued, the seduction legislation was implemented to preserve a single woman's moral character and chastity and to ensure her sexual activity remained within a marital union. Both of the aforementioned cases demonstrated this objective. Canadian law, supported by the fathers of the seduced women, proceeded with the prosecution of the male accused due to the fact that the sexual indiscretions were considered inappropriate for a single woman. Regardless of whether or not the sexual

relationship was consensual, the law condemned the single woman and reiterated the importance of maintaining her proper status in hopes of realizing her full potential within the family unit.

Dingham and Thistle

With that said, both the Dingham and the Thistle cases also reinforced this perspective of the seduction legislation. While her seducer had offered Margaret (Varner) a marriage proposal, it was soon clear that Thistle had no intention on following through with this agreement. Unlike Fanny Armishaw, Margaret had become pregnant but did not have a man who was willing to marry her and accept his responsibilities as a father. Instead, she was faced with a gentleman who believed the best course of action to be an abortion or to blame the pregnancy on another man. Therefore, Margaret's father faced not only the possibility of raising an illegitimate grandchild, but he also faced the likelihood that Margaret might never acquire another male acquaintance or husband because of her behaviour. Once again (as in the Fawcett and Brooks cases), it was clear why Margaret's father supported the prosecution against Thistle. This case demonstrated how the male figure in the household was attempting to exercise his power over the female in the family, supported by the legal parameters of the seduction legislation. The physical well being of Margaret was not the primary motive of the prosecution, nor was it the objective to ensure that Margaret (and her child) were well taken care of after Thistle deserted her. The main purpose for the prosecution was for retribution for Margaret's father, and possibly to prevent any further unacceptable sexual activity by Margaret.

Similar to Margaret Varner's situation, Dingham had presented Sarah Lovell with a marriage proposal, but his marital status was one that would have obviously not

allowed for such an event to take place. Moreover, unlike Margaret Black, who knew of her lover's marital status, Dingham had initially kept that aspect of his life a secret and subsequently convinced Sarah to lie when she discovered the truth. What is particularly unique about the Dingham case was the fact that Sarah was the only female victim (of these four cases) who specifically testified that it was on the promise of marriage that she consented to the sexual intercourse. Although Margaret Varner and Fanny Armishaw had stated that their male seducers promised to take care of them if anything were to occur,³¹³ Sarah Lovell was the only plaintiff who specifically testified, "I relied on his promise to marry me."³¹⁴ This testimony suggested that without the promise of marriage, Sarah might not have considered engaging herself in any sexual behaviour with Dingham.

The objective of the seduction legislation within this case still remained consistent with the previous three cases. Sarah had behaved improperly and had potentially ruined her chances of obtaining a suitable husband. Moreover, it was evident that Sarah had been deceived by the accused, but still *she* was responsible for explaining the reasons for her sexual encounters, as well as the timing of the proposal. Dingham was a married man, with nine children, who had duped this young girl, and yet the responsibility to prove otherwise was on the shoulders of the girl who was misled. As John Charlton noted, the law of seduction was implemented to protect and preserve "chastity, morality and decency"³¹⁵ which was clear in this case and those mentioned previously. This was the principal purpose addressed by this law in all four cases. The well being of the victim was not at issue. The fact that two of the girls had become pregnant was not important in the sense that their lives had been significantly changed. Instead, the possibility that her

family may be embarrassed by her impropriety (and pregnancy) was of the utmost importance. Moreover, these single women had not married first before engaging in a sexual relationship, and their behaviour was thus considered a disgrace to both their family and the traditional family status quo. These girls were forced not only to justify their reasoning for engaging in sexual activities with the accused, but also to prove that previous to this instance they had been pure, virtuous and chaste females.

It is relatively clear that the purpose of many seduction prosecutions was not the protection of young women for their own sakes, nor were those prosecutions conducted so as to afford some measure of retribution for the complainants. Rather, the status of the traditional family during the late nineteenth century was pivotal with respect to social stability and therefore, when this stability was threatened by indiscretions such as these, Canadian law stepped in to preserve the status quo. Charlton himself stated “The degradation of women is a crime against society. Vice in the shape of social immorality is the greatest danger that can threaten the State.”³¹⁶ As such, it is difficult to credit the seduction legislation with anything other than preserving a woman’s *proper* position as wife, and her virtuous status within a healthy society.

In the following section, cases which address the seduction, under the promise of marriage, of women under the age of twenty-one will be presented. Each case involved a female who had consented to the sexual advances of her male seducer due to a promise of marriage. As in the previous cases, the issues of previous chastity, pregnancy, and consent will be emphasized. The cases will be analysed in an effort to further validate the argument that the criminal law of seduction was initiated in order to preserve the morality and decency of Canadian society, and to condemn the single woman for

abandoning her proper place in society and potentially contributing to the erosion of a moral society.

Seduction of a girl under twenty one years of age under the promise of marriage

The cases discussed in the previous section illustrate the power of Canadian law with regards to the sexuality of young women in Canada during the late nineteenth century. Specifically, the law of seduction was implemented and utilized in an effort to regulate the sexuality of young women in order to maintain the traditional family status quo. While supporters of this law may have considered it a positive step for 'victimized maidens,' the reality was that the experiences of single seduced women were only compounded by having to publicly discuss and justify their sexual behaviour. The societal attitudes of the day (concerning women's sexuality) perpetuated the humiliation and embarrassment faced during the prosecutions. Not only had they given up their chastity and in many cases become pregnant, complainants were forced to justify and explain why they had done so. The statute served to provide the guidelines which many felt were necessary to maintain a woman's proper place in society and ensure that her behaviour did not deviate from the established norm. When she did stray from this proper status, Canadian law was implemented and reaffirmed how a single woman was *expected* to behave and to explicate the confines of what was considered appropriate sexual conduct. In the following section, additional cases dealing with seduction prosecutions during the late nineteenth century will illustrate further this contention concerning the legislation.

The subsequent cases presented in this section will continue the exploration of the testimonies of women who were seduced during the late 1880s and early 1890s. While the cases in the first part of this Chapter concerned seduced girls between the ages of twelve (fourteen years after the Codification) and sixteen years, the following cases will

focus on single females who were under the age of twenty-one, and whose seducers were charged exclusively under the promise of marriage. All of the cases, save for the first, were tried subsequent to 1892, and therefore the male seducers were charged under section 182 of the Criminal Code of Canada. While these cases were dissimilar from the previous indictments, based on the age of the female victim, there were parallels between the testimonies offered by these women and the girls in the earlier section. As will be discussed, the women who were seduced under the promise of marriage testified as to their previous chastity, their subsequent pregnancies, and their involvement with a deceitful male.³¹⁷

The Queen vs. Michael Neelon – County of York, 1890

Mary Jane Emes was a previously chaste, unmarried woman, under the age of eighteen when Michael Neelon,³¹⁸ a man above the age of twenty-one years,³¹⁹ allegedly seduced her on the 21 July 1889. Mary Jane testified that the defendant and she had become acquainted during January of that same year, and Neelon consequently began visiting her every two weeks regularly. However, as of the 21 July 1889, Mary Jane reported that Neelon ceased his visits and until the trial had begun she had not seen him since.

During one of Neelon's initial visits to see Mary Jane he told her that if she allowed him to "do as he wished with [her]" he would marry her. At this time, the two were out for a drive together and Neelon convinced Mary Jane to consent to his sexual advances. Mary Jane insisted in her statement that had the defendant not promised her his hand in marriage, she would not have agreed to the sexual advance.³²⁰ Furthermore, she testified that she believed Neelon to be "a true young man coming for earnest by

which I mean intending to marry me.” Her testimony suggested that not only had she consented solely on the basis of the promise of marriage, but she also had no reason to believe the promise was not genuine, as the defendant was a “true young man” in her eyes. However, much of Mary Jane’s statement illustrated that Neelon’s honesty was not veritable.³²¹

Between their initial meeting in January, and the 21 July 1889, Mary Jane became pregnant.³²² She notified the defendant of her condition by mail, but received no reply from Neelon. In her letter, Mary Jane requested that Neelon come to visit her, but he never arrived at her house. Eventually, she saw Neelon quite by chance and shortly thereafter he came to speak to her about the situation. Neelon questioned Mary Jane as to why she had not informed him sooner of the pregnancy, but she insisted that she had written him a letter notifying him of the situation. Neelon told Mary Jane, had he known earlier he “could have put away with the child... [as] he knew lots of girls who had done the same; putting away the child.” He returned the following week to discuss the matter and inquired whether there was any chance they could solve this problem. Mary Jane replied that marriage was the only solution, but Neelon instructed her that “he was not in a shap [sic] to marry.” Since Mary Jane did not want an abortion, Neelon asked if she would consider leaving the County long enough until the ‘trouble’ was over. Mary Jane told the defendant that the only way she was prepared to leave was if her family decided that was the best course of action.³²³ At that time, Neelon left Mary Jane and promised to return the following week. She never saw him again.

Mary Jane made it clear that never before had she engaged in any sexual activity with another man. “No one had ever had connection with me previous to this occasion...

I swear positively that I never had any illicit connection with any other person than the defendant at any time.” Not only did this statement attest to her chastity, but it also verified for the court the paternity of Mary Jane’s child. Moreover, Mary Jane insisted that she only consented to the sexual intimacy with Neelon due to his promise to her. Her statements established the fact that there was a relationship between the two. Neelon, by promise of marriage, had seduced Mary Jane, and as a result Mary Jane, a previously chaste girl, was now pregnant.

Mary Jane’s uncle Michael, with whom she resided at the time of the seduction, substantiated Mary Jane’s testimony concerning the presence of a formal relationship between Neelon and Mary Jane, her previous chastity, and Neelon’s presumed good character. He testified “I never knew of Mary Jane keeping company or going with any other young man but the defendant and never heard of her having any improper relationship with any other person than the defendant... I considered [the defendant] a gentleman.”³²⁴ Another uncle, Charles Emes, also attested to the existence of a relationship between his niece and Neelon. “Since the first of January last Mary Jane the complainant has been to our place several times and while she was there the defendant came to see her there three or four times at least.”³²⁵ Charles also testified that he had no knowledge that Mary Jane ever had any other “beaux.”³²⁶ Finally, Mary Jane’s mother testified that the defendant had been visiting her daughter since January 1889.

Although a marriage did not take place between Mary Jane and the defendant, Neelon was found not guilty of the charge of seduction. When questioned about the charges Neelon responded, “I have never had any connection with the Complainant whatever and I was not in her company nor did I see her on the 21st of July AD 1889.”

The Queen vs. Isaac D. Shaad – County of Kent, 1893

In December of 1892, Elizabeth Harding was seduced by Isaac D. Shaad, after having known the defendant for seven years.³²⁷ Elizabeth referred to a formal relationship between the couple when she testified that Shaad was “keeping company” with her since October 1892.³²⁸ She stated that she was seventeen years of age, and that she heard the defendant mention once that he was going to be twenty-three.³²⁹ Elizabeth also reiterated in her statement that she had indeed told the defendant her age several times during their relationship.³³⁰

After the couple had dated for several months, Shaad allegedly told Elizabeth he was going to marry her, after which he had sex with her against her will. Elizabeth claimed that “I told him I did not want to do anything like that,” but the defendant responded, “it did not make any difference that he was going to marry me any way.” Elizabeth then testified that Shaad again seduced her while out on a walk. She claimed “after we talked... he laid me down... I resisted and he forced me.” She admitted that the only reason she had complied was because he had forced her. Elizabeth stated that the defendant had sexual intercourse with her five or six times since the first sexual encounter in December.³³¹

During her testimony, Elizabeth made reference to the promise of marriage presented by Shaad on three separate occasions. The first promise was made before he initially seduced her in December, the next occurred after a visit to her home, while the third promise was made after the two had gone for a walk. The final time, Elizabeth asked when they would get married to which he responded “as soon as convenient.” Throughout Elizabeth’s statement, she insisted that she was a previously chaste girl and

had never before had connections with any other gentleman. Moreover, during her testimony, Elizabeth denied having sexual intercourse with several other men whose names had been brought forth during her statement. “I know Frank Shrewer I never had anything to do with him.”³³² After testifying that Shaad had seduced her in December (the first time), Elizabeth maintained that she did not want to engage in such activity. “I always had a high character... I said I had always been a virtuous young girl.” Shaad responded that nothing would happen (presumably implying pregnancy) to her if she consented, and that he would marry her regardless of what transpired after the sexual relations. In an effort to further validate her chastity, Elizabeth stated for the record that she had told the defendant repeatedly that she was virtuous.

Elizabeth became pregnant as a result of the sexual familiarity with Shaad, and consequently she questioned the defendant about a wedding date. In her testimony, Elizabeth was adamant that marriage would be the next step in the relationship and she stated she was concerned that Shaad may not honour his promises. At one point she stated, “I was nervous for him to marry me because I had been seduced [and] he knew it.” She obviously sensed the possibility that this gentleman might renege on his word, as she continued to press him about a wedding date. Finally, Elizabeth told Shaad, “I told him I wanted to be married and not put it off” to which he replied, “fix the time and he would come up like a gentleman.”³³³ Another witness testified that Shaad had confided in him, telling him he had planned on marrying Elizabeth.³³⁴

Shaad never arrived on the scheduled date for the wedding. She testified that she told him that if he did not show up for the ceremony, she would “have the law on him.”

Elizabeth also stated that had the defendant simply kept his word and married her, everything would have been all right.

Not only had Elizabeth given up her chastity, she had also become pregnant as a result of the familiarity with her seducer. Her marriage possibilities to Shaad had apparently collapsed and Elizabeth undoubtedly presumed her marriage prospects had also been destroyed. In effect, Elizabeth was forced to present her personal life in a legal setting in an effort to regain her dignity, and to punish the man who had taken away an essential aspect of her life.

Isaac Shaad was released on bail, and the case was subsequently dismissed. As was reported in the *Chatham Daily Planet* on 30 September 1893 the prosecution did not proceed as the “prisoner married the girl.”³³⁵

The aspect of the seduction legislation which stipulated the proof of previous chastity helps to clarify the assertion that its primary objective was to regulate a woman’s sexuality, and not to provide any formal redress for the ‘victim.’³³⁶ For instance, according to many female reformers who strongly opposed this legislation, the notion that the seduced woman should have to prove her previous chastity was unacceptable and outrageous. Members of the National Council of Women of Canada (NCWC) were absolutely against the inclusion of the “previously chaste character clause.” Mrs. Foster Avery, a member of the Council, pronounced in 1896 her objection to the clause,

It is simply impossible for a young girl, under such circumstances, to prove previously chaste character, because it is always easy for the kind of men who are liable to be indicted for this offence to get a friend or friends to prove that this girl has been previously unchaste.³³⁷

The motivation behind this objection was the fact that the seduced woman had to present her sexual background³³⁸ for legal and public scrutiny.³³⁹ While the seduction

legislation clearly stated that this element of the law was significant for a conviction, the moral relevance of this information was questionable. The moral reformers and government officials who advocated this law were preoccupied with the status of the traditional family, and as a result held the virtue and chastity of the single woman as a central aspect of this moral ideal. Thus, the criminalization of seduction was aimed at punishing those women who violated their chastity and ultimately the moral ideal upon which the traditional family rested. The statute attempted to preserve a woman's moral virtue, in anticipation of her eventual married life. A previously chaste woman was worthy of the protection, presumably offered by the law, while a woman who had relinquished her chastity was outside of the status quo of the family and therefore outside the boundaries of the protective elements of the statute. A woman's chastity and virtue was legally scrutinized, and challenged in an effort to maintain her proper status, both within the traditional family and society at large. This element in the legislation helps establish the ultimate objective of the law. A woman's sexual behaviour was a significant issue in both Canadian society and Canadian law due to the high status bestowed on the marital union. The criminal law of seduction, as a result, reinforced the normative framework out of which the moral ideal emerged, and contributed to the content of that normative framework and functioned to regulate the sexual practices of the single woman.

Whereas the rhetoric of the day may have indicated that the legislation was implemented on behalf of 'victimized maidens,' it will be argued in the following discussion that the seduction legislation only succeeded in protecting the family status quo of the era. Women were socially and legally challenged for venturing outside the

parameters of what it was to be a woman. Sexual behaviour outside a sacred matrimonial union was frowned upon, and these women suffered the most due to this philosophy.

The Queen vs. Edward Kilbourne – Middlesex County, 1894

Edith Collier was nineteen when she became pregnant during the Spring of 1893 after having consented, under the promise of marriage, to the sexual advances of Edward Kilbourne.³⁴⁰ The two had been acquainted since January of 1893, and had dated until November of that same year. Edith testified that following November she never saw the defendant again as he left town without fulfilling his obligations to her.

