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**WOMEN, POLITICS AND PROSTITUTION:
PROSTITUTION LEGISLATION IN CANADA, 1867-1913**

by

LESLIE ANN JEFFREY

A thesis submitted to
the Faculty of Graduate Studies and Research
in partial fulfilment of
the requirements for the degree of

Master of Arts

Department of Political Science

Carleton University

Ottawa, Ontario

August 31, 1992

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PROSTITUTION LEGISLATION IN CANADA, 1867-1914

submitted by

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

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Abstract

This thesis examines the change in Canadian prostitution legislation between 1867 and 1913 from an individualistic to a protective approach. This change was the result of the growing influence of women's organizations and the social reform movement. This activity led to a change in the understanding of women and their sexual character from women as evil and sexual, to women as passive victims. This thesis seeks to understand both how a protective approach made sense to women in their own lived experience and how this approach was shaped by the process of political organization and struggle. Women in the late 19th century and early 20th century in Canada faced genuine fears over their sexual safety. Their response to this situation depended on the available discourses and allies with which women could align themselves and the political opportunity structure they faced. These factors came together to produce a protectionist approach to prostitution. Ultimately, however, the protectionist approach reinforced relations of race, class and gender. This thesis seeks to present women, and other actors, as both agents and "subjects of structures" by tracing how women's activity linked into larger structures of race, class and gender relations -- even as women sought to improve their position.

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Chapter 1: Introduction

My purpose in this thesis is to explore how the legislation concerning prostitution changed between Confederation and the First World War. Because laws about prostitution are key in the control of women's sexuality, it has been argued that they are shaped mainly by structures of patriarchy and capitalism. In this thesis I take an agency-oriented approach which does not see these laws as the product of ahistorical structures. Neither do I look at women or other actors as deliberately building structures through law. Rather, I look at the interaction between actors and structures in bringing about political change. In doing so, I attempt to contextualize the concerns about sexuality and prostitution in this period in terms of the lived experience and concerns of women. At the same time, I consider the process of translating these concerns and experiences into legislation in terms of the organizational politics surrounding the issues. Prostitution law, therefore, is seen as reflecting a struggle over the meaning of women's role and women's sexuality which is shaped both by the lived experience of actors and by the allies, discourses and political opportunities available to those actors.

Thus, I look at the change in the law as the product of struggles in limited circumstances. The shape of law, and the extent to which women could determine that shape, depended on available concepts and discourses, alliances and political

opportunities. I consider allies, discourses and organizational patterns as both limitations and opportunities, which enable actors to further their political agenda at the same time as these factors link actors into larger structures of race¹, class and gender relations.

The development of laws concerning prostitution is an important part of the establishment of race, class and gender relations in any society. The double moral standard often reflected in those laws acts as a primary organizer of gender relations by restricting women's sexual behaviour. By branding women as "whores" or "madonnas" these laws regulate the lives of all women as they determine the limits or consequences of their actions. More precisely, prostitution organizes relations of race and class through gender by dividing "good" women from "bad" women. Thus, the sexual practices of subordinate races and classes are often interpreted as sexually promiscuous. The women in these groups often are seen as prostitutes, or as potential prostitutes. In Canada the politics of prostitution was firmly embedded in processes of the marginalization of immigrant and aboriginal groups and the establishment of the predominance of Anglo-Saxon Protestant,

¹. In the 19th and early 20th centuries in Canada, "race" referred to both questions of colour and, more often, to those of ethnicity, language and religion. I will use "race" throughout this paper in a theoretical sense to refer to a particular structure of power based on cultural identity. In referring to historical conditions or occurrence I will use "race/ethnicity" to clarify that both questions of colour and of ethnicity, language or religion are being referred to. "Race", in quotation marks, will be used to indicate the 19th century meaning.

middle-class values.

At the same time, prostitution represents a lived reality for any society. It often signifies a number of social concerns about sexuality, morality, health, poverty, law and order, as well as class, race/ethnic and gender relations. Various political actors -- including churches, unions, benevolent societies and bureaucrats, all involved in different aspects of these issues -- influence prostitution. Simultaneously, these actors draw on the various structures of race, class and gender relations. Together these actors, in attempting to address the concerns they faced around them, affect the way that prostitution -- as a condensation of social relations -- is seen by the state and society through their manipulation of the conceptual framework.

Through this process Canadian legislation concerning prostitution changed from a relatively individualistic and autonomous approach during Confederation -- in which prostitution was understood as the result of individual moral depravity -- to a protective approach -- in which prostitutes were considered to be victims of evil procurers. Other political actors, however, were notably absent from the development of the approach to prostitution -- such as working-class women, immigrant populations, native peoples and prostitutes themselves. At the same time, the legislative change marked an important redefinition of race, class and gender relations.

The politics of prostitution, therefore, is an amalgam of

the politics of race, class and gender in which the latter is obviously central. Analyzing prostitution reveals the operation of a "gender issue" in relation to broad political processes. The particular period under study allows, more precisely, for an examination of how women's political organizing around prostitution and sexuality in general, affected -- and was affected by -- these broader processes. The recognition of the double moral standard, which brands certain women as madonnas and others as whores, was key to the development of feminist consciousness. To challenge that standard was fundamental to women's redressing their unequal power position in a patriarchal society. A change in the position of women generally, therefore, required a change in the understanding of prostitution. Indeed, women were a very important part of the movement to reform prostitution legislation to be more protective. Why women would take a protective approach, therefore, must be examined. Looking at how women and other political actors contributed to the political discourse around women, sexuality and prostitution, allows for an understanding of how women's approach to these issues both shaped and was shaped by the larger political processes of redefining the social relations of race, class and gender.

Examining women's political mobilization as part of the larger political scene allows for a number of things. Firstly, it challenges the notion that history is driven by large, ahistorical and aspecific structures -- such as the social

relations of race, class and gender -- and provides a look at how actors shape their history, albeit within constrained circumstances. Secondly, it allows for an examination of women's participation in the making of history as an integral part of this history rather than as part of a separate set of events. Thirdly, by looking at how various actors contribute to the political framework, it can be seen how the presence or absence of certain voices affect political views and outcomes -- thereby linking organizational method with theoretical approach. Finally, this approach allows us to see these historical actors within their own lived experience, by looking at actors as both the products of and the producers of their time. Thus, the study looks at women, and other actors, as both subjective actors and the subjects of structures.²

It has been argued that women have never really challenged the social structure behind prostitution which brands sexually promiscuous women as prostitutes and chaste women as madonnas. The failure of first wave feminists, in particular, to recognize and challenge these aspects of prostitution -- but, instead, to reinforce them -- has been observed in numerous modern studies of the period.³ Such an approach,

². See Jane Jenson, "Paradigms and Political Discourse: Protective Legislation in France and the United States Before 1914," Canadian Journal of Political Science, 22.2 (June 1989), p.236.

³. In the Canadian context, see, in particular, Carol Lee Bacchi, Liberation Deferred?, (Toronto: University of Toronto Press, 1989).

however, judges women by ahistorical standards and does not take into account women's own experience and understanding in the context of the period. In this thesis I will show how women did challenge the structures they faced; but in a way that made sense to them and to those around them. Thus, women must be placed in their specific historical context in order to discover how they understood the world around them and how they challenged it.

In taking such a contextualized approach, I explore the contribution made to the construction of politics of prostitution by women. This involves looking at how women's lived experience shaped the way they approached the question of prostitution. I seek to discover how women's own sexual fears of rape, harassment, and pregnancy, to name a few, influenced their position on prostitution. I ask, then, to what extent a protective approach reflected women's desire to be protected from sexual abuse. I also ask, however, why women would focus on their sexual fears rather than on sexual opportunity. That is, I try to discover why the protective move made sense to women at the time. In this, I also look at why the characterization of women as innocents and victims made sense to women. One clue is the linkage between sexual attitudes towards women and those towards children. Concerns over sexual autonomy have often been linked to concerns over the protection of children. In this thesis I explore that linkage and its implications in

early Canadian women's organizing around the issue of sexuality.