The couple had been introduced to each other and from that time Kilbourne visited Edith's home twice a week. They had attended parties together and Kilbourne was in the habit of picking Edith up from church weekly. They mutually agreed in April of 1893 that they would "not... go with any other on each side."³⁴¹ Edith's mother had substantiated this information during her statement. Her mother testified that the two were "going steady," and that Edward would "go out walking with her, fetch her from church, and to places of neighbors, and he acted as though he intended to marry her."

Not long after the two had vowed their commitment to one another, Edith testified that Kilbourne had asked her to marry him. Subsequently, Kilbourne initiated sexual intimacy between the two and Edith maintained it was only after the promise of marriage that she consented. "Under the promise of marriage I allowed Edward Kilbourne to have intercourse with me." The sexual indiscretions occurred on numerous occasions and as a result Edith became pregnant.

In her statement, Edith insisted that not only had she consented to the sexual advances purely on the basis of the promise, she also maintained that prior to the sexual

intercourse Edith had never been involved with any other man. Moreover, Edith claimed to have been a “pure and chaste girl [till] the time Edward Kilbourne” seduced her. She had to legally establish this fact in an effort to prove the paternity of her child. As further proof, Edith testified that her mother overheard Kilbourne’s pledge to marry her, and that her mother had also been present when Kilbourne admitted to fathering the unborn child.³⁴² What was interesting to note in Edith’s mother’s testimony was that she too maintained that Kilbourne had stated to her “I promised to marry her when I coaxed her to do it.” Presumably, this was Kilbourne’s admission that he had employed the promise to obtain Edith’s consent for sexual intimacy.

Edith had confided in Kilbourne as to her pregnancy, and she maintained that he was in fact the father. After telling him this, Edith testified that he had again promised to marry her. However, as was the case for Elizabeth Harding, Kilbourne never arrived for the scheduled wedding date. From Edith’s testimony, it was apparent that her baby died shortly after its birth,³⁴³ and she had not heard from Kilbourne since November of 1893. There was no record of a verdict within the Kilbourne file, but *The Daily Free Press* gave a lengthy explanation as to why Kilbourne was released from custody. The case was dismissed on technical grounds, and after the magistrate castigated the accused,³⁴⁴ Kilbourne “left the box a free man.”³⁴⁵

The Queen vs. Samuel Satchell – Perth County, 1894

Hulda Rosel was under the age of twenty-one when she was allegedly seduced, under the promise of marriage, by Samuel Satchell. On the 6 February 1894, Hulda claimed Satchell had “connected with her on or about the 27th day of August 1893.”³⁴⁶

Satchell promptly entered a plea of not guilty and was admitted to a bail of four hundred dollars.

Satchell lived with his brother and sister-in-law and Hulda testified that this was the location for all of the sexual encounters between the two. In her statement she claimed that there were three separate incidents of intercourse.³⁴⁷ After Hulda described the initial instance, she maintained that she had told the defendant she did not want him to do anything to her. After she insisted that she was not interested, Satchell allegedly promised to marry her. It was only then that Hulda claimed she “gave in to him and he then and there had connection with [her].” On the next occasion of sexual intercourse Hulda testified that Satchell had made no mention of marriage. Nevertheless on the third instance, the two slept together in her bed, and had sexual intercourse after he had once again promised to marry her. She stated that following the promise she “gave in.” This was the third and final time the two were together and Hulda did not testify that she had become pregnant as a result of the intimacy.

Until Hulda became involved with Satchell, she testified that she was a chaste woman and had never been sexually intimate with any other man in the past. During her testimony, there were no witnesses to substantiate her claim that a relationship had existed between her and Satchell, as there had been with Edith Collier. Nor were there any witnesses provided to substantiate her claim of chastity. It was solely Hulda’s word that a formal, sexual relationship between the two had existed, and that prior this time she had been chaste. Hulda also insisted that the promise of marriage had preceded any sexual intimacy between her and the accused. Samuel Satchell was found not guilty following his trial for the seduction of Hulda Rosel.

These four cases gave further credence to the fact that, under the seduction legislation launched by John Charlton, it was the woman's testimony that was vital in the attempt to secure a conviction. It was the woman's sexuality which was questioned and ultimately viewed as inappropriate in many cases. It was the woman's agreement to give up her chaste and virtuous character which threatened her chances of a happy and healthy marriage and which became the subject of public scrutiny. The accused male was asked to enter a plea, but apart from that, it was the testimony of the woman which was crucial when establishing the presence of an alleged seduction. A woman's credibility was pivotal in the case, and this was evident from the information provided by these women in case after case.

It appeared as though each woman was adamant with regards to several points in her testimony, three of which will be briefly mentioned. First, the seduced woman insisted that there was in fact a relationship which existed between her and the defendant. Second, the woman stressed that she had acquiesced only on the basis of the promise of marriage and that the promise was given prior to any sexual intercourse. Third, each woman in these cases maintained her previous chastity before she was defiled by the male accused. All of these elements in the testimonies were interrelated when the woman attempted to prove the existence of the seduction. In order to appear credible, Mary Jane, Elizabeth, Edith and Hulda all maintained that they were virtuous girls prior to their sexual intimacy with the male defendants. This was a statutory requirement of the offence, and the seduction legislation was not intended to protect those women whose moral characters were questionable. Moreover, if the woman was chaste before her involvement with the accused, and had only consented to sexual intercourse based on a

promise of marriage, then her allegation of seduction was potentially legally valid. In addition, the notion that a relationship actually existed between the two individuals would have added credibility to the woman's testimony that she had reason to believe the promise offered by her male partner was genuine. If she and the defendant had become romantically involved (in some cases for a substantial length of time), then the possibility that the woman would trust the male accused was completely comprehensible.³⁴⁸ The promise of marriage would have perhaps been a logical step following a short or long-term relationship and based on that promise, a woman could potentially establish her reasoning for the consent. Finally, the timing of the promise would have been crucial, as each woman had to demonstrate that not only had she consented on the basis of the promise, but that the promise did in fact precede the romantic involvement.

The Queen vs. George Paddock – County of Wellington, 1894

Ida Zimmerman testified that she was nineteen, unmarried, and previously chaste when the alleged seduction occurred between herself and George Paddock, who was at the time above the age of twenty-one. According to Ida, the two had known each other for almost six years, and had begun a romantic relationship approximately two years prior to the charge of seduction.³⁴⁹ When given the chance to respond to the charges, Paddock simply replied, "I have nothing to say."

Ida lived with her parents when she began dating Paddock. The two originally met at a party, and the relationship evolved from there to include walks, mutual church attendance and outings to dances. Ida testified that Paddock had formally proposed to her in February of 1894, but she also insisted that he had promised to marry her on numerous occasions prior to this date. One date in particular, was that of 24 September 1893 when

the alleged seduction took place. Based exclusively on his promise of marriage, Ida testified that she consented to have sexual intercourse with the defendant. “[H]e promised to marry me then under the influence of that promise I allowed the prisoner to have illicit connection with me.”³⁵⁰ Ida reported that the two had continued to have sexual relations, and consequently Ida testified that the defendant also continued to make promises of marriage to her prior to the connections.³⁵¹

After the two had been sexually intimate on several occasions, Ida became pregnant and stated that she had informed the defendant of her problem. Following Ida’s disclosure of her pregnancy, the date of February 1894 was set by the defendant as a tentative date for marriage. According to Ida when she informed Paddock of the pregnancy, he replied that he “wished we were married [and]... said he would not deny it.” However, after the original date of February 1894 passed, Paddock had still not married Ida. He postponed the date until July of that year, and promised to marry her on the first day of that month.

Unfortunately, the marriage never took place and Ida gave birth to her child on the 19 July 1894. To substantiate her claim that there was indeed a relationship between herself and Paddock, Ida reported that her parents were aware of the pending marriage. “My father and mother understood [I was] going to marry him.”³⁵² Furthermore, Ida testified that prior to her relationship with the defendant she had never had sex with any man. As though her statement of chastity had been challenged, Ida testified that “I have not been living with any other young men only a neighbor walked home with me once to my father’s home last fall.” Ida was supported by her brother’s testimony, which further substantiated her claims of chastity. Robert Zimmerman testified that “My sister’s

character has been good til [sic] this happened. She has always been chaste and virtuous and a girl of good character.” Robert also maintained that there existed a formal relationship between his sister and the defendant, and that the two were to be married. Moreover, Robert testified that Ida had told him about the baby, and that Paddock was the father.³⁵³

Paddock left the area before the birth of the baby without notifying Ida of his whereabouts. Her brother Robert testified that it “was the talk of [the town] that he had gone away.” Ida then gave birth, and was presumably left alone without any marriage prospects from the defendant. As her brother asserted, this situation was no longer one of privacy. It was likely that her community now realized the circumstances of Ida’s predicament. Paddock arrived back in town after the baby’s birth³⁵⁴ and visited Ida shortly thereafter.³⁵⁵ Robert asked Paddock what “he was going to do with the affair between [him] and my sister.” Paddock claimed that he could not take the child with him at that time, and although he said that a wedding should take place, no new date was set.

Perhaps the most striking element in this testimony was put forward by Robert Zimmerman. Robert questioned Paddock as to whether he had in fact proposed marriage to Ida, and had promised to marry her by July of 1894, to which Paddock answered affirmatively. Robert suggested that the defendant must marry Ida, after which Paddock claimed that “if I would have her I am afraid she won’t have me.” At that point, Ida was present in the room and responded that she would certainly still marry Paddock. According to Robert, Ida’s principal reason for accepting the overdue marriage proposal was the fact that she believed she could not get anyone else.

While Paddock had promised to marry Ida, the marriage never took place, and Paddock was subsequently found not guilty of the seduction of Ida Zimmerman.

As was present in each of the aforementioned testimonies, the seduced women were apprehensive about their future marriage prospects when the proposals from each defendant did not materialize. The notion of having a child out of wedlock, and being left without a husband (and possibly any other future prospects of such), as well as having her sexual indiscretions publicly aired, must have been a devastating situation in which each woman found herself. Notwithstanding the fact that Ida had been left by Paddock before the birth of their child, and her family had witnessed her embarrassment, she still consented to the final marriage proposal knowing that her chance of obtaining any other suitors was not likely. Once again, this element spoke to the importance of a marriage for women and the entrenched belief that she must live up to this role in order to be accepted. The notion that Ida would be left to care for an illegitimate child was worse than accepting what seemed like an perfunctory marriage proposal.

The Queen vs. George Dickie – County of Elgin, 1894

As was the case in the previous trial, Elizabeth Scriver was also nineteen years of age when George Dickie was charged with seduction.³⁵⁶ In addition, she testified that she too was of previous chaste character and unmarried at the time of the alleged crime on the 11 June 1893. According to Elizabeth, she and the defendant had “kept company” for one year. While Elizabeth maintained that the accused never took her out to any social events, she did claim that he visited her often, and took her out for walks occasionally.³⁵⁷ This element of her testimony was presumably an attempt to establish the presence of a formal relationship between the two.

After three months of dating, Elizabeth claimed that Dickie had made a sexual overture toward her, accompanied by a promise of marriage.³⁵⁸ This was the first time in which he spoke to Elizabeth about marriage, and following his request Elizabeth testified that she consented. “He said if I would accommodate him he would marry me. I said alright.” Before this incident, Elizabeth maintained that the defendant had never before attempted to have sexual intercourse with her, nor had he made any sexual advances toward her prior to this. However, following the initial sexual contact on the 11 June 1893, Elizabeth testified that Dickie and she continued having intimate contact with one another. She admitted that Dickie did not confirm when he would marry Elizabeth, but she insisted “[he] kept promising to have me all along, and I always yielded to his requests... he had connection with me several times after that.” In her statement, Elizabeth made it clear that the only reason she consented was because she trusted he would be faithful and marry her. Had he not made these promises, she insisted that she would not have acquiesced.

As was the case in the previous trials, Elizabeth also became pregnant as a result of the intimate relationship with the defendant. She testified that “George Dickie got me that way.” Elizabeth kept the sexual element of her relationship a secret until her sister realized she was pregnant. Shortly thereafter, Elizabeth’s mother also discovered her condition. With regards to her chaste character, Elizabeth testified that she had never been involved with anyone prior to her involvement with Dickie. She described her acquaintance with two other gentlemen in her testimony, but denied having been sexually involved with either of them. “I know Mark Leach, not very well, he never was with me... He never kissed me or never had connection with me. [I] know Ernest Kelly, he

has been at my sisters. He never had anything to do with me in anyway.” In addition, Elizabeth’s sister provided additional support for her testimony. She asserted that there had been a relationship between the two individuals. Although she was not sure if marriage was to take place, she mentioned that she had heard discussions suggesting that was so. “I heard that they were going to be married. I heard them talking about it at my house.” Elizabeth’s sister also testified as to Elizabeth’s chaste character. To substantiate Elizabeth’s claim, her sister maintained that before her involvement with Dickie, Elizabeth had “been a good pure girl.”

During Elizabeth’s statements, she confided that she was no longer interested in marrying the defendant, because in her opinion he had “used [her] so mean.” However, during the initial stages of her statement, she admitted that “I thought enough of him to marry him, and I think so now.” Whether Elizabeth was expressing her resentment toward Dickie, and therefore stated that she no longer wanted Dickie as her husband due to his dishonesty, or she had truly come to the decision that she could not marry him following their relationship, was uncertain. What did seem apparent in her statement however was the fact that she did not want this pregnancy to become public. Her sister “found it out” and subsequently Elizabeth’s mother also realized her predicament, but it was not news that Elizabeth was prepared to divulge willingly.

Another interesting element of Elizabeth’s testimony was the fact that she claimed her mother “managed this case” for her. This statement was particularly intriguing when coupled with the fact that Elizabeth had originally not told her family of the condition or that she had been sexually involved with the defendant. This may have suggested that only when her family discovered the potential burden of Elizabeth’s baby did they

support the forthcoming court proceedings. Furthermore, if Elizabeth had suspected that Dickie did not plan to uphold his promise of marriage, she may have wanted to keep the pregnancy a secret from her family. Understandably, Elizabeth, who lived with her parents at the time of the seduction, would have placed an extra burden on her parents with an illegitimate child, and both she and her parents no doubt recognized this aspect of the case.

George Dickie was subsequently found not guilty for the seduction of Elizabeth Scriver.

Seduction as Tantamount to Rape

The next two cases to be discussed will deal with defendants who physically forced themselves on the female victims and yet the charges reflected a seduction charge. In the second case, the defendant was additionally charged and convicted of raping the young woman, but the analysed testimony will only focus on the seduction charge. In addition, both cases dealt with the charge of seduction of a girl under sixteen years of age. These cases differed from those examined in the first section based on the fact that these girls had not been involved in any type of relationship with the defendant prior to the alleged seduction. Moreover, there was no promise of marriage, nor did either girl become pregnant as a result of the sexual incident. However, one significant commonality (shared with cases in both sections of this Chapter) was the fact that both girls had to defend and prove their previous chastity while testifying against their alleged seducers.

The Queen vs. Alpheus Cox – County of Lincoln, 1892

On the 8 July 1892, Alpheus Cox allegedly seduced and committed an assault against one Rose Satchell.³⁵⁹ Rose was under the age of sixteen and above twelve years of age. The trial records also showed that Rose was a previously chaste girl before she was attacked by the defendant. The information for this case was brought forth by Rose's legal guardian, Miss S. Rye who asserted that the defendant had seduced and assaulted Rose on the above noted date.

In Rose's deposition, she described the day on which Cox approached her. She maintained that before the 8 July 1892, she had only seen the defendant once but was not aware of his name. That day, she was sitting on the grass, reading a book and Cox came up to her and said good morning. She replied, but Cox then warned her not to "tell the other girls I was talking to you." The defendant then questioned Rose as to whether she was out late at night and whether she "had anything of it before." Presumably, Cox was inquiring if Rose had been sexually active before. She replied no, and added that she was not interested. He then asked her if she would be interested in going into the barn with him. Again, Rose replied no.

Cox did not regard Rose's refusals as ample resistance as he proceeded to force himself on her.³⁶⁰ Although Rose attempted to resist this attack, Cox forcefully had sexual intercourse with her. Rose testified that she tried to scream and get away, but the defendant held her and instructed her that she could not escape. Following the attack, Cox warned Rose not to mention this incident to anyone.

When asked for his response, Cox denied any such attack took place. "I have heard this girl give her evidence and there is not a word of truth in what she has said. I

swear that I never had connection with this girl and that her statement is positively untrue.”