Women's lived experience is intimately linked into larger social structures, such as race, class and gender relations. In particular, women are linked into these structures through the roles they played in society, the organizational practices and discourses that they drew on. Women's roles, to an extent, carry linkages to race, class and gender relations. Thus the role of motherhood, used by first-wave feminists to justify their move into the public sphere, carried with it certain implications in terms of race, class and gender relations. Exactly which linkages are made and how depends upon the presence or absence of allies and the discourses they carry. Organizational practices may carry these linkages through the much more obvious mechanism of denying or granting voice to various actors. The approach that women took to prostitution, therefore, also reflected their strategies within the broader political process -- what roles they drew upon, what discourses were available to them, what allies could be found. In Canada, women found allies among the growing social reform movement in particular. The discourse and organization of reform carried numerous implications for race, class and gender relations. This investigation reveals how women's organizing was part of this much broader political process. More specifically, I reveal how the development of the

prostitution laws reflected changes in this broader political process.

By using such an analysis, I begin to explore such issues as why the Canadian first-wave women's movement never developed a radical sex critique of prostitution as developed in other countries. There was never much sign in 19th and early 20th century Canada of sex radicals advocating free love and sexual liberation of women as a response to the double moral standard. Nor did Canadian women develop a socialist (or even "class aware") response to prostitution. Instead they remained focussed on issues of morality and sexuality at the expense of investigating the class base of prostitution. Through this analysis I explore to what extent these "failures" were a result of women's particular perspectives, and to what these shortcomings reflected the particular mode of political organizing that took place in Canada. Without strong liberal or socialist allies, liberal or socialist perspectives were unlikely to develop within the women's movement. Finally, it can be seen how the victimist approach to prostitution came about and what implications it had in terms of race/ethnic, class and gender relations. This change in approach rejected the image of prostitutes as inherently evil. However, it made women -- particularly young, working class women and women of colour -- appear to have no control over their own lives. They were seen as needing protection.

The Politics of Prostitution in Britain, the United States and France

Looking at the shape of prostitution politics in other countries helps to throw into relief the importance of differences in alliances and conceptual frameworks or discourses in determining the shape of legislation. In Britain, France and the United States different political combinations produced different approaches to prostitution law, although social reform and feminist movements were active in all these countries -- as in Canada. Indeed, the strength of the reform and feminist movements internationally often meant that particular national campaigns were greatly influenced by the campaigns in other countries. English Canada, in particular, was highly influenced by social purity activists and feminists in both Britain and the United States. The tactics used by each national campaign, however, varied according to the particular political opportunity structures in each country and the particular shape of state activity and involvement in the issue of prostitution. In both Britain and France, state interference in prostitution through regulatory measures met with a liberal, anti-statist opposition. The Canadian state -- having learned the lesson of social opposition in other countries -- and unable, in many ways, to implement such measures, was reluctant to interfere in prostitution through regulation. As in the United States, toleration and segregation took place at a local level but not at the central state

level -- as in Britain and France. Thus, the pro-statism of the Canadian anti-prostitution campaign was never challenged by state regulation of prostitution.

In Britain, attempted state regulation of prostitution generated a huge social campaign. Prostitution in Britain was generally viewed as a "necessary evil". Upper and middle-class men -- including politicians, police, and doctors -- argued that prostitutes were the protectors of middle-class female respectability.⁴ British law in the 1800s dealt with prostitution under the Vagrancy Act. The vagrancy provision had its roots in British common law practice of the 15th century whereby women found to be wandering the streets at night could be charged with vagrancy on the assumption that any woman out at night was there with the intent to solicit. By the 19th century the law was changed so that women must be an actual public nuisance of some sort before they could be charged with being common prostitutes.⁵ The change in the law allowed for slightly greater freedom for working-class women and prostitutes.

In 1864 and again in 1866 and 1869, the British state, in an attempt to protect its armies against the ravages of venereal disease, introduced the Contagious Diseases Acts. The Acts provided for the regular medical examination of women

⁴. John McLaren, "Chasing the Social Evil: Moral Fervour and the Evolution of Canada's Prostitution Laws, 1867-1917," Canadian Journal of Law and Society, 1 (1986), p.128.