There was no record that Rose presented any testimony to prove her previous chaste character. Her legal guardian, however, did testify that Rose was chaste and stated, “I know her to have been a girl of good character... I was told about her in London, England.”

This case of seduction contained issues which also coincided with the aforementioned cases. For instance, in *R. v. Dingham*, the defendant, although he made a promise of marriage to Sarah Lovell, also forcefully seduced the victimized girl. She too was under the age of sixteen, and Sarah testified that Dingham had thrown her to the ground and after the seduction she too cried for help. Nevertheless, there still existed several differences between these cases. First, the proposition of marriage was never an issue in the Cox case. Second, Rose Satchell admitted that she had only seen the defendant in the past, but had never been personally acquainted with him. Third, each girl in the previous section knew their seducers, and in many cases was involved in a relationship with him. While the physical seduction of each girl had similarities, *R. v. Cox* demonstrated an attack on a young girl by a virtual “passer-by.” They had no previous relationship, whether platonic or formal, nor did Rose even know the name of her attacker. This case was tantamount to rape, and demonstrated little if any resemblance to the stipulations required to justify a trial for seduction. Alpheus Cox was tried and found not guilty for the seduction of Rose.

The Queen v. Henry Oppertsheiser – County of Waterloo, 1895

Henry Oppertsheiser was charged with the seduction, on the 20 November 1894, of Lillian Maurer, who was at the time above the age of fourteen and under the age of sixteen. Lillian stated in her testimony that she was unmarried and a girl of previously chaste character.³⁶¹ Supported by her parents, Lillian testified to the events which lead up to the alleged seduction.

Lillian stated that she was fifteen years old when she had visited the home of the defendant and his family to assist with the household chores.³⁶² She had arrived on the 19 November 1894 and had planned to stay for the weekend. There she helped his wife sew and clean the house, while the defendant worked on his land. The following day, the defendant came home where his wife, three children and Lillian were waiting for their meal. Before eating, the defendant requested that Lillian follow him to the barn to fix a window. Lillian accepted and went with Oppertsheiser.

While the two were in the barn, the defendant began questioning Lillian as to whether she was “ticklish” and whether she had “often don [sic] it.” Lillian resisted his advances, but Oppertsheiser persisted and grabbed the girl’s arm. She testified, “He said he thought I was ticklish. I said I am not. He then took hold of me and laid me down.” Lillian told him to go away, but the defendant pursued her further. He insinuated that she should have sexual intercourse with him, and that Lillian’s mother had suggested she do so.³⁶³ Lillian continued to resist his attack but she admitted that he would not stop. Oppertsheiser held Lillian’s hands together above her head while she lay on her back. She then testified “I was laying on my back he was lying on me. My face was towards him... I couldn’t get away.” Lillian threatened to tell his wife what he was doing and

then she cried out. He maintained that she “could holler or not...” he would do it anyway. She continued crying out but Oppertsheiser told her she should not be so independent. The defendant then proceeded to rip Lillian’s clothes and attack her. All of this occurred, she testified, “against my will.”³⁶⁴

Following the attack, Lillian noted in her testimony that she was bleeding and crying after Oppertsheiser left to return to the house. She too returned, and mentioned the incident to his wife. “I told her that he had touched me I told her what he had done to me – she said nothing.” Lillian did not mention the incident again to anyone else while she visited the defendant’s home, and only told her mother upon her return home.³⁶⁵ According to Lillian, never before had the defendant “propose[d] anything improper” to her, nor did he after the episode in the barn.

Throughout her statement, Lillian maintained that she had never had any sexual intercourse with another man prior to the 20 November 1894. She testified that the defendant had never attempted any action prior to the attack, nor had any other man. “I have never done anything with any other man before like this.” In a further attempt to establish her previous chastity, Lillian also maintained that she was not presently engaged in a relationship nor had any young man been to visit her at her home. “There are no young men comes [sic] to see me. There was no young men to see.” Henry Oppertsheiser stated that he was not guilty, and had nothing to say when required to enter a plea. The jury could not agree on a verdict during the spring assizes, and were discharged as a result. Oppertsheiser was retried in the fall, and found guilty of rape but was found not guilty of seduction.

Two elements of this case were particularly interesting. The first was an aspect of Lillian's testimony which was not pursued any further than Lillian's one comment. While she testified as to the details of the attack, Lillian stated "Mrs. Oppertsheiser is my mother's sister." It appears that the defendant was actually her uncle. The second matter, unique to this case, was the amount of detail included in the case file. There was a map, which provided a detailed account of the distances between the house and the barn, in which the attack took place. Moreover, there was a list of two hundred and forty-four signatures from individuals of the surrounding community pleading for clemency with regards to the punishment of rape which faced the defendant.³⁶⁶

While Lillian had to prove her chastity before a court of law, the defendant was able to withhold any commentary, and instead was supported by a group of his neighbours who came forth to voice their encouragement. Furthermore, nowhere in the petition was there a denial of the crime of which Oppertsheiser had been accused. They based their argument on the fact that until the time of the alleged seduction (and rape), Oppertsheiser had been a man of good character, worth supporting. In addition, it was their opinion that his wife and children would only suffer more if the defendant was sentenced to a jail term.

The case studies presented in sections one and two of this Chapter illustrate the power wielded by the seduction legislation with regards to a single woman and her sexuality. In each instance, the information presented refuted the notion that this law offered protection for the seduced woman, and challenged the idea that it was concerned with the physical well being of these females. Instead, the prosecutions demonstrated

how the law was utilized in an effort to clarify the proper place in which a woman should contain her sexual behaviour.

Due to the fact that the traditional family unit was held in very high esteem during the nineteenth century, the notion that a woman would allow herself to surrender her virtue and chastity was frowned upon. Therefore, the law of seduction enabled both moral reformers (specifically, those who advocated the law) and legal actors to maintain the appropriate social status of single women and legally challenge those women who dared to defy this age-old philosophy.

Specifically, the testimonies offered in the prosecutions by the seduced female demonstrate that there existed an element of injustice with respect to the relevance of this information. In order to satisfy the criteria set forth in the seduction legislation, the woman had to provide both justification for the sexual encounter(s), and furthermore, she was responsible for establishing her previous chaste character. Due to the fact that a conviction was totally dependent on whether the woman was previously chaste, the seduced female was forced to clear her name and assure those within the legal system that previous to the seduction she was virtuous. The law did not apply to those women who were less than virtuous, and therefore it was imperative that the woman, who had been 'wronged,' legally establish her worthiness of the protection offered by the legislation.

Of the twelve cases discussed in the previous sections (in which a verdict was recorded), only one defendant was found guilty of the charge of seduction, while eight were found not guilty and two had their cases dismissed.³⁶⁷ Whether these findings unequivocally support the assertion that this legislation was not concerned with the

security of the seduced women is uncertain, but it is questionable how several of the accused were formally acquitted of the crime with the information provided. The women involved in the cases, where the male was found not guilty, had presumably suffered equally as Margaret Black, yet they received no legal redress for their potential suffering. Instead, their personal lives were made public and the humiliation which followed would have intensified due to the public disclosure. Moreover, several of the girls were pregnant as a result of the sexual activity, but still the proof they offered with regards to their chastity was presumably not sufficient to render a guilty verdict.

The lives of single women were targeted as in need of restrictions which would assure they reached their full potential in life – that of wife and mother. The criminalization of seduction illustrates the position of women within Canadian law at the end of the nineteenth century, and adds to our understanding of the contribution that law makes to the regulation of women's sexuality.

Conclusion

During the late nineteenth century, there existed several elements of Canadian legislation which focused on the issue of sexual behaviour. The Criminal Code of 1892 for instance, contained Title IV, Part XII, "Offences Against Morality,"³⁶⁸ which included sodomy, incest, gross indecency, and obscenity; while Title V contained Part XXI, including the crimes of "Rape and Procuring Abortion."³⁶⁹ Furthermore, "the law stipulated that sex could only occur between a man and a woman of a certain age... [and] the solemnization of marriage [was]... strictly controlled by specific sections of the Criminal Code."³⁷⁰ Accordingly, "sex crime" referred to a gamut of activities including prostitution, rape, and seduction under the promise of marriage. As Terry L. Chapman asserts, "the term 'sex crime' was not designed to be exclusive nor limited but to be inclusive and limitless."³⁷¹ A sexual crime could be one which involved coercion, or force, or could be an instance in which the two participating individuals had consented. Moreover, the dominant social climate of the day was such that the issues of morality, family, and national stability were closely correlated with that of sexual behaviour. For these reasons, if the Canadian nation was to remain stable, any sexual behaviour which threatened the moral priority of the family was considered unacceptable. The example of law reform regulating sexual behaviour gives us some insight into the contemporary situation.

The objective here has been to present and examine the criminalization of seduction and to determine its genuine focus. In addition to examining the seduction law, this thesis also endeavoured to analyse the affect which this law had on Canadian women. The interrelation between a woman's sexuality and the stability of the Canadian family

and nation, allowed for an in-depth discussion regarding both the objective and the consequences which followed the enactment of the seduction law.

In nineteenth century Canada, the happiness of the traditional marriage, the strength of the ideal family, and the stability of Canadian society at large, were issues that were directly affected by the sexual morality of its citizens. Moreover, women performed a significant role within the traditional family and the institution of marriage. "Women alone in the home became more responsible for holding the family together and instilling moral virtues into the children."³⁷² Women were considered the "mothers of the future generation, [and] constituted the very foundation of society."³⁷³ The sexual morality, in particular, of women also notably affected the stability and success of the marriage and family unit.³⁷⁴ Yet, the industrial revolution put the family under further strain and women and their sexuality became an increasingly contentious issue and the basis for the seduction legislation.

In an effort to explicate the correlation between a woman's sexuality and Canadian morality, the tort and the crime of seduction was selected as the central case in point. The tort of seduction was utilized as early as the seventeenth century, when "fathers had begun to use the action to avenge the seduction of their daughters."³⁷⁵ Seduction was criminalized in 1886 and primarily transposed the act from one which concerned only the family, to one which involved the entire society. According to John Charlton, the primary activist of the criminalization of seduction, "The degradation of women is a crime against society. Vice in the shape of social immorality is the greatest danger that can threaten the State."³⁷⁶ Criminalization was a legal endeavour which would protect victimized maidens against unwanted sexual encounters with male

acquaintances.³⁷⁷ However, the law of seduction instead worked to police and regulate the sexual behaviour of young, single women in Canada. While the rhetoric surrounding the law of seduction may have insinuated an element of protection for single women, it was emphasized throughout this thesis that the law successfully controlled and regulated the sexuality of single women through the condemnation of their moral character. While the law was initially championed as a protective mechanism for single women, it only provided protection for the traditional family status quo at the expense of the women it purported to defend.

In an effort to examine this element of regulation of a woman's sexuality, the status of Canadian women, both socially and legally, was analysed during the initial chapters. Chapter one examined the relationship between nineteenth century social and moral reform movements and the status of women, and Chapter two analysed the association between Canadian law and the status of both a married and single woman in society. Each of these discussions provided the foundation for a comprehensive exploration of the regulation of a woman's sexuality by introducing the fundamental elements of Canadian society during this era. The emphasis on the traditional family status quo, supported by the moral reformers and those in government, and the resulting status of Canadian women, clarified the genuine objective of the law of seduction. Because the family was held in such high esteem, a woman who transgressed the traditional guidelines for a proper woman was criticised by reformers for abandoning her idealized role in life. In the case of seduction, the woman who chose to become sexually involved with her male acquaintance(s) was condemned by both the law and society, as one who contributed to the erosion of the moral society. In this manner of condemnation,

the seduction legislation performed a regulatory function over the sexuality of single women.

In an effort to further clarify these statements, selected case studies were presented in Chapter three and analysed in light of the information provided in the previous chapters. These models of alleged seductions during the late nineteenth century added further credence to the argument that this legislation successfully perpetuated a woman's lack of autonomy and independence in life, in particular with respect to her sexuality.

Several prominent issues were raised in response to the examination of a woman's life in Canada during the late nineteenth century. Each of these elements supported the final analysis of the seduction case studies. By providing the necessary information which illustrated a woman's status within society, which eventually formalized the regulation of her sexuality, these elements justify the final conclusions concerning the regulation of a single woman's sexuality. First, the notion that the traditional family status quo had to be preserved in an effort to maintain a stable society was pivotal when determining a woman's status in society. Second, the very fact that the idealized notion of the traditional family must be upheld, substantiated certain social and legal restrictions, advocated by moral reformers and members of Parliament, in both a married and single woman's life. Third, the ramifications which a single woman experienced as a result of these legal restrictions was apparent when examining the relevant seduction case studies. All of these elements provided the necessary foundation on which to judge the seduction legislation. All were correlated with one another and each performed a significant role with regards to the design and implementation of the law. By confirming a woman's

proper role in Canadian society, the legislation condemned those women who insulted this traditional philosophy.

The Traditional Family Status Quo

During the late nineteenth century, marriage, family and the home were considered “the central institutions of the social order,”³⁷⁸ the protection of which was incredibly important to many Canadians.³⁷⁹ The significance of these institutions was such that the dissolution of one was interpreted as detrimental to the society as a whole. In response to any such potential threat to the family unit,³⁸⁰ many reformers in society took it upon themselves to ensure such a collapse did not occur. The “deep concern over the possibility of family disruption and... [the] enduring faith in the ability of the home to shape society”³⁸¹ spurred action from groups in society who were determined to halt any familial destruction.

In addition to the concern over pending familial destruction, the role which a woman performed within the family unit also helped to clarify the status which she occupied within the society as a whole. Mothers, wives and daughters all held a position in society which was largely premised on the health and stability of the family and the society.³⁸² This responsibility, coupled with the highly revered status of the family, helped to establish a woman’s role and the need to maintain this status if the family, social and moral stability were to remain at the forefront of the Canadian national agenda.

Due to the importance of both the family and a woman’s role within the institution of marriage, these two elements of society were interrelated when either was challenged or threatened. The correlation between the two was such that those in society who feared the dissolution of marriage, or feared the destruction of a woman’s role

within the family, targeted both issues in hopes of maintaining the moral society upon which the Canadian nation was built.

In addition to the significance of the family, and a woman's role with this unit, the role of Canadian law was crucial to several of these reform initiatives. Formal law became a significant component with regards to the regulation of women during this era. Not only were there social and moral reformers pursuing legal modifications on behalf of the single and married woman to protect her role within the home and her sexuality from the ruin of wiley men. Canadian legislation also supported the traditional family status quo and attempted to ensure its permanence. Canadian law during the nineteenth century both reflected the need to preserve the traditional family unit and a woman's role within this union, and in turn was periodically modified to extend its support for this institution.

The Legal Restrictions Imposed on Women

The second element, which contributed to the successful sexual regulation of the single woman was this legal component. Subsequent to the work of the social and moral reformers came many modifications to the existing law concerning the morality of society.³⁸³ Furthermore, the law as it stood in the late nineteenth century was designed such that the Canadian marriage and the family were crucial elements within a stable and healthy community. Both the law as it existed in the 1880s, and the subsequent modifications, supported the notion that a woman's proper place was in the home, and that if necessary the law must be employed to ensure that this role was occupied by those virtuous and pure women on whom the health of the nation relied.

Canadian law performed a complementary role to that of the moral and social reformers with regards to the social and legal status of women. An environment was

structured by the reformers and the law which perpetuated the primary role of women – that of a wife and mother. Any deviation from this position was frowned upon, and initiatives were taken to ensure that these women realized their full potential within the society. Therefore, legal elements in Canadian law also protected the matrimonial state.³⁸⁴ Married women were legally encouraged to remain within their role as wife and mother.³⁸⁵ In addition, initiatives were also implemented which influenced those single women, who had not yet agreed to marriage, to remain faithful to that selected role.

Consequently, single women, due to the significance placed on the traditional family, found that they too were targeted by Canadian law. Simply because they had not yet consented to a life of matrimony, did not mean that their lives were beyond the reach of the law with respect to their eventual marital status. One such restriction came in the form of the seduction legislation. Following the criminalization of seduction in 1886, a single woman still did not control the power to sue for seduction under her own name. Instead, reformers, and those in Parliament, “transpose[d] the problem of seduction from the family to society as a whole.”³⁸⁶ This move confirmed that while John Charlton may have presented this legislation *on behalf* of single women,³⁸⁷ it only perpetuated their disadvantaged position, and replaced one element of regulation (patriarchal), for another (state).