⁵. Hobson, Uneasy Virtue, pp.32-33.

thought to be "common prostitutes". The effect of this law was a considerable increase in state interference in the sexual lives of working-class women and prostitutes. Both were now open to being targeted by the state for inspection and regulation, as long as they were "believed" to be common prostitutes. Because the dividing line between prostitution, cohabitation and marriage in the working class was fairly undefined and because women had a tendency to move in and out of these various arrangements, all working-class women were open to charges of "common prostitution". The effect of the laws was to demarcate "prostitution" from these other arrangements and mark its practitioners for life thus extending their stay in prostitution.

The enactment of the Contagious Diseases Acts was met with organized resistance from the non-conformist communities of Wesleyans and Quakers in the north of England who formed the all-male National Association to bring about the repeal of the Acts. Soon after, the feminist community -- under the direction of Josephine Butler -- formed a parallel women's organization, the Ladies' National Association.

The women's movement was already well under way in Britain at this time. British feminists in the mid-19th century were able to draw on the evangelical churches' critique of the socialist utopian movements of the early 18th century as immoral, and the churches' subsequent evaluation of women's role as a "mission". Middle and upper-class women in

mid-century Britain began to capitalize on this "mission", and they set up services for women: such as Female Friendly Societies, Lying-in Charities, Charity Schools and libraries.⁶ The decline of Owenite socialism and feminism's association with it had made feminist activism more acceptable to the middle and upper classes. Feminism became more liberal in orientation, championed as it was by liberals like Harriet Taylor and John Stuart Mill.⁷ The movement at this time focussed less on the need for the protection of women than on the need for women's rights -- particularly property rights and suffrage. This they did, however, through the promotion of women's maternal and moral qualities. The mainstream feminist movement opposed protective legislation for women and argued for women's equality before the law and for the removal of legal restriction on women, even while it supported the notion of female "difference".⁸ When the state moved to regulate prostitution, women were ready to respond with a feminist critique of the double moral standard implicit in the Acts which regulated only women.

At the same time, new approaches to prostitution were

⁶. Jeanne l'Esperance, "Woman's Mission to Woman: Exploration of the Operation of the Double Standard and Female Solidarity in Nineteenth Century England," Social History, 12.24 (November 1979), p.321.

⁷. Barbara Taylor, Eve and the New Jerusalem: Socialism and Feminism in the Nineteenth Century, (London: Virago Press, 1983), pp.275-280.

⁸. Joni Lovenduski, Women and European Politics, (Amherst: The University of Massachusetts Press, 1986), p.25.

being explored by male associations. These associations had lobbied the government to prosecute brothel-keepers and procurers and criminalize seduction and traffic in women as causes of prostitution. Their activities had spawned a new discourse around women and sexuality which saw women as more "sinned against than sinning" and as victims rather than as inherently evil.⁹ When these lobby efforts failed in the 1840s, however, the male organizations turned to rescue work, and in so doing, encouraged the involvement of women by linking into the language of "women's mission".¹⁰ The protective and victimist approach to women was apparent in the 1849 legislation passed that was through the efforts of Lord Shaftsbury, a noted social reformer. The legislation was designed to protect women under the age of 21 from abductors and procurers who had defiled these women under "false pretenses". The act, which was included in the 1861 Offenses against the Person Act, was designed so that guardians or parents could make charges against the "abductor" for deprivation of their daughter's services. The legislation, therefore, also drew on an older vision of women as the property of their parents.¹¹ While this new work was undertaken under an

⁹. Judith Walkowitz, Prostitution and Victorian Society, (New York: Cambridge University Press, 1980), pp.35-38.

¹⁰. Walkowitz, pp.39-40. See also l'Esperance, "Woman's Mission", p.323.

¹¹. John P. S. McLaren, "Chasing the Social Evil: Moral Fervour and the Evolution of Canada's Prostitution Laws, 1867-1917", Canadian Journal of Law and Society, 1.1 (1986), p.128. See also

evangelical guise, a more feminist approach was spurred by the Contagious Diseases Acts.¹²

The beginnings of liberalism in British society and in the women's movement was reflected in the Ladies' National Association's approach to the Contagious Diseases Acts. The Association criticized the Acts for depriving poor women of their constitutional rights and for setting different moral and sexual standards for men and women. It adopted an explicitly feminist stance through its objection to the sexual exploitation inherent in the internal examination required by the Acts. At the same time, being an evangelically based movement, the Association objected to the state's implicit sanctioning of vice through the Acts.