Criminalization left single women in a position of submission, now subjected to the authority of Canadian law with respect to their autonomous decisions of sexual intimacy. The minor independence which they were afforded with respect to their property rights was not extended within the realm of sexuality. Instead, the social lives

of single women were viewed as problematic, and regulated as a result in an effort to remain true to their traditional calling.

The Legal Restrictions Experienced by Single Women

As an empirical example the law of seduction and relevant case studies were selected in order to illustrate the argument that the sexuality of single women was regulated and controlled at the end of the nineteenth century. The case studies allowed for a comprehensive analysis of testimony provided by the seduced woman and therefore afforded a fresh perspective. During their statements, these single women gave accounts of seduction, deceit, promises of marriage, and unexpected pregnancies. Moreover, the principles on which the law of seduction relied for a conviction further illuminated the objective of this legislation and the subsequent effect on the alleged victims of this crime. The previous chastity and virtue of the victim was legally scrutinized in order to determine whether the seduced woman was worthy of protection (presumably offered by the law), or if she was simply attempting to manipulate the legislation to her advantage. In the majority of the cases studied in Chapter three, the alleged male seducer received no legal punishment and one may assume that the seduced woman was not compensated for her humiliation.

When a single woman demonstrated actions unbecoming to her nature, actions which flew directly in the face of the moral society in which she lived, moral reformers and Canadian law stepped in to chastise her behaviour and ensure that she understood her role in the potential dissolution of the moral society. In the legal realm of nineteenth century Canada, the law of seduction was designed and executed in response to this type of disruptive behaviour exhibited by young, single women.

The law of seduction was utilized as a form of condemnation of the seduced woman, and the elements of the crime served to support this moral ideal. By giving up her chastity, she had violated the traditional notion of what it was to be a true, pure woman and had therefore insulted the marital and familial status quo. She was no longer the virtuous woman who would help raise the children of Canada, instilling in them the appropriate morals and values needed for a stable society. Instead, she had allowed herself to participate in an activity which, prior to marriage, was inappropriate and unacceptable for a young woman. Furthermore, this seduced female had demonstrated a sense of autonomy and independence which was frowned upon by many in society.

Chapter three presented a select number of seduction cases in which young women were forced to justify *why* they had transgressed the ideal model of womanhood, and had allowed themselves to be seduced by the male accused. In their testimonies, the women had to account for any past relationships which may have been interpreted as unacceptable. Furthermore, the seduced woman had to rationalize that she had been coaxed or tricked by the male seducer into having illicit connection with him based on a promise of marriage. The legislation only applied to those of a previously chaste character, and thus the women had to prove that their previous character warranted the protection of the law. According to Charlton, this law would not apply to “a woman of loose character,” but rather would only “provide punishment... for the seduction of a woman of previously chaste [sic] character.”³⁸⁸ To simply state that she willingly had sexual intercourse with the male accused was not an acceptable reply, nor was it a justification for her actions. Instead, in the cases presented the females were compelled

to give in-depth explanations, detailed accounts of the sexual indiscretions, and reasons as to why they had pursued such an unacceptable relationship.

The idea that the single woman had *willingly* participated in the sexual liaison with her male acquaintance was not an issue. As was illustrated in Chapter three (Section one), both Margaret Black and Fanny Armishaw had, for all intents and purposes, consented to the sexual advances by Fawcett and Brooks. However, their consent was moot, as “[c]onsent was not an issue in seduction cases.”³⁸⁹ Therefore, the charge of seduction remained the same for instances where the female in question had given up her chastity willingly. Her autonomy, with regards to her sexuality, was not an element of her life that was her own. It would be precarious to suggest that these young girls (particularly those in Section one) should have been left to defend themselves sexually against older men considering their tender age. However, the elements of the legislation still compelled her to justify the sexual behaviour which had transpired between her and the accused. Furthermore, regardless of her age, the elements of the crime perpetuated the moral ideal that a girl must be condemned for her sexual indiscretion. Similar to the civil action of seduction, where a father had ownership rights over his daughter’s chastity, the criminal law of seduction replaced that form of patriarchal control and subsequently asserted its own rights over that of a single woman’s sexuality. A woman’s sexuality and the associated behaviour was held on a pedestal by Canadian society, and when this sexuality was compromised and abused, the law was in place to punish the woman who had insulted her virtue.

Charlton himself articulated the responsibility which was placed on the shoulders of women when it came to the moral virtues of society, and their role in the distribution

therein. In his proposition for the criminalization of seduction in 1884, he proclaimed that

women are, as a rule, better and more virtuous than men. I believe that they are not exposed in the same degree to the temptations that beset men in life; that they grow up in a more refined condition and that their natural tendencies are better than the natural tendencies of men. I believe this to be the case, and I think that society believes this to be the case. Society, moreover, demands that woman shall be purer than man. It demands, on the part of the woman, greater care in her conduct than it does on the part of the man. Men may do with impunity many things that would blast the character of a woman. Society recognizes the fact that the good of the community, the good of society, the well-being of the family, rest upon the virtue of the female position of society.³⁹⁰

This statement demonstrated why it was that the seduced woman had to verify her chastity and prove herself worthy of the legislation. Her character was epitomised, not only by Charlton but by society as a whole, as one upon which the health of Canadian society relied. Therefore, the law of seduction was in place to ensure that the young, single women of Canada realized this virtuous obligation, and did not demonstrate character unbecoming a societal nurturer and keeper of the hearth.

The primary focus of this thesis was the criminalization of seduction and the sexual regulation of the single woman in late nineteenth century Canada. However, in order to clarify the assertion that the objective of the seduction legislation was to regulate women, and not to provide any type of protection or redress for the victim, an examination of the social and legal facets of Canadian society was necessary. Both the actions of the moral reformers and those within the government provided the necessary framework which elucidated the social and legal status of women. Moreover, the selected case studies clarified the genuine objective of the seduction law by exploring the lives and testimonies of the seduced women.

The sexual intimacy and the transgression thereof by a single woman outside the matrimonial union was criminalized for the male, but created an atmosphere whereby the seduced woman was socially and legally condemned. The penalty suffered by the seduced woman was more drastic, and the social repercussions which she experienced as a result surpassed the punishment (or lack thereof) which was handed down to the male perpetrator. Because the woman disregarded the traditional boundaries of womanhood by becoming sexually active, the law became involved and condemned this behaviour as one which contributed to the erosion of Canadian society. Due to a woman's confined and subordinate social status in society, premarital sex on her part was an affront not only to her proper place, but also to the traditional family in which she was expected to play a pivotal role. The man was not considered one who upheld the virtuous character of the family or the community and thus his sexual transgression did not carry the same social and legal repercussions.

The importance of the traditional family and its role in the sustenance of a happy, stable and moral society provided the impetus for the reform movements and the associated criminalization of seduction which preserved the late nineteenth century status quo. The notion that the destruction of the family was a possibility, due to certain actions by single women, caused many Canadians to strive to implement measures which would prevent any temptations and alleviate such dissolution. In order to understand the movement for sexual regulation of single women, one must comprehend the pivotal role played by the traditional family and a woman's role within this union. Only when this correlation is clearly understood, is the tenacity by which many reformers and political members fought to preserve the moral character of this institution, truly understood.

Moral and social reformers, while targeting what they believed were detrimental issues plaguing a moral society, were in effect preserving the philosophy which perpetuated the subordinate status of women. It was their social misbehaviour which concerned the reformers, not the potential hazards which single women faced in their lives (for instance, low wages and dangerous working conditions). It was sexual promiscuity which threatened family stability and a virtuous home life, not necessarily the unequal status of women in the work force. Therefore, it was this promiscuity which was in need of regulation and control.

Those in the legal community also sought to maintain the status quo of the matrimonial union in an effort to preserve the healthy society which they enjoyed. The potential inequalities experienced within the household, for example (be it domestic abuse, or male adultery), did not generate the same concern as did sexual indiscretions. The philosophy that two individuals became one following a matrimonial vow justified the possible inequalities within the marriage. Therefore, Canadian law did not address those issues with the same tenacity as it did the sexual immorality which threatened the marital institution.

The law of seduction, both the tort and the crime, allowed for an examination into a specific realm of a woman's life. This analysis highlighted the above mentioned philosophies and subsequent remedies which found their popularity during the late nineteenth century. In particular, a single woman's sexuality was interpreted as an emotion which strictly belonged inside the matrimonial union (presumably under the watchful eye of the husband), or under the careful scrutiny of the father (as was the case

in tort law). In either scenario, the single woman had little if any control over elements of her sexual being.

As such, many reform initiatives (prompted by both social reformers and those in Parliament) were intended to remedy the social disorder which the reformers and government officials believed was a causative factor in familial and marital dissolution. It was understood that young single women required a specific piece of legislation which targeted their fragile sexuality. A man known to have defiled a pure, innocent and virtuous girl (one for whom marriage was the ultimate destiny) deserved legal punishment, and the seduction legislation was proposed to address this concern over a single woman's sexual life.

However, while the rhetoric surrounding the legislation targeted this issue of need, the reality (as a result of criminalization) was that these women were socially stigmatised for having been involved sexually with a man outside a marriage. Single women were not permitted to demonstrate overt forms of independence, such as sexual intimacy, and if they chose to do so they directly challenged the very essence of Canadian moral society. In an effort to assist victimized maidens, the seduction law only worked to police their sexuality and perpetuate the notion that this type of flagrant autonomy did not conform to the status quo and would furthermore only advance the possibility of a dysfunctional society.

The punishment faced by the male accused was a form of legal chastisement, but as was demonstrated this course of action was only pursued in a minimal amount of cases. Meanwhile, the presumed victim in the case was potentially ostracised by society and her family because she (unlike her male acquaintance) had violated the appropriate

behaviour for a woman. A man was legally chastised if the victim was a previously chaste girl, while the woman had her intimate life details paraded with little chance of retribution from the law.

The form of regulation which was demonstrated by the criminalization of seduction was that of condemnation. By examining the elements of nineteenth century life, one can better understand why this attitude prevailed and those advocating the law fought to have it approved. The well being of the single seduced woman was not the primary concern of the legislation, nor was she the focal point for those designing the law. Instead, her sexual behaviour was highlighted. It was pivotal in the grand scheme of society. The single woman was condemned by the law for potentially contributing to the erosion of Canadian society. There were no protective elements within the legislation. Furthermore, the seduction law did not regulate through deterrence or through simple voyeurism. Condemnation was the primary objective for the seduction law and in the cases presented in this thesis it was clear that this objective was pursued with great resolve. As Constance Backhouse states, "The new battery of criminal provisions may have reflected an emerging awareness of the social ramifications of seduction, but the reforms held little of substance for seduced women."³⁹¹

Endnotes

¹ Constance Backhouse, "'Pure Patriarchy': Nineteenth-Century Canadian Marriage" (1986) 31 McGill Law Journal, 266.

² This was considered the common law doctrine of "marital unity." The husband had sole control over both his wife and children. According to Philip Girard and Rebecca Veinott, this concept was justified by the separate sphere ideology. The man "by his education and manner of life, has [usually] acquired more experience, more aptitude for business, and a greater depth of judgment than the woman." Peregrine Bingham, *The Law of Infancy and Coverture* (London, 1816), p. 162 as quoted in Philip Girard and Rebecca Veinott, "Married Women's Property Law In Nova Scotia, 1850-1910" in Janet Guildford and Suzanne Morton eds., Separate Spheres: Women's Worlds in the 19th-Century Maritimes (New Brunswick: Acadiensis Press, 1994), 68.

³ Constance Backhouse, "Shifting Patterns in Nineteenth-Century Canadian Custody Law" in David Flaherty ed., Essays in the History of Canadian Law Vol. 1 (Toronto: University of Toronto Press, 1981), 213.

⁴ Constance Backhouse states as well that, "Women alone in the home became more responsible for holding the family together and instilling moral virtues into the children." "Shifting Patterns in Nineteenth-Century Custody Law," 212.

⁵ Lori Chambers, Married Women and Property Law in Victorian Ontario (Toronto: University of Toronto Press, 1997), 21.

⁶ *Ibid.*, 15.

⁷ *Ibid.*

⁸ According to Clara Brett Martin, "[a]part from certain civic disqualifications and professional exclusiveness, our old common law never thought it fit to impose disabilities on single women, when of full age and of sound mind, have always been left free to manage their own property, whether real or personal, and to make and alter their wills and codicils as and when they, in their good sense or caprice, might think fit." "Legal Status of Women in the Provinces of the Dominion of Canada," in *Women of Canada: Their Life and Work*, compiled by the National Council of Women of Canada (Ottawa, 1900) as quoted in Ramsay Cook and Wendy Mitchinson eds., The Proper Sphere: Woman's Place in Canadian Society (Toronto: Oxford University Press, 1976), 95.

⁹ *Ibid.*

¹⁰ In her book Toronto's Girl Problem: The Perils and Pleasures of the City, 1880-1930 (Toronto: University of Toronto Press, 1995), Carolyn Strange specifically addresses the issue of the single working woman and her social pursuits which concerned many reformers. In the eyes of reformers, these social activities often challenged the moral norms which were customary for single women during the nineteenth century. In particular, Chapter Two, *City Work, Moral Dilemmas*, describes the predicament facing reformers regarding the single working woman. "Whenever talk turned specifically to the morality of industrial capitalism, ... the single woman worker rose to the top of the agenda. The male worker was a breadwinner... the woman worker presented a moral

problem, the solution for which would necessarily focus on morality... Women, it was feared, might drift along... towards prostitution. The issue of sexual morality loomed like a dark cloud over discussions of women's work in the industrializing city... While it is not surprising that philanthropists and evangelical reformers approached single women's waged work as a moral problem, their concerns about the erosion of protection for and restraints upon young single women were shared by unionists and feminists as well," 22-23. Furthermore, in Chapter Three, *Ruined Girls and Fallen Women*, Strange addresses the issue of the single woman's leisure pursuits and the corresponding threat it held in the eyes of reformers with regards to family and societal cohesion. "YMCA women's anxieties that they might lose women adrift to city pleasures prompted the Toronto chapter to propose a special meeting in 1883 to discuss the importance of gaining an influence over 'the young women in the city... [particularly regarding] the terrible evils arising from girls attending dance houses.' Likewise, city parks were attractive to working women, who, if they lived away from home, could afford only tiny, airless quarters. Respectable Torontonians noted that hot summer evenings and Sunday afternoons were young people's favorite times to find respite from the dust and noise of the city. Observers were shocked to discover, however, that parks had become sites where men and women could associate casually in public. In the eyes of one YWCA woman, the potential for unchaperoned encounters resulted in 'terrible scenes of immorality in the parks.' The scandalized ladies consequently informed Inspector Archibald of the problem and requested that he instruct his officers to be more vigilant. Thus, they proposed a gendered scheme of supervision over the city's women adrift: The YWCA would cover the home front while the morals police would supervise 'the world,'" 59.

¹¹ There were numerous social and moral reform groups, all with a diverse set of agendas, but for the purposes of this thesis only a select few will be discussed.

¹² Wendy Mitchinson, "Early Women's Organizations and Social Reform: Prelude to the Welfare State" in Allan Moscovitch and Jim Albert eds., The "Benevolent" State: The Growth of Welfare in Canada (Toronto: Garamond Press, 1987), 78.

¹³ T. R. Morrison, "'Their Proper Sphere' Feminism, The Family, and Child-Centered Social Reform in Ontario, 1875-1900" (1976) 68 Ontario History, 47.

¹⁴ Carolyn Strange and Tina Loo, Making Good: Law and Moral Regulation in Canada, 1867-1939 (Toronto: University of Toronto Press, 1997), 17.

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ John P. S. McLaren, "Chasing the Social Evil: Moral Fervour and the Evolution of Canada's Prostitution Laws, 1867-1917" (1986) 1 Canadian Journal of Law and Society, 125.

¹⁸ Mariana Valverde, The Age of Light, Soap, and Water: Moral Reform in English Canada, 1885-1925 (Toronto: The Canadian Publishers, 1993), 46.

¹⁹ Ibid., 51 (emphasis added).

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²⁰ Ibid., 52.

²¹ Ibid., 51.

²² Strange and Loo, 18.

²³ According to Carolyn Strange and Tina Loo, the federal legislators often discovered a “gap – and occasionally a chasm – between law and its enforcement, the latter being under provincial jurisdiction.” Furthermore, Strange and Loo suggest that the courts and the police did not always “act in accordance with the wishes of the federal government. They had their own agendas for moral regulation, and were subjected to a variety of local pressures that complicated law enforcement, making in uneven across time and place,” 18.

²⁴ Ibid.