The moral orientation of the Association was problematic for the liberal feminist movement. Mill saw the C.D. Acts not as an essential indicator of women's oppression, as the Association did, but as symptomatic of the types of laws that women would face until they had political rights.¹³ Mill, and the suffrage movement in general, felt it was much more important to gain the vote first than to focus on such moral

Deborah Gorham, "The 'Maiden Tribute of Modern Babylon' Re-Examined: Child Prostitution and the Idea of Childhood in Late-Victorian England," Victorian Studies, 21.3 (Spring 1978), p.363.

¹². l'Esperance, "Woman's Mission", p.326.

¹³. Barbara Caine, "Feminism, Suffrage and the Nineteenth-century English Women's Movement", in Elizabeth Sarah, ed., Reassessments of 'First Wave' Feminism, (Toronto: Pergamon Press, 1982), p.549.

and sexual issues. The liberal feminist movement also felt that the unpopularity of the repeal movement would adversely affect suffrage fortunes. Accordingly, the suffrage wing of the women's movement disassociated itself from the Association's campaign against the Acts.¹⁴

The separation of the suffrage movement from the repeal campaign meant a loss of active allies for the repealers. The Association came to rely more on its male counterparts in the rescue movement, the Liberal party Radicals and the labour aristocrats who supported their cause. The Association had called on working men in the language of mothers calling to their "sons" against the evil, aristocrat fathers.¹⁵ Although the Association had challenged its male working-class allies over the issue of protective legislation, in desperate need of allies it eventually accepted and began to encourage workingmen's custodial role towards women.¹⁶ Male working-class leaders used a discourse around women and prostitution which saw prostitution as the result of the poverty of the working-class family, a situation which could only be remedied by the family wage. Although Butler, in particular, encouraged close communication with prostitute women as "sisters", working-

¹⁴. Caine, pp.548-549.

¹⁵. Judith Walkowitz, "Male Vice and Female Virtue: Feminism and the Politics of Prostitution in Nineteenth-Century Britain," in Ann Snitow, Christine Stansell and Sharon Thompson, eds., Powers of Desire, (New York: Monthly Review Press, 1983), p.423.

¹⁶. Walkowitz, Prostitution and Victorian Society, p.142.

class women in general had little voice in the repeal movement.¹⁷

At the same time, the Association turned to the male rescue and reform movement. Although Butler had attempted to keep her members away from a rescue orientation, more and more women had joined in the rescue and reform campaign. Rescue and reform offered a more moralistic approach to prostitution by campaigning for the application of strict moral standards for both men and women. The Social Purity Alliance was established in 1873 by repeal men to transform male sexual behaviour so that prostitution would no longer be necessary. For women, this kind of approach offered a way of controlling male sexuality and of criticizing the social view that the male sexual urge was necessary and uncontrollable. Given the many threats to women of unwanted pregnancy, rape, venereal disease and prostitution through male sexual indiscretion, such an approach was extremely attractive. By 1877, even the suffragist wing had ceased its ban on activity with in the moral arena.

The appeal of the victimist approach became even more evident when -- after securing the suspension and, finally, the repeal of the Contagious Diseases Acts in the early 1880s -- the Association turned its attention to the involvement of children in prostitution. The campaign to repeal the Acts had revealed many instances of young girls involved in prostitu-

¹⁷. Walkowitz, "Male Vice," p.424.

tion. The increasing concern with the sexual abuse of children in prostitution lent force to a "victimist" discourse. Such a discourse drew on an earlier romantic image of girl children as "child redeemers" against the opposite notion of the wayward girl.¹⁸ The latter image was one commonly used by government members in defending their right to sexual servicing by working-class women and girls. At the same time, the protective attitude toward children taken by the reform movement was beginning to gain ground. Compulsory schooling, child labour laws and juvenile delinquency laws were being put into place.¹⁹

In 1879, Alfred Dyer, a leading social purity activist, uncovered evidence of a traffic in girls between England and the licensed brothels of Belgium. In response to lobbying by social purity activists the government set up a Select Committee of the House of Lords to investigate the problem. The Select Committee, after hearing a great deal of evidence, recommended that age of consent legislation -- which currently made it easy for girls between the ages of 13 and 21 to be procured for foreign brothels -- be raised. Requests for a higher age of consent were met in the government by protests that such legislation would threaten upper-class male prerogative to sexual servicing by lower-class women.²⁰

¹⁸. Gorham, "The 'Maiden Tribute'," pp.369-371.

¹⁹. Gorham, p.363.

²⁰. Gorham, pp.265-266.

The growing public anger over child prostitution was evident in the reaction to the revelation on the extent of the traffic in children by journalist W.T. Stead. Stead's "Maiden Tribute of Modern Babylon", raised such national ire that a demonstration was held in Hyde Park which included religious leaders, labour advocates, feminists and social purity activists in the summer of 1885. Soon afterward the government passed the Criminal Law Amendment Act. The Act was a sweeping bill which not only raised the age of consent from 13 to 16 years but made stricter provisions against brothels and procurers. In general, however, the provisions broadened police powers over working-class women and girls and, in a move against the aristocracy, included such pernicious clauses as the outlawing of homosexuality.²¹

As will become clear below, the British situation shares some common elements with that in Canada -- the changing attitude toward children and the strength of the social reform movement, for example. The British case also illustrates that the protective approach was not a necessary one for women; but that, with the support of liberal and/or working-class allies, a more individualistic approach could be developed. The discourses of these allies could also prove a liability to a more individualistic approach, as with the male working-class supporters of repeal. However, without the support of liberal feminist allies, closer alliances had to be made with more

²¹. Walkowitz, "Male Vice," pp.427-428.

protectively oriented groups. At the same time, a changing attitude towards children and a growing disparity between middle-class values and those of the government, opened a space for a more protective approach. The protective framework was built among actors drawing both on lived experience and on the political opportunities they faced. This approach, however, fed into and sustained structures of race, class and gender relations -- as is made apparent in the legislation of 1885.

Most importantly, the changes in the laws concerning prostitution in Britain had a profound effect on its former colony, Canada, both through legal and social influences. Much of the Canadian legislation concerning prostitution was inherited from Britain -- although not without Canadian caveats. Close social and familial links between the two countries also brought British political influence. The new social reform organizations in Britain also had some influence on the development of prostitution politics in the United States, which, in turn, was a strong influence on the Canadian scene.

Agitation over prostitution came early in the 19th century in the United States. Already in the late 1600s, the increasing visibility of "lewd" and "licentious" women in Boston and Philadelphia, in particular, had led to the passing of laws against "nightwalking" and the keeping of bawdy

houses, in 1699 and 1672 respectively.²² By the end of the 18th century, however, the Puritan concern with licentiousness had long-since passed; and the city of Boston, for one, allowed for the operation of segregated prostitution. The early decades of the 19th century brought increased migration from rural areas to the cities with the attendant social ills. This heightened public concern with prostitution. Numerous mob raids of brothels in these early years attest to this growing social discomfort.²³ The growth of radical evangelical churches in this period contributed to a new approach to prostitution. While churches and municipal elites had mildly encouraged industry and thrift among the poor to stem the growth of prostitution, the new religious societies encouraged a belief in the perfectibility of humankind and, therefore, the reform of prostitutes.²⁴

Women became a prominent part of the new evangelical moral reform movement. While male reformers characterized the prostitute as "beyond the possibility of reform" or her sufferings as "self-inflicted ... the necessary result of

²². Ruth Rosen, The Lost Sisterhood: Prostitution in America, 1900-1918, (Baltimore: The Johns Hopkins University Press, 1982), p.2.

²³. See Barbara Meil Hobson, Uneasy Virtue: The Politics of Prostitution and the American Reform Tradition, (New York: Basic Books, 1987), pp.12-27, for a description of these spontaneous riots.