²⁵ Jane Ursel, Private Lives, Public Policy: 100 Years of State Intervention in the Family (Toronto: The Women’s Press, 1992), 68.

²⁶ Mitchinson, “Early Women’s Organizations and Social Reform,” 78.

²⁷ Ibid.

²⁸ Valverde, The Age of Light, 52.

²⁹ Chambers, 14-15.

³⁰ Constance Backhouse, Petticoats and Prejudice: Women and the Law in Nineteenth-Century Canada (Toronto: The Osgoode Society, 1991), 176-177.

³¹ Chambers, 25.

³² Cook and Mitchinson, 9.

³³ Morrison, 47.

³⁴ Ursel, 69-70.

³⁵ Ibid., 69.

³⁶ Ibid., 70.

³⁷ Ibid., 71. Jane Ursel refers to the patriarchal sexual code in her work, and in this Chapter this code is indicative of the traditional system which governed the family unit. That is, the male member of the family had complete control over his wife, and the sexual roles of the two were such that the man regulated the wife accordingly.

³⁸ Ibid., 69.

³⁹ Carolyn Strange makes particular mention of this phenomenon based on the fact that areas in Europe and United States had confronted the impact of industrialization and “its effect on women workers” resulting in “the imposition of regulations governing the character and hours of women’s work.” Strange also asserts that like “other beneficiaries of industrialization, Canadians felt ambivalent about a brand of economics that wrenched traditionally homebound workers from the moorings of family life.” Toronto’s Girl Problem, 22.

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⁴⁰ Ibid., 24.

⁴¹ Morrison, 45.

⁴² T. R. Morrison suggests that this phase of "new industrialism also altered woman's traditional role within the home," 45.

⁴³ Carolyn Strange documents several aspects of the working conditions that faced women during this era. She claims that women's "economic marginality" was a pivotal factor that distinguished the non-domestic labour for women. These women worked extremely hard to provide for themselves, and possibly their families, and this type of work required "good health, marketable skills, tenacity, and extremely good fortune." Since the jobs occupied by these female workers were traditionally 'women's work' (for instance, sewing) there were always other women ready and willing to leave their positions as domestic labourers to fill the positions of those in the factory sector. This in turn created a very unstable job market. Women could be laid off during low seasons and according to "fashion season" in the garment industry. Therefore, Strange asserts that "the vast majority of wage-earning women in late nineteenth century Toronto were neither dilettantes toiling for pin money nor bold career women: they were highly exploited workers for whom independence was more likely to be a burden than an opportunity." Toronto's Girl Problem, 25.

⁴⁴ Ibid., 22.

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ Mitchinson, "Early Women's Organizations and Social Reform," 85.

⁴⁸ Wendy Mitchinson claims that women, during the early part of the nineteenth century became involved in charitable endeavours by either offering their services on a personal level or through their church. During the latter part of the century however, these same women attempted to establish "more structured and permanent societies which would do more than momentarily alleviate a problem... they focused specifically on the needs of women and children." "Early Women's Organizations and Social Reform," 77.

⁴⁹ Morrison, 46.

⁵⁰ Mitchinson, "Early Women's Organizations and Social Reform," 77.

⁵¹ Ibid.

⁵² T. R. Morrison cites the names of several prominent female reformers who were married to professionals or businessmen including, Mrs. John Hoodless, Mrs. S. H. Blake, Mrs. J. K. Macdonald, Mrs. J. L. Hughes, Mrs. J. Cummings, Mrs. W. H. Howland, Mrs. S. McMaster. See T. R. Morrison, "The Child and Urban Social Reform in Late Nineteenth Century Ontario" (unpublished Ph.D. thesis, 1971) as quoted in Morrison, "Their Proper Sphere," 46.

⁵³ According to Jane Ursel, despite the diverse objectives of several of these groups, they usually "spoke with one voice" where the family was concerned. Ursel claims that studies of the National Council of Women (NCW), the Young Women's Christian

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Association (YWCA) and the Women's Christian Temperance Union (WCTU), indicated that their "self-professed purpose" was the promotion of those reforms which would support the family. Private Lives Public Policy, 70-71.

⁵⁴ Ibid., 71.

⁵⁵ Mitchinson, "Early Women's Organizations and Social Reform," 78.

⁵⁶ Morrison, 47.

⁵⁷ Ibid.

⁵⁸ According to Mariana Valverde, The Women's Christian Temperance Union, for example, "confined its work to other women of the same ethnicity and religion: they did not undertake much philanthropic work, at least not as WCTU members." In addition, the Young Women's Christian Association "was not primarily aimed at relieving the poverty or changing the habits of the very poor but was rather aimed at women who were already respectable, in this case, young working women." The Age of Light, 61, 63.

⁵⁹ Mitchinson, "Early Women's Organizations and Social Reform," 78.

⁶⁰ Ursel, 71.

⁶¹ Strange and Loo, 19.

⁶² Wendy Mitchinson, "The WCTU: 'For God, Home and Native Land': A Study in Nineteenth-Century Feminism" in Linda Kealy ed., A Not Unreasonable Claim: Women and Reform in Canada, 1880s-1902s (Toronto: The Women's Press, 1979), 154.

⁶³ Mitchinson, "The WCTU: 'For God, Home and Native Land'," 154.

⁶⁴ Valverde, The Age of Light, 61.

⁶⁵ Ibid., 58, 60.

⁶⁶ Morrison, 53.

⁶⁷ Ibid.

⁶⁸ Mitchinson, "The WCTU: 'For God, Home and Native Land'," 154.

⁶⁹ Ibid.

⁷⁰ Mitchinson, "Early Women's Organizations and Social Reform," 84.

⁷¹ Morrison, 53.

⁷² Mariana Valverde charges that "the language and practices of the WCTU were more feminist than anything found in other organizations of the time." The Age of Light, 6. In addition, Wendy Mitchinson claims that the WCTU "made by far the most radical demands of any women's organization." "Early Women's Organizations and Social Reform," 84.

⁷³ Mitchinson, "The WCTU: 'For God, Home and Native Land'," 154.

⁷⁴ Ibid.

⁷⁵ Wendy Mitchinson asserts that prohibition protected the needs of the WCTU members. This statement reflects the point presented earlier. It was possible, that a primary focus for the union members was to establish prohibition in an effort to protect *their* own interests as well as *their* lifestyles. The focus may not have been necessarily the needs of those who were less fortunate. "Early Women's Organizations and Social Reform," 85.

⁷⁶ According to Wendy Mitchinson, other organizations, such as the Young Women's Christian Association (YWCA), believed that one must adjust the individual "to the existing norms of society" instead of lobbying the government for legalized change in social norms. "Early Women's Organizations and Social Reform," 85.

⁷⁷ Wendy Mitchinson suggests that while the WCTU were interested in establishing prohibition they were not interested in working directly with "drunkards." According to Mitchinson, "Working with drunkards was not the same as working with respectable working women and the WCTU members may have been reluctant to become involved with individuals who, in the view of the Union, caused their own problems." "Early Women's Organizations and Social Reform," 84.

⁷⁸ Morrison, 53.

⁷⁹ Ibid.

⁸⁰ Ibid.

⁸¹ Mitchinson, "Early Women's Organizations and Social Reform," 85.

⁸² Ibid.

⁸³ Mitchinson, "The WCTU: 'For God, Home and Native Land'," 155. Once again, this quote indicated the possibility that the members were not wholly concerned with the welfare of those less fortunate within society. Instead, it appeared that their motive oftentimes reflected their personal standards of what constituted a healthy society. As Mariana Valverde contends, "the WCTU women confined its work to other women of the same ethnicity and religion... the WCTU was distinguished by the fact that it was set up by Anglo-Saxon Protestant (and largely middle-class) women to uphold their own interests and seek relevant changes in Canadian society." *The Age of Light*, 61.

⁸⁴ Mitchinson, "The WCTU: 'For God, Home and Native Land'," 155.

⁸⁵ Wendy Mitchinson suggests that the members of the WCTU became involved in the public sphere much more than the women in any other organization during this time. "Early Women's Organizations and Social Reform," 85.

⁸⁶ According to Wendy Mitchinson, several female reform groups, such as the YWCA and the WCTU, wanted to adjust "the norms of society." It appears that the norms to which she refers were those which were idealized by the female reformers which maintained and emulated *their* middle-class way of life. These norms were, in their opinion, disrupted by immoral behaviour such as intemperance. "Early Women's Organizations and Social Reform," 85.

⁸⁷ Ibid.

- ⁸⁸ *Annual Report*, WCTU, Ontario, 1898, 96; *Annual Report*, WCTU, Dominion of Canada 1891, 77; *Annual Report*, WCTU, Nova Scotia 1897, 28; Agnes Machar, "Cholera and Alcoholic Stimulants," *The Woman's Journal*, Dec., 1884, as quoted in Mitchinson, "The Early Women's Organizations and Social Reform," 85.
- ⁸⁹ Mitchinson "Early Women's Organizations and Social Reform," 78-79.
- ⁹⁰ *Toronto Daily Mail*, 24 September 1872, "Women's Rights in Ontario," 2 as quoted in Chambers, *Married Women's Property Law in Victorian Ontario*, 94-95.
- ⁹¹ Morrison, 58.
- ⁹² *Ibid.*, 59.
- ⁹³ *The Globe*, 20 December 1886, "Temperance and the Schools," as quoted in Morrison, "Their Proper Sphere," 59.
- ⁹⁴ Morrison, 59.
- ⁹⁵ Mitchinson, "The WCTU: 'For God, Home and Native Land'," 156.
- ⁹⁶ *Ibid.*
- ⁹⁷ *Ibid.*
- ⁹⁸ *Ibid.*, 157-158.
- ⁹⁹ According to Wendy Mitchinson, the members of the WCTU were convinced that while the liquor trade was legalized by the government, their (WCTU) position on the matter was still "right" while that held by the government was "wrong." "Early Women's Organizations and Social Reform," 85.
- ¹⁰⁰ *Annual Report*, WCTU, NS 1897, 24. Letitia Youmans, "Haman's Licence," in Rev. B. P. Austin, ed., *The Prohibition Leaders of America*, N. P. 1895, 36 as quoted in Mitchinson, "Early Women's Organizations and Social Reform," 85.
- ¹⁰¹ *Ibid.*
- ¹⁰² J. Harvie, "For Home, For Country," WCTU, *Annual Report*, 1884, as quoted in Morrison, "Their Proper Sphere," 60.
- ¹⁰³ Strange and Loo, 19.
- ¹⁰⁴ *Ibid.*
- ¹⁰⁵ Graham Parker, *An Introduction To Criminal Law* 2nd ed. (Toronto: Methuen Publications, 1983), 301.
- ¹⁰⁶ Strange and Loo, 19.
- ¹⁰⁷ D. A. Watt, "The Canadian law for the Protection of Women and Girls, with Suggestions for Its Amendments and for a General Code," in *The National Purity Congress: Its Papers, Addresses and Portraits*, ed.: A. M. Powell (New York: American Purity Alliance, 1896), p. 437 as quoted in James G. Snell, "'The White Life for two': The Defence of Marriage and Sexual Morality in Canada, 1890-1914" (1983) XVI 31 *Social History*, 117.

¹⁰⁸ D. A. Watt, "The Canadian law for the Protection of Women and Girls," in A. Powell, ed., *The National Purity Congress* (Baltimore, 1895), pp. 450-451 as quoted in Valverde, *The Age of Light*, 101.

¹⁰⁹ Snell, "The White Life for two," 118.

¹¹⁰ A more detailed discussion concerning the common law and the crime of seduction will be presented in both Chapters two and three.

¹¹¹ Strange and Loo, 21.

¹¹² Snell, "The White Life for two," 118.

¹¹³ D. A. Watt, *Moral Legislation: A Statement Prepared for the Information of the Senate* (Montreal, 1890), 13, 15-16.

¹¹⁴ D. A. Watt prepared this statement for the information of the Senate in 1890. He asserted that for many years, he "[had] been endeavoring in one way and another to promote legislation which would secure greater protection to women, and more especially to young girls, than was afforded by the Dominion statutes, but with very indifferent success hitherto." Watt then stated that following the meeting of his Society, he would forward the applicable notes and information which was gathered "with a view to their being presented to the Senate on the second reading of the bills." *Moral Legislation*, 5.

¹¹⁵ *Ibid.*, 13, 15-16.

¹¹⁶ Snell, "The White Life for two," 120. In the chapters to follow, it will be discussed how many other individuals within Canadian society held true this belief that sexual behaviour was only proper between a married couple.

¹¹⁷ Snell, "The White Life for two," 117.

¹¹⁸ Cook and Mitchinson eds., *The Proper Sphere: Woman's Place in Canadian Society*, 225.

¹¹⁹ *Ibid.*, 224.

¹²⁰ Christopher St. George Clark, *Of Toronto the Good A Social Survey Study: The Queen City of Canada as it is* (Toronto: The Toronto Publishing Company 1970 [1898]), 1.

¹²¹ Carolyn Strange, "From Modern Babylon To A City Upon A Hill: The Toronto Survey Commission of 1915 and the Search For Sexual Order in the City," in Roger Hall, William Westfall, & Laurel Sefton MacDowell eds., *Patterns of the Past: Interpreting Ontario's History* (Toronto: Dundurn Press, 1988), 256.

¹²² Strange, *Toronto's Girl Problem*, 96.

¹²³ *Ibid.*, 96-97.

¹²⁴ Valverde, *The Age of Light*, 90.

¹²⁵ *Ibid.*

¹²⁶ *Ibid.*, 92.

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- ¹²⁷ Ibid.
- ¹²⁸ Ibid., 93.
- ¹²⁹ Ibid., 94.
- ¹³⁰ Ibid., 93.
- ¹³¹ Strange, "From Modern Babylon," 255.
- ¹³² Strange, Toronto's Girl Problem, 98.
- ¹³³ Ibid., 98-99.
- ¹³⁴ NCWC, *Annual Report*, 1912, 49 as quoted in Strange, Toronto's Girl Problem, 98.
- ¹³⁵ Strange, Toronto's Girl Problem, 101.
- ¹³⁶ NCWC, *Annual Report*, 1912, 49 as quoted in Strange, Toronto's Girl Problem, 99.
- ¹³⁷ The penalty of whipping was introduced for repeat offenders of procuring, while the age limit restriction was lifted for those victims of procurement. Initially, only a woman under the age of twenty-one was considered a victim of procurement. "New offences and reduced requirements for evidence against suspected offenders were also introduced. Accusations of a white slavery trade inspired the creation of the new offences... The amended *Criminal Code* of 1913 was a significant victory in the social purity movement's war against vice." Strange, Toronto's Girl Problem, 101, 102.
- ¹³⁸ Ibid.
- ¹³⁹ Parker, An Introduction to Criminal Law, 301.
- ¹⁴⁰ Strange, "From Modern Babylon," 26.
- ¹⁴¹ Strange, Toronto's Girl Problem, 104.
- ¹⁴² Ibid.
- ¹⁴³ Strange, "From Modern Babylon," 258.
- ¹⁴⁴ Ibid., 259.
- ¹⁴⁵ Ibid., 260.
- ¹⁴⁶ Ibid.
- ¹⁴⁷ Ibid., 261.
- ¹⁴⁸ Ibid., 264.
- ¹⁴⁹ Ibid.
- ¹⁵⁰ Ibid.
- ¹⁵¹ As was discussed earlier, this assertion by the reform groups, that occasional prostitutes jeopardized *their respectable lives*, spoke to the potential that their concern was more with maintaining the status quo within their present lives, as opposed to ensuring the well being of each individual in their community.
- ¹⁵² Strange, "From Modern Babylon," 264.

¹⁵³ Ibid., 265.

¹⁵⁴ The reformers believed that "Restaurants and ice cream parlours, where young men and women like to meet over meals and treats, were actually 'cloaks for the traffic in vice.' Toronto's commercial amusement parks were equally suspect... [and] [i]n the winter, ice rinks contributed to the growth of vice since unescorted women were observed to allow 'unknown men to accost and skate with them.' But the worst offenders were the movie theatres and dance halls. In the dimly lit corners of nickelodeons, undue familiarity might easily take place between patrons, and in dance halls, undue familiarity seems to be the object of the price of admission." "From Modern Babylon," 266.

¹⁵⁵ Ibid.

¹⁵⁶ According to Marianna Valverde, these groups interacted regularly with the state in an effort to influence legislative initiatives. In addition, Valverde claims that "[t]he state in turn responded to the pressure from these organizations and from public opinion as moulded by the moral reformers by taking moral initiatives with greater or lesser enthusiasm. The private bodies were much more powerful than their successors of today: in the absence of large government bureaucracies and associations of professionals, churches and women's groups commanded a great deal of respect and were in many ways treated as experts, not as opinionated interest groups." The Age of Light, 52.

¹⁵⁷ The particular sections which will be examined deal with sexual offences against single women. "Sections 181 to 184 provided for offences, of varying severity, for seduction of girls over fourteen and under sixteen years, of unmarried females under twenty-one years, under promise of marriage, or of seduction or illicit connection of a ... woman or girl under the age of twenty-one years... the seduced party had to be of 'previously chaste character'." Criminal Code, 1892, S. C. 55 & 56 Vict., c. 29, s. 183 as quoted in Graham Parker, "The Legal Regulation Of Sexual Activity And The Protection Of Females," (1983) 21: 2 Osgoode Hall Law Journal 224.

¹⁵⁸ Chambers, 15.

¹⁵⁹ Ibid. In addition, James Snell and Cynthia Comacchio Abele maintain that the "marital state was idealized by men and women alike, but women were particularly vulnerable to the inequitable aspects of traditional marriage. Some women sought to alter basic characteristics of the institution of marriage; most were satisfied to assist marriage in more nearly approaching the ideal and to end some of the inequities by increasing women's security within it." "Regulating Nuptiality: Restricting Access to Marriage in Early Twentieth-Century English-Speaking Canada" (1998) LXIX 4 Canadian Historical Review, 467.

¹⁶⁰ Lee Holcombe, Wives and Property: Reform of the Married Woman's Property Law in Nineteenth-Century England (Toronto & Buffalo: University of Toronto Press, 1983), 29.

¹⁶¹ Ibid., 18.

¹⁶² Girard and Veinott, "Married Women's Property Law in Nova Scotia, 1850-1910," 68-69.

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¹⁶³ Chambers, 14.

¹⁶⁴ Martin, "Legal Status of Women in Canada, 1900," as quoted in Cook and Mitchinson, eds., The Proper Sphere: Woman's Place in Canadian Society, 96.

¹⁶⁵ "Law of Dower" *Hamilton Spectator*, 28 April 1858, 41 as quoted in Chambers, Married Women and Property Law in Victorian Ontario, 70.

¹⁶⁶ Backhouse, "Pure Patriarchy," 265.

¹⁶⁷ Ibid., 266.

¹⁶⁸ Chambers, 21.

¹⁶⁹ *The Upper Canadian Law Journal* 2 (1856), 217 as quoted in Peter Ward, Courtship, Love, and Marriage in Nineteenth-Century Canada (Montreal: McGill-Queen's University Press, 1990), 40.

¹⁷⁰ Holcombe, 19.

¹⁷¹ Girard and Veinott, 68-69.

¹⁷² Marylynn Salmon, *Women and the Law of Property in Early America* (Chapel Hill, 1896), as quoted in Chambers, 4.

¹⁷³ Girard and Veinott, 71.

¹⁷⁴ For instance, a husband could notify his local community by way of a newspaper advertisement stating that his wife was not to be given credit. According to Peter Ward, in Upper Canada during the nineteenth century, it was not surprising to see such a notice in the newspaper penned by a husband insisting that he would not be responsible for any debts his wife contracted, nor would "[he] allow any of [his] debtors any money they pay her on [his] account." Courtship, Love, and Marriage, 38.

¹⁷⁵ Chambers, 21.

¹⁷⁶ Chambers, 16, 23. Lori Chambers notes that "even when husbands were gentle and loving... such a legal regime reinforced and perpetuated an extremely hierarchical vision of spousal relations... [a]nd the absolute power vested in husbands left women who had unwittingly married irresponsible or abusive men very vulnerable," 22.

¹⁷⁷ Girard and Veinott, 71.

¹⁷⁸ Ussel, 101.

¹⁷⁹ New legislation was implemented which provided additional property rights for women. In particular, the Married Woman's Property Act of 1859; 1872 and 1873. Each Act established additional clauses which would extend the primary rights of married women and their property.

¹⁸⁰ Chambers, 101.

¹⁸¹ "Women's Rights in Ontario" *Toronto Daily Mail*, 24 September 1872, 2 as quoted in Chambers, 101.

¹⁸² Backhouse, "Pure Patriarchy," 312.

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¹⁸³ Ibid.

¹⁸⁴ Snell, "The White Life for two," 112.

¹⁸⁵ Snell and Comacchio Abeele, "Regulating Nuptiality," 466. James Snell and Cynthia Comacchio Abeele discuss how the law not only regulated the marriage itself, but state that Canadian law was responsible for regulating *access* to this institution. It was believed by the law makers of the day that "marriage, of course, was a vital focus of attention because it was the only sanctioned means of creating a family" and thus there must be strict legal guidelines put in place to "[enhance] the quality and character of the marital relationship," 466.

¹⁸⁶ Ibid.

¹⁸⁷ Backhouse, "Pure Patriarchy," 265.

¹⁸⁸ Martin, "Legal Status of Women in the Provinces of the Dominion of Canada," as quoted in Cook and Mitchinson, eds., The Proper Sphere: Woman's Place in Canadian Society, 96.

¹⁸⁹ Strange, Toronto's Girl Problem, 194.

¹⁹⁰ Carolyn Strange, in Toronto's Girl Problem, explains in great detail how many social venues, such as dance halls, ice cream parlours, movie theatres and skating rinks were not acceptable forms of entertainment for single women, 123. Furthermore, C. S. Clark, as noted in Strange's work, "believed that single women sought these pleasures not to escape the drudgery of their work lives... but simply to consort with men." C. S. Clark further noted that these girls were often unsupervised in the city and were drawn to "any event that draws a crowd." In Clark's opinion, these single women did not skate "for the love for the outdoors... but to bump into strange men." *Of Toronto The Good, a Social Study: The Queen City of Canada as It Is* (Toronto, 1970 [1898]), 93, 106, 133, as quoted in Strange, Toronto's Girl Problem, 119, 120.

¹⁹¹ Snell and Comacchio Abeele, "Regulating Nuptiality," 467.

¹⁹² Strange, Toronto's Girl Problem, 24. In Chapter two, *City Work, Moral Dilemmas*, Carolyn Strange elaborates this position and offers further statistics with regards to the growing number of women in the workforce and their ever-changing role in the public sphere.

¹⁹³ Strange, "From Modern Babylon," 261.

¹⁹⁴ Snell, "The White Life for two," 112.

¹⁹⁵ Strange, "From Modern Babylon," 261.

¹⁹⁶ Parker, "The Regulation Of Sexual Activity and the Protection Of Females," 187.

¹⁹⁷ Backhouse, Petticoats and Prejudice, 69.

¹⁹⁸ Karen Dubinsky, Improper Advances: rape and heterosexual conflict in Ontario, 1880-1929 (Chicago: University of Chicago Press, 1993), 65-66.

¹⁹⁹ Strange and Loo, 52.

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²⁰⁰ Backhouse, Petticoats and Prejudice, 41.

²⁰¹ Constance Backhouse, "The Tort of Seduction: Fathers and Daughters in Nineteenth Century Canada" (June 1986) 10: 1 The Dalhousie Law Journal, 45.

²⁰² Backhouse, Petticoats and Prejudice, 41.

²⁰³ William Blackstone, *Commentaries on the Law of England* (Chicago, 1979, orig. pub. 1768), v. 3, 142, as quoted in Backhouse, Petticoats and Prejudice, 42.

²⁰⁴ Backhouse, "The Tort of Seduction," 45.

²⁰⁵ Martha J. Bailey, "Servant Girls and Upper Canada's *Seduction Act*: 1837-1946," in Russell Smandych, Gordon Dodds, & Alvin Esau, eds., Dimensions of Childhood: Essays on the History of Children and Youth in Canada (Manitoba: Legal Research Institute of The University of Manitoba, 1990), 176.

²⁰⁶ Ibid. According to Martha J. Bailey, the common law of seduction, which was utilized in Canada until 1837, stipulated that the female must live with her father in order for him to sue for her seduction.

²⁰⁷ Ibid. Martha J. Bailey contends that the only time there would be an exception to this rule was in the case that the employer had specifically hired the girl in order to seduce her. In this case, the "parent could maintain the action against the master," 176. See *An Act to make the remedy in cases of Seduction more effectual, and to render the Fathers of illegitimate Children liable for their support* 7 William IV. (1837) c. 8.

²⁰⁸ James Edward Davis, *Prize Essay on the Laws for the Protection of Women* (London: Longman, Brown, Green & Longmans, 1854), 140 as quoted in Backhouse, "The Tort of Seduction," 47. As noted by Constance Backhouse, this action was not limited to fathers, since a master could also sue the seducer for allegedly seducing his female servant. However, "[w]hile there was no legal stipulation with respect to the nature or circumstances surrounding the sexual connection, it clearly had to involve intercourse outside of wedlock, since proof of 'illicit intercourse' was required," 47.

²⁰⁹ Backhouse, Petticoats and Prejudice, 43.

²¹⁰ Ibid., 44. In addition, according to Rosemary Coombe, although women technically had the option to sue under the breach of promise of marriage, the legality of this suit was "contemplated with a great deal of uneasiness; [and] in legal circles that uneasiness was manifested in uncharacteristically emotional criticism of the action in legal journals." This attitude was made clear in a 1859 article, "The most disgusting, disgraceful, and iniquitous proceeding in our law is the action for breach of promise of marriage. There is non so open to abuse... The reason it is never resorted to by those who have really suffered a wrong; but only by speculators in marriage, who first deliberately design to commit the great sin of marrying a many for some other object than love of him, and, failing in that speculation, pursue their victim in still more profitable suit." "Breach of promise of marriage" (1859) 5 *U.C.L.J.* 152, as quoted in Rosemary Coombe, "The Most Disgusting, Disgraceful, And Iniquitous Proceeding In Our Law: The Action For Breach Of Promise Of Marriage in Nineteenth-Century Ontario" (1988) 38 University of Toronto Law Journal, 67.

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²¹¹ Backhouse, "The Tort of Seduction," 48.

²¹² Backhouse, "The Tort of Seduction," 50.

²¹³ Bailey, 179.

²¹⁴ For instance, William Henry Draper, Chief Justice of Upper Canada during the 1860s, suggested (while reflecting on the issue of seduction) that "women had a propensity to lie, scheme, and extort" and more specifically, in cases of seduction "the female seduced would not have yielded her chastity if the seducer would not have been a good matrimonial connexion [sic], or a good mark for damages if he could not be coaxed or frightened into marriage." "Draper, William Henry" DCB v. 10 at 253-58; "Draper, William Henry" in Stewart Macmillan Dictionary at 222. *Smure v. Gilchrist* (1863) 23 U.C.Q.B. at 83 as quoted in Backhouse, Petticoats and Prejudice, 57.

²¹⁵ Bailey, 178.

²¹⁶ *Hicks v. Ross* (1865), 25 U.C.Q.B. 50 at 53 as quoted in Bailey, "Servant Girls," 179.

²¹⁷ *McCreary v. Grundy* (1876), 39 U.C.Q.B. 316 at 319 as quoted in Bailey, "Servant Girls," 179.

²¹⁸ Upper Canada, House of Assembly, *Journal* 391 (15 February 1837), 480 as quoted in Bailey, "Servant Girls," 178.

²¹⁹ Backhouse, Petticoats and Prejudice, 51.

²²⁰ Ibid.

²²¹ Ibid.

²²² Ibid.

²²³ *The Canada Lancet*, Toronto, October 1874, vol. VII, no. 2, 58 as quoted in Backhouse, "The Tort of Seduction," 56. Square brackets in original.

²²⁴ *Seduction* (1884), vol. XX, no. 22 Canada Law Journal 413 at 414 as quoted in Backhouse, "The Tort of Seduction," 56.

²²⁵ Backhouse, Petticoats and Prejudice, 70.

²²⁶ Ibid.

²²⁷ Strange and Loo, 52.

²²⁸ Dubinsky, Improper Advances, 66.

²²⁹ Canada, House of Commons *Debates*, 15 March 1883, p. 220 as quoted in Dubinsky, Improper Advances, 67.

²³⁰ Dubinsky, Improper Advances, 71.

²³¹ Constance Backhouse does state however "the very first draft of Charlton's 'Seduction Bill' contained clauses that would have extended the right of civil action to seduced women themselves. The feature was quickly dropped after the most preliminary discussions, and reference to reform of the civil action does not appear again in the

protracted debates.” *Debates House of Commons* v. 12 (1882) 327 as quoted in Backhouse, *Petticoats and Prejudice* 356, at 76.

²³² Backhouse, *Petticoats and Prejudice*, 70.

²³³ John Charlton declared that many of the members of Parliament accused him of “legislating for the purposes of creating brazen females.” *Debates House of Commons* v. 1 (1886) 441-41 as quoted in Backhouse, “Nineteenth-Century Canadian Rape Law 1800-1892” in David Flaherty ed., *Essays in the History of Canadian Law* (Toronto: University of Toronto Press, 1983), 231.

²³⁴ Strange and Loo, 52.

²³⁵ Dubinsky, *Improper Advances*, 71 (emphasis added).

²³⁶ In the years leading up to John Charlton’s formal proposals in 1882, there were also many commentaries which added support to his legislative intentions. For instance, the *Canada Law Journal* published two articles (one in 1874, the other in 1882) relative to the need for modifications to the seduction legislation. The former challenged, “Is it not time that a role of law, which places a father’s inconvenience in having to make his own tea above the loss of his daughter’s virtue... should be abrogated, and the seduction itself be made the ground of action?” (May 1874) X *Canada Law Journal*, 132. The latter insisted that “if seduction is an offence” then the punishment should fit the crime. Whereas, “[t]he man practically goes unpunished; he is scarcely tabooed in society; in fact, his companions think him rather a fine fellow, instead of denouncing him as a cowardly blackguard; while the unfortunate woman bears the whole burden, becomes an outcast, is driven from home, disgraced and ruined, to bear her trial alone... that too often ends in some hideous crime or piteous suicide.” (1882) 18: 8 *Canada Law Journal*, 151.

²³⁷ Dubinsky, *Improper Advances*, 68.

²³⁸ Backhouse, “Nineteenth-Century Canadian Rape Law,” 229.

²³⁹ *Ibid.*, 229-230.

²⁴⁰ Dubinsky, *Improper Advances*, 72.

²⁴¹ Constance Backhouse describes how women, who had experienced non-marital intercourse, were no longer considered “passionless” and therefore, were not considered legitimate victims for a seduction prosecution. “Nineteenth-Century Canadian Rape Law,” 230. In addition, D. A. Watt himself agreed that a woman “being a common prostitute or of known immoral character” was not categorized as one to whom this law would apply. D. A. Watt, *Moral Legislation*, 29.

²⁴² Backhouse, *Petticoats and Prejudice*, 72.

²⁴³ *Ibid.*

²⁴⁴ *Ibid.*, 73.

²⁴⁵ Constance Backhouse claims that while Campbell noted the prominence of these two judges, their identities remained anonymous. *Petticoats and Prejudice*, 72.

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²⁴⁶ *The Legal News* v. 6, n. 18, 5 May 1883 at 137-38 as quoted in Backhouse, Petticoats and Prejudice, 72-73.

²⁴⁷ *Debates* Senate of Canada (1886), 432 as quoted in Backhouse, Petticoats and Prejudice, 73.

²⁴⁸ Backhouse, Petticoats and Prejudice, 72.

²⁴⁹ *Debates* House of Commons v. 13 (1883) 222.

²⁵⁰ The original age to warrant an action of seduction for an unmarried woman was eighteen, but following objections from reform groups, the age limit was raised to twenty-one, as long as the male seducer was above the age of twenty-one. Backhouse, Petticoats and Prejudice, 74; Parker, An Introduction to Criminal Law, 301.

²⁵¹ Backhouse, Petticoats and Prejudice, 75.

²⁵² Dubinsky, Improper Advances, 72.

²⁵³ *Ibid.*

²⁵⁴ Karen Dubinsky, "Maidenly Girls or Designing Women," in Franca Iacovetta and Mariana Valverde eds., Gender Conflicts: New Essays in Women's History (Toronto: University of Toronto Press, 1992), 47.

²⁵⁵ *Ibid.*

²⁵⁶ The cases to be examined in the next chapter deal primarily with general and formal relationships between the accused and the single woman. In several instances, the two were involved for an extended period of time. Several had made promises of marriage to one another, while others had just recently began dating when the charge was initiated.

²⁵⁷ Strange and Loo, 21.

²⁵⁸ Dubinsky, Improper Advances, 73.

²⁵⁹ John Charlton stipulated during his commentaries on 7 February 1884, that the seduction legislation was never intended to offer protection to a woman of questionable character. He rebutted many of the objections put forth by his Parliamentary counterparts that the legislation would lead to abuse by brazen females looking for husbands. He asserted instead that "the Bill provides punishment only for the seduction of a woman of previously chaste character. If she is a woman of loose character the provisions of this Bill will not apply." *Debates* House of Commons v. 15 (1884) 142.

²⁶⁰ As previously mentioned in Chapter two, while the testimony provided by the male accused regarding his sexual past may not have added to the validity of the seduction charge, the very fact that the woman was forced to provide such information was morally questionable.

²⁶¹ These cases were obtained from the Archives of Ontario, from the Criminal Assize Clerk criminal indictment files Series RG 22-392. While only four cases will be examined in this section, there were other prosecutions during the late 1890s which also targeted seduction of a girl under the age of sixteen and over the age of twelve (fourteen). Those included: Russell, Samuel; Charged with Seduction with Illicit Intercourse, Prince

Edward County, 1894, Criminal Assize Clerk criminal indictment file, RG 22-392-0-5287, Archives of Ontario (No verdict indicated. File lacked testimony and period newspapers were scattered without any indication of result); Vahey, Henry; Charged with Seduction and having Illicit Connection, Carleton County, 1898, Criminal Assize Clerk criminal indictment file, RG 22-392-0-807, Archives of Ontario (Guilty); Blondin, John Thomas; Charged with Rape, Seduction, Attempted Seduction, Hastings County, Criminal Assize Clerk criminal indictment file, RG 22-392-0-54, Archives of Ontario (Prisoner withdrew not guilty plea and entered guilty plea. The period newspaper reported a guilty verdict and the defendant was sentenced to twenty-three months of hard labour in Central Prison; *Belleville Weekly Intelligencer* 17 April 1890 p. 4 Ontario Archives Microfilm N219 Reel 49); Doty, John; Charged with Seduction and Illicit Connection, Ontario, Criminal Assize Clerk criminal indictment file, RG 22-392-0-4607, Archives of Ontario (Guilty. This case was heard at a special session of the Court of Chancery, 1 March 1894 and the accused was sentenced on 12 November 1894 to nine months in Central Prison).

²⁶² *Debates House of Commons* v. 13 (1883) 223.

²⁶³ Although the male could face a two year jail sentence, according to Carolyn Strange and Tina Loo, the conviction rate of criminal seduction trials were dismal. “[B]etween 1900 and 1910, only 9 per cent of criminal prosecutions succeeded.” *Making Good*, 53. In light of this information, the societal repercussions that faced a seduced woman, contrary to her male seducer, seemed much more dismal and significant. In addition, of the twenty-two cases researched for this Chapter, five received a guilty verdict (four of the trials did not provide any verdict, nor was the result recorded in any of the period papers).

²⁶⁴ Due to the fact that the two individuals involved in this case were not considered “equals” before society or the law, Christine Stansell notes that the power held by the man far outweighed that of the woman during this sexual “barter system.” As mentioned, the girl risked pregnancy and familial humiliation, therefore, Stansell asserts that “the power which male seducers held did not arise primarily from their advanced age or their economic relationship to their conquest; their power resulted from their more favored position in this system of sexual exchange.” Dubinsky, *Improper Advances*, 72.

²⁶⁵ *An Act to punish seduction, and like offences, and to make further provision for the Protection of Women and Girls*, 49 Vict. (1886) c. 52, ss. 1-2.

²⁶⁶ Cases which were tried following the 1892 Codification of the Criminal Code involved girls between the ages of fourteen and sixteen.

²⁶⁷ Parliament subsequently raised the age limit of the seduced woman to twenty-one with regards to seduction under the promise of marriage. While this modification was rejected by many members, in 1887 “the age limit [was raised] to twenty-one for seduction under promise of marriage, so long as the seducer himself was over twenty-one.” *An Act to amend the Act respecting Offences against Public Morals and Public Convenience* 50 & 51 Vict. (1887) c. 48, s. 2 (Can.), as quoted in Backhouse, *Petticoats and Prejudice*, 74.

²⁶⁸ Dubinsky, *Improper Advances*, 74.

²⁶⁹ Defendant: Dingham, Peter; Charged with Seduction, County of Wellington, 1890, Criminal Assize Clerk criminal indictment file, RG 22-392-0-6364, Archives of Ontario.

²⁷⁰ It was unclear how many times the two engaged in sexual intimacy between the 14 August, and the 14 September (the date listed on the complaint as the date of seduction), but Sarah testified that Dingham had unquestionably seduced her on the 14 of September.

²⁷¹ During Sarah's testimony, she admitted that her father "was in the habit of treating [her] harshly" which explained why she would not have been forthright with this unpleasant incident.

²⁷² Sarah had originally declined to go with Dingham to his mother's house. "I didn't want to go because I thought it was wrong... The prisoner said I must go with him as I was his wife." This was the first time Sarah admitted that the defendant alleged they were married. Defendant: Dingham, Peter, 1890.

²⁷³ During their two-week stay with Dingham's mother, Dingham professed to his mother that he and Sarah had become husband and wife prior to their arrival. Sarah insisted that Dingham had not produced any material evidence to prove this, but that his mother believed him nonetheless. It was during her stay that Sarah discovered that the defendant was in fact a married man, with nine children.

²⁷⁴ What was interesting to note about George Lovell's statement was the fact that he admitted that he knew his daughter and the defendant had been alone several times in the house, on the bed, and furthermore, that he appreciated that it was "improper conduct." While he did not reveal when, George also admitted that he discovered that the defendant was married with nine children.

²⁷⁵ Defendant: Thistle, William; Charged with Seduction of a Girl under the age of sixteen and over the age of twelve, Perth County, 1892, Criminal Assize Clerk criminal indictment file, RG 22-392-0-5069, Archives of Ontario.

²⁷⁶ Margaret testified that she was sixteen years of age, as of the 1 August 1891, which indicated that the alleged seduction occurred while she was fifteen years old.

²⁷⁷ Margaret indicated that the relationship consisted mainly of drives with the defendant. She claimed the two went driving together very often.

²⁷⁸ Margaret also testified that the connections always occurred in the defendant's buggy.

²⁷⁹ Margaret stated that she did not tell the defendant that she was seventeen. In addition, the testimonies of several friends of the defendant were provided which substantiated that the accused was at least ten years older than Margaret.

²⁸⁰ Dubinsky, *Improper Advances*, 72. In this quote, Karen Dubinsky cites the phrase and concept of the "barter system" from Christine Stansell, *City of Women: Sex and Class in New York, 1789-1860* (New York: Alfred A. Knopf, 1986), 87.

²⁸¹ Stansell, *City of Women: Sex and Class in New York, 1789-1860*, p. 87 as quoted in Dubinsky, *Improper advances* 72.

²⁸² Although Thistle allegedly made this promise, the charge was still that of seduction of a girl based on Margaret's age.

²⁸³ This statement suggested that Margaret had been accused of lying about whether she had notified the defendant of her condition. Margaret repeated her admissions to the defendant about her pregnancy. "I first learned I was that way [pregnant] in September or October last, I spoke to [the] defendant about it." "I know at that time I was pregnant and I have told [the] defendant about it." "It was in September that I first saw Dr... [I] told the defendant twice I was in trouble." "When driving... we spoke of my being in the family way."

²⁸⁴ Margaret testified that the drugs which the first doctor had given her "[were] not doing me any good" after which she visited another doctor (also recommended to her by the defendant) who also prescribed medicine which had no effect on her pregnancy.

²⁸⁵ Thistle knew the two were dating and claimed that if Margaret blamed the pregnancy on him everything would be all right. Neil and Margaret had been keeping company for five months, but during Neil's testimony, he insisted the two of them had never had sexual intercourse during that time. Furthermore, Neil realized that Margaret had told the doctor that he was the father, and when he approached Margaret on the matter she said she told the doctor that he was the father because the two were dating. He told her it was a lie (and that she knew it), and had since not written or spoken to her. In addition, Neil testified that Margaret had never admitted that Thistle was the father. She never accused anyone else but him (Neil).

²⁸⁶ Margaret stated, "I told the Dr. that because Neil was going with me – I told the Dr. a lie – I am telling the truth now – I am under oath."

²⁸⁷ This fact may have been difficult to establish due to the fact that Margaret herself admitted to being in a relationship with Neil during this time.

²⁸⁸ Dubinsky Improper advances, 74.

²⁸⁹ Peter Ward, "Unwed Motherhood In English Canada" Historical Papers: A Selection From the Papers Presented at the Annual Meeting held in Halifax, 1981, 46 (emphasis added). Ward contends that "Gossip there no doubt would be, and likely a woman's marriage prospects would be blackened as well..." but a rural community dealt with bastardy children *well*, 48.

²⁹⁰ Constance Backhouse maintains that the Canadian family was held as "the source and life of Christian civilization" and "perhaps the most important social institution in nineteenth-century society." "Pure Patriarchy," 265, 312. Moreover, James G. Snell cites material which suggested that "the home and the family [were] the very essence of a healthy community," PAC, Sir Wilfred Laurier Papers, MG 26, G, vol. 5, pp. 1576-80, J. R. Gowan to Laurier, Barrie Ontario, 28 March 1903 (PAC reel C-799) as quoted in "The White Life for two," 115.

²⁹¹ As was elucidated by John Charlton in the *Debates* of 1884, "I am one... who believes... that women are, as a rule, better and more virtuous than men... they have a higher moral organization, that they are not exposed in the same degree to the temptations that beset men... I think society believes this to be the case. Society, moreover, demands that woman shall be purer than man. It demands, on the part of the woman, greater care in her conduct than it does on the part of the man. Men may do with

impunity many things that would blast the character of a woman.” *Debates House of Commons* v. 15 (1884) 142.

²⁹² Ward, “Unwed Motherhood in English Canada,” 45.

²⁹³ As noted in footnote 267, this modification was implemented in 1887.

²⁹⁴ *The Criminal Code of the Dominion of Canada* (1893) ss. 181 & 182.

²⁹⁵ Defendant: Fawcett, Alexander; Charged with Seduction of a Girl Under the age sixteen and above the age of fourteen, County of Dufferin, 1896, Criminal Assize Clerk criminal indictment file, RG 22-392-0-1036, Archives of Ontario.

²⁹⁶ According to Peter Ward, this practice of ‘courtship’ was common. “Nineteenth-century Anglo-Canadians found this space [courtship] in various locations. The family was the pre-eminent setting for courtship, love blooming under the watchful eyes of friends and relations.” “Courtship in Nineteenth-Century English Canada” (1987) LXVIII 1 *The Canadian Historical Review*, 37.

²⁹⁷ This meeting between Margaret Black and Fawcett’s wife occurred prior to any incidents of sexual intimacy.

²⁹⁸ Margaret testified that “He was familiar with me... he had connection with me frequently.”

²⁹⁹ *The Criminal Code of the Dominion of Canada* (1893) s. 182.

³⁰⁰ Dubinsky, *Improper advances*, 74.

³⁰¹ Defendant: Brooks, Joseph; Charged with Seduction of a Girl under the age of sixteen and above the age of fourteen, County of Muskoka, 1896, Criminal Assize Clerk criminal indictment file, RG 22-392-01431, Archives of Ontario.

³⁰² Fanny’s mother had died, and William left his house temporarily, asking Brooks to “take care of [his children] as if they were his own.”

³⁰³ William stated that he had objected to their relationship at one point because the two had arrived home late from a party.

³⁰⁴ Although William Armishaw had told Brooks he could marry Fanny when she was sixteen, Brooks declined and said he would like to wait until she was eighteen. He explained to Fanny’s father that he needed to build additional accommodations for himself and Fanny, as his mother would not allow them to live with her.

³⁰⁵ It was during these three weeks that Fanny admitted to having seen “things that made me think more of him.”

³⁰⁶ At this point of her testimony, Fanny reiterated that she was only fifteen at the time of the seduction.

³⁰⁷ Brooks went a step further than had Thistle, and explained to Fanny that there was no way a woman could become pregnant by engaging in sexual intercourse.

³⁰⁸ During the trial the physician stated “upon examination of Fanny Armishaw about 10 days ago I have no doubt she is pregnant near or about the seventh month.”

³⁰⁹ The witness testified, “Mr. Armishaw [told] me to warn Joseph Brooks if he comes over to my place again I will shoot him. I went to Brooks and told him just what Mr. Armishaw had told me and he had better not go over there. He said he would not go over there.”

³¹⁰ Unfortunately, the applicable newspapers within this region do not survive for 1894-96, and only commenced weekly starting the 7 January 1897.

³¹¹ At one point in her testimony, Margaret stated, “he persuaded me to do what he liked with me” but in light of the remaining statements this did not appear to be a declaration of rape, or forceful seduction. Defendant: Fawcett, Alexander; 1896.

³¹² Dubinsky, Improper Advances, 72.

³¹³ Specifically, Fanny testified, “He told me he would marry me if any thing was wrong” while Margaret Varner similarly stated, “he asked me [to have illicit connection with him] and said if anything happened he would marry me.” Consecutively, Defendant: Brooks, Joseph, 1896, and Defendant: Thistle, William, 1891.

³¹⁴ In addition, Dingham never promised Sarah that he would be responsible, or help her out if anything (i.e. pregnancy) were to occur. Defendant: Dingham, Peter, 1890.

³¹⁵ *Debates* House of Commons v. 12 (1882) 326.

³¹⁶ Backhouse, Petticoats and Prejudice, 70.

³¹⁷ While only six cases of seduction under the promise of marriage will be formerly examined in this section, there were additional cases during the 1890s which also presented charges of seduction under the promise of marriage. These cases did not contain extensive testimonies from the seduced women, and therefore did not provide enough information to add to the analysis. The cases included: Defendant: Little, Charles; Charged with Seduction under Promise of Marriage, City of Windsor, County of Spinster, 1893, Criminal Assize Clerk criminal indictment file, RG 22-392-0-1438, Archives of Ontario (No verdict and no available period newspaper); Defendant: Templeton, John; Charged with Seduction under Promise of Marriage, County of Kent, 1894, Criminal Assize Clerk criminal indictment file, RG 22-392-0-2796, Archives of Ontario (Not Guilty); Defendant: Brooks, John; Charged with Seduction under Promise of Marriage, County of Essex, 1893, Criminal Assize Clerk criminal indictment file, RG 22-392-0-1431, Archives of Ontario (Not Guilty); Defendant: Purvis Jr., George; Charged with Seduction under Promise of Marriage, Province of Ontario, 1892, Criminal Assize Clerk criminal indictment file, RG 22-392-0-1949, Archives of Ontario (No verdict recorded); Defendant: Howard, James Thomas; Charged with Seduction under Promise of Marriage, County of Haldimand, 1895, Criminal Assize Clerk criminal indictment file, RG 22-392-0-2106, Archives of Ontario (Guilty); Defendant: Calvert, George; Charged with Seduction under Promise of Marriage, Province of Ontario, 1895, Criminal Assize Clerk criminal indictment file, RG 22-392-0-2973, Archives of Ontario (No trial as the couple decided to marry; *Sarnia Observer* March 22, 1895 p. 4 Archives of Ontario Microfilm N29 Reel 18; *Sarnia Observer* March 29, 1895 p. 1 Archives of Ontario Microfilm N29 Reel 18).

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³¹⁸ Defendant: Neelon, Michael; Charged with Seduction under Promise of Marriage, County of York, 1890, Criminal Assize Clerk criminal indictment file, RG 22-392-0-8445, Archives of Ontario.

³¹⁹ According to Mary Jane Emes, the defendant was approximately thirty-six years of age at the time of the seduction.

³²⁰ Mary Jane stated that the two left the buggy "for that purpose" and that Neelon subsequently "asked me to marry him when we were going down the hill into the swamp... this was before the connection took place."

³²¹ For instance, prior to the initial instance of sexual intercourse, Neelon had offered a ring to Mary Jane which he told her to keep until he visited again. On his next visit, Neelon requested that she give back the ring, as he had promised it to another girl who was "going to mak [sic] a fuss about it and he would give [her] another ring in place of it." Mary Jane claimed she was never given another ring in place of the one Neelon took back.

³²² Mary Jane stated, "I allowed him to have connection with me and in consequence thereof I am in the family way."

³²³ Perhaps as a protective measure to her family's honour and reputation, Mary Jane claimed that she would leave town if her family so desired. "I said I was willing to do anything that my people were willing I should do. That is that if my people were willing for me to go away until the trouble was over I would do so."

³²⁴ When Neelon refused to marry Mary Jane, Michael approached him about the matter. Neelon asked Michael whether he was aware of her pregnancy and Michael responded that the only way to fix the situation was to marry her. While the defendant agreed that that would be the best approach, he reiterated that he was "not in a position at the present time to marry her." Neelon suggested to Michael that Mary Jane be sent away to Toronto where the baby could be aborted.

³²⁵ Mary Jane's uncle Charles also spoke to the defendant about the pregnancy, and Neelon responded in a similar manner as he had with Michael Emes. He told Charles that had Mary Jane told him sooner, "he could have got rid of the trouble without any body knowing because he knew girls who got rid of their trouble in the same way." When Charles inquired whether Neelon planned to marry his niece, Neelon stated he had no such intention.

³²⁶ What was interesting to note about the testimony presented by Charles Emes was that he claimed "[he] never knew her [Mary Jane] to have any beaux except [for] the defendant. I have generally gone [to dances] with her myself."

³²⁷ Defendant: Shaad, Isaac D.; Charged with Seduction under Promise of Marriage, County of Kent, 1893, Criminal Assize Clerk criminal indictment file, RG 22-392-0-2784, Archives of Ontario.

³²⁸ In her testimony, Elizabeth claimed that Shaad had come to visit her every Sunday since October 1892, and sometimes on Wednesday. She also mentioned the two had gone for drives. Moreover, another witness validated the existence of a relationship

when she testified that “he (Shaad) seemed to pay attention to her... I have known [him] to come to church with her and to parties.”

³²⁹ This information would have been important for Elizabeth to establish as, according to section 182, the defendant had to be over the age of twenty-one to satisfy the criteria of seduction under the promise of marriage.

³³⁰ Elizabeth stated “I have discussed my age with the defendant last winter I told him that I was seventeen going on eighteen he asked me my age I never told him I was over eighteen.” Defendant: Shaad, Isaac D., 1893.

³³¹ Elizabeth testified that the intercourse sometimes occurred on the way home from church or concerts.

³³² Elizabeth mentioned another man’s name, but the transcript was not legible. “I know [name] I never had anything to do with him.”

³³³ Another cases demonstrated similar difficulties which faced a seduced woman after she had engaged in sexual activity with her male partner. For instance, in 1893, Charles Little was charged with the Seduction under Promise of Marriage after he and Ida Springstead had ‘kept company’ for two years and Ida became pregnant. Little had promised to marry Ida before the sexual intimacy took place, but had reneged on that promise shortly after Ida discovered she was pregnant. Little’s friend insisted that “marriage was the only way to settle it,” but Little confided that if he did marry Ida, he would “get nothing from his Father.” Furthermore, Little had wanted to simply take Ida “away somewhere... until the trouble [pregnancy] was over.” Defendant: Little, Charles; Charged with Seduction Under Promise of Marriage, Essex County, 1893, Criminal Assize Clerk criminal indictment file, RG 22-392-0-1438, Archives of Ontario (No verdict; defendant given bail, but there was no period newspaper available to confirm a result).

³³⁴ The witness, Mrs. Henry Harding, could not remember Shaad’s exact words, but was sure “he told me that he was going to marry her... I can’t remember the particular words he used that is the only time he talked to me about marriage.”

³³⁵ *Chatham Daily Planet*, 30 September 1893 p. 4 Ontario Archives Microfilm N87 Reel 2. As was stipulated in s. 182 “subsequent marriage between the parties a good defence.” *The Criminal Code of the Dominion of Canada* (1893).

³³⁶ Karen Dubinsky asserts that the initial objective of the law of seduction was to “help innocent and victimized maidens claim redress against wiley, powerful men,” but following the implementation of the statute, that objective was not the result. “Maidenly Girls and Designing Women,” 71.

³³⁷ NCWC “Appendix,” 323 as quoted in Backhouse, *Petticoats and Prejudice*, 77. While it is unclear whether the names of men presented in several of the seduction cases were those of ‘friends’ of the seducers, there were in fact several additional names mentioned which directly challenged the previous chastity of the victim. See *R. v. Shaad* and *R. v. Dickie*.

³³⁸ Carolyn Strange and Tina Loo also note that during these criminal trials, the seduced woman potentially faced questions about “previous relationships with men, their church attendance and employment, and, in some cases, their parents’ moral conduct.” Making Good, 53.

³³⁹ Mrs. Foster Avery continued her objection with the previously chaste character clause when she stated, “Now why should it be placed upon a woman to prove her previously chaste character when we do not question the man as to his previous character?” NCWC “Appendix,” 323 as quoted in Backhouse, Petticoats and Prejudice, 77.

³⁴⁰ Defendant: Kilbourne, Edward; Charged with Seduction under Promise of Marriage, Middlesex County, 1894, Criminal Assize Clerk criminal indictment file, RG 22-392-0-3807, Archives of Ontario.

³⁴¹ Presumably this was a declaration for the two to become exclusive to one another.

³⁴² Edith’s mother claimed that Kilbourne had promised to marry her daughter, after which he stated to her mother (in reference to the pregnancy), “I know it is my child.”

³⁴³ This fact was recorded in *The Daily Free Press*, London, on the 4 October 1894. “The child died two months after birth,” 6.

³⁴⁴ The comments offered by the magistrate were quite interesting offering both his opinion as to the purpose of the legislation, and the reasoning behind Kilbourne’s dismissal. “Before I discharge you, I want before this multitude to tell you what I think of your offence. It is that you proved yourself a dastard. You ruined the poor girl under promise of marriage. There is no doubt of it in my mind. You seduced that poor girl and this statute was made for the purpose of catching just such characters as you. You have been saved because of a mere technicality. The law requires that prosecution shall be begun within a year, but this was not done. The unfortunate girl, in order to save you, made the request that you should not be arrested immediately, and that spoiled the whole thing.” *The Daily Freed Press*, London 5 October 1894, 6 Ontario Archives Microfilm N336 Reel 74.

³⁴⁵ *The Daily Free Press*, London, 5 October 1895, 6.

³⁴⁶ Defendant: Satchell, Samuel; Charged with Seduction under Promise of Marriage, Perth County, 1894, Criminal Assize Clerk criminal indictment file, RG 22-392-0-5078, Archives of Ontario.

³⁴⁷ Hulda provided a detailed account as to the three instances of intercourse. According to Hulda, Satchell drove her home on a Sunday afternoon, and took her back to his brother’s home. There he proceeded to “put his hands under my clothes and unbuttoned my drawers... I said I did not want to let him do anything.” The following Sunday, Satchell had intercourse with her in the shed. “He put his hands under my clothes again and we had connection.” The next Sunday she maintained the two had sexual intercourse in her bed. “I slept upstairs so did [the] defendant... he came to my bed [and] undressed.”

³⁴⁸ The magistrate in the Kilbourne case stated “You have wronged a poor girl, stolen her virtue and robbed her of her prospects in life. She *believed* you would marry her” (emphasis added). *The Daily Free Press*, 5 October 1894, 6.

³⁴⁹ Defendant: Paddock, George; Charged with Seduction under Promise of Marriage, County of Wellington, 1894, Criminal Assize Clerk criminal indictment file, RG 22-392-0-6381, Archives of Ontario.

³⁵⁰ Ida stated that following church on Sunday, 24 September 1893, the two had had sexual intercourse at the home of her brother-in-law.

³⁵¹ According to Ida, “he continued to make promises of marriage to me after that [24th September 1893] – twice after that – that he would marry me in February 1894.”

³⁵² Defendant: Paddock, George, 1894.

³⁵³ In another case of seduction, the defendant John Brooks had promised to marry one Alberta Bullard before their sexual intimacy took place. Alberta also became pregnant and Brooks refused to marry her. He claimed that when the child was born, if it resembled him, he would consider marriage but confided in a friend that he suspected Alberta “had not been right with other men” and therefore he did not want to marry her. Instead of marriage, Brooks wanted to “hush up” the affair, and save both families any humiliation if the relationship and pregnancy become public. Brooks was found not guilty of the seduction. Defendant: Brooks, John; Charged with Seduction under Promise of Marriage, 1893, County of Essex, Criminal Assize Clerk criminal indictment file, RG 22-392-0-1431, Archives of Ontario.

³⁵⁴ Ida’s brother Robert questioned Paddock about the situation and strongly suggested that Paddock come and visit Ida and the baby.

³⁵⁵ Robert and Ida both insisted that Paddock hold the baby. When asked what he thought of the baby, Paddock responded, “it was a nice one.”

³⁵⁶ Defendant: Dickie, George; Charged with Seduction under Promise of Marriage, County of Elgin, 1894, Criminal Assize Clerk criminal indictment file, RG 22-392-0-1195, Archives of Ontario.

³⁵⁷ According to Elizabeth, “He never took me out to any places of entertainment. He used to come to see me. We used to go out walking together.”

³⁵⁸ The incident allegedly took place while out on a drive with the defendant. “He had connection with me on the ground, we got out of the buggy for that purpose.”

³⁵⁹ Defendant: Cox, Alpheus; Charged with Seduction of a girl under sixteen years of age, County of Lincoln, 1892, Criminal Assize Clerk criminal indictment file, RG 22-392-0-3535, Archives of Ontario.

³⁶⁰ According to Rose, after she had refused his invitation into the barn the defendant, “opened his pants... [a]nd pulled up [her] clothes. And did what he wanted to do.”

³⁶¹ Defendant: Oppertsheiser, Henry; Charged with Seduction and Illicit Connection, County of Waterloo, 1895, Criminal Assize Clerk criminal indictment file, RG 22-392-0-

6107, Archives of Ontario. Oppertsheiser was also charged with raping Lillian, but for the purposes of this section only the charge of seduction will be considered.

³⁶² At the time of the seduction, Lillian testified that she had been helping the defendant's wife sew.

³⁶³ According to Lillian, the defendant specifically stated, "He then said I had often don [sic] it – I said I had not. He then said, mama had said he should do it I said I don't care you must get away."

³⁶⁴ Lillian testified that, "... he said I could holler or not. I will do it anyhow. This was all he said – he lifted up my clothes. Then he thru [sic] me down. I had drawers on. He didn't open the drawers. He tore them open.... This he did against my will... It hurt me for two days after it happened and not after ward. I bled until Thursday. I knew this by my clothes and I also felt it bleeding."

³⁶⁵ Lillian maintained that when she arrived home her "mother asked me what was wrong with me and I told her."

³⁶⁶ All of the signatures were male, and in the list was their corresponding occupation.

³⁶⁷ The verdict in *R. v. Joseph Brooks* was the only case examined in which there was no verdict recorded.

³⁶⁸ Title IV was labelled, "Offences against Religion, Morals and Public Convenience." Parker, An Introduction To Criminal Law, 302.

³⁶⁹ Graham Parker notes that Part XXI "obviously included rape and various abortion offences but also included defilement (or carnal knowledge) of a girl under fourteen whether or not the defiler believed her to be above that age." An Introduction of Criminal Law, 302.

³⁷⁰ Chapman, Terry L., "Sex Crimes in the West, 1890-1920," (1987) 35 4 Alberta History, 6.

³⁷¹ Ibid.

³⁷² Backhouse, "Shifting Patterns in Nineteenth-Century Canadian Custody Law," 212.

³⁷³ The members of the Young Women's Christian Association (YWCA) insisted that the future generations relied on the purity and virtue of young women. Furthermore, "A nation's greatness depends upon social conditions, health and home life, all of which are absolutely in the hands of women. Women set the social standards throughout the world, and on the enlightenment and high ideals of the women the moral standards of the nation depend." YWCA of Canada Records, v. 40, Youth-Girl's Work 1918-1921, "A Girl's Value to Her Country," c. 1919, as quoted in Diane Pederson, "Keeping Our Good Girls Good: The YWCA And The 'Girl Problem,' 1870-1930" (Winter 1986) 7: 4 Canadian Woman Studies, 21.

³⁷⁴ For instance, the members of the Young Women's Christian Association (YWCA) claimed that "Young women... had a key role to play in the coming Kingdom because they would determine the moral and religious standards of the community through their influence over the future generations." The members further emphasized her importance

within the family unit when they proclaimed, "The girl is the hope of the world. As we keep her pure, we protect the race of the future; as we keep her bright and keen for the better things of life, we raise the standard of our nation." Pederson, "Keeping Our Good Girls Good," 22.

³⁷⁵ Backhouse, *Petticoats and Prejudice*, 41. Constance Backhouse states that while the "popularity of the action had waned [by the nineteenth century] in the area of employment as a modernizing economy was beginning to favour a more contractual, individualized framework for the labour market... the lawsuit remained popular within the family, as countless fathers sought pecuniary compensation for the seduction of their daughters, perhaps consciously or unconsciously asserting parental property interests in the sexual behaviour of their female offspring," 42.

³⁷⁶ *Hansard Parliamentary Debates* House of Commons v. 12 (1882) 47, 327-27; House of Commons v. 1 (1886) 441-41 as quoted in Backhouse *Petticoats and Prejudice*, 70.

³⁷⁷ As Constance Backhouse asserts, the reformers introduced this legislation due to the fact that "Increasingly, seduced women found themselves propelled into the new cities, alone and unprotected, without access to paternal backing. Reformers hastily began to create protective mechanisms... [a]nd they came to reflect increasingly on the deficiencies in the law of seduction... social reformers... would attempt to transpose the problem of seduction from the family to society as a whole." *Petticoats and Prejudice*, 69-70.

³⁷⁸ Snell, "The White Life for two," 111.

³⁷⁹ Furthermore, legal scholar John Alexander Gemmill asserted that Canadians "knew how to value and cherish [both] the sacred character of the matrimonial tie [and] the purity and sacredness of the family." J. A. Gemmill, *The Practice of the Parliament of Canada upon Bills of Divorce* (Toronto: Carswell, 1889), 262 as quoted in Backhouse, "Pure Patriarchy," 265. Gemmill also proclaimed that Canada held a "cleaner record than that of any other progressive people on the face of the earth" with regards to marriage.

³⁸⁰ It was surmised, that the impact of industrialization, for instance, contributed to the potential downfall of the Canadian family. "[T]here is strong evidence that, as a result of such phenomena as industrialization, rural depopulation and urbanization, the character of the family and of the home was changing markedly in the second half of the nineteenth century. It is not surprising that these changes created serious strains within the nuclear family and that one manifestation of these strain was breakdown in marriages among Canadians." Snell, "The White Life for two," 111-112.

³⁸¹ Morrison, 45.

³⁸² As was mentioned in Chapter one, from an early age, girls were taught that marriage and a family were their destined roles in life, and once positioned in this role, women found they shouldered much of the responsibility for maintaining a happy and stable household. Moreover, as discussed in Chapter two, a married woman possessed very few civil rights once a part of the matrimonial union. This lack of independence and autonomy, coupled with the added responsibility of familial stability, enabled moral

reformers and those in government to initiate regulations which would maintain her role within this union. Single women, although not married, also suffered from this pending lack of autonomy based on the philosophy that they too must eventually fulfil this role of wife and mother.

³⁸³ While several initiatives were disregarded by the government (for instance, while the WCTU demanded prohibition, the government nevertheless legalized the liquor trade), many reform actions successfully initiated new modifications to the law concerning morality. One prominent change followed the work of D. A. Watt and his Society with the implementation of the seduction legislation in the late 1880s.

³⁸⁴ For instance, during the late nineteenth century, marriage legislation discouraged the dissolution of marriage due to its impact in society. As Constance Backhouse cites for instance, according to the Civil Code of Lower Canada (1865), "Marriage can only be dissolved by the natural death of one of the parties; while both live it is indissoluble." *Petticoats and Prejudice*, 167.

³⁸⁵ Furthermore, marriage was "life's most promising enterprise" for a woman, but simultaneously it was indicative of her "civil death." Chambers, 15.

³⁸⁶ Backhouse, *Petticoats and Prejudice*, 70.

³⁸⁷ Constance Backhouse asserts that when John Charlton introduced the bill for seduction he "purported to speak for 'thousands of ladies' on whose behalf he presented petitions urging swift passage of the bill, but that would be the last reference in the legislature to the feminine voice." *Petticoats and Prejudice*, 70.

³⁸⁸ *Debates House of Commons v. 15* (1884), 142.

³⁸⁹ Dubinsky, "Maidenly Girls or Designing Women," 34.

³⁹⁰ *Debates House of Commons v. 15* (1884), 142.

³⁹¹ Backhouse, *Petticoats and Prejudice*, 80.

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