²⁴. David Pivar, Purity Crusade: Sexual Morality and Social Control, 1868-1900, (Westport, Conn.: Greenwood Press, 1973), pp.25-26.

voluntary sin", the female reformers took an approach which concentrated on the sins of male seducers and customers.²⁵ The Female Moral Reform Society was founded in New York in 1834 and, by 1838, had 445 auxiliaries located mainly in the rural areas of greater New England.²⁶ The Moral Reform Societies espoused a number of methods of dealing with prostitution. Most prominently they sought to convert all Americans to moral purity through children's education as well as through their publications, which often exposed seducers and clients. They also sought legal measures and took up the rescue and reform of prostitutes.²⁷

Attempts to pass seduction legislation were also made in Massachusetts through the efforts of the New England Female Moral Reform Society (a regional organization of the New York Society). The New England Female Moral Reform Society was made up of mainly lower and lower middle-class women. The Society cast prostitutes as the innocent victims of profligate upper-class men who cloaked their evil designs in respectability. The Society women noted that men always married virtuous women of their own class, even if the men had been involved with a lower-class woman; and that men with money were more likely to

²⁵. Rosen, Lost Sisterhood, pp.7-8.

²⁶. Carroll Smith-Rosenberg, "Beauty, the Beast, and the Militant Woman: A Case Study in Sex Roles and Social Stress in Jacksonian America," American Quarterly, 23.4 (October 1971), p.576.

²⁷. Smith-Rosenberg, pp.568-575.

"buy off" the women they seduced, rather than give them "honorable reparation". At the same time, attitudes towards unwed mothers and "unchaste" women were becoming much harsher than in the past. Accordingly, the Society tried to make seducers to marry their victims; but they often failed in their attempts.²⁸

The Society also pressed for legislation which would provide for the punishment (with a maximum of three years in prison and a \$2,000 fine) of any unmarried man who seduced a "previously chaste" woman under 21 years of age who became pregnant. This was an attempt to discourage seducers from "buying off" their victims. However, the act which was finally passed did not contain a clause which criminalized seduction per se but only abduction. The act did contain a "presumption of chastity" clause which greatly weakened even the abduction provision.²⁹ Some twenty years later the Society did manage to have a bill prosecuting male "nightwalkers" passed, but it was never enforced.³⁰

Having lost faith in the legislative process, the Societies began, (in the 1840s and 50s) to press for the opening of male occupations to women, higher wages for women and women's unionization as weapons against prostitution.³¹

²⁸. Hobson, Uneasy Virtue, pp.53-61.

²⁹. Hobson, Uneasy Virtue, pp.66-68.

³⁰. Hobson, p.70.

³¹. Smith-Rosenberg, "Beauty," pp.580-583.

The societies even flirted with a bold women's rights position. They published the work of Sara Grimke and corresponded with feminists such as Lucretia Mott (who was active in the Philadelphia Society) and Emma Willard. Eventually, however, such a bold approach was rejected by the Societies' rural constituency.³²

The 1850s and 60s saw an increase in the practical regulation of prostitution by police.³³ A pro-regulation lobby of police, doctors and other medical authorities argued that increases in the incidence of venereal disease showed the need for a regulatory approach to prostitution. The lobby was opposed by an abolitionist coalition of feminist, civil-libertarian and religious groups. The women involved in the abolitionist cause included those from the female Moral Education Societies who focussed on the moral transformation of society through their work with children and individual education, the Women's Christian Temperance Movement, the Young Women' Christian Association and Women's Prisons Associations. The new coalition drew on the membership and language of the anti-slavery movement as well as the British and European abolitionist campaigns.³⁴ Regulation was narrowly defeated in various state legislatures between 1867 and

³². Smith-Rosenberg, pp.580-583.

³³. Pivar, Purity Crusade, p.29.

³⁴. Pivar, Purity Crusade, pp.78-88.

1871.³⁵ Abolitionists also had to campaign against the expansion of medical boards and voluntary associations who were likely to practice de facto regulation.³⁶

Once regulationism had been defeated, the abolitionist movement metamorphosed into a social purity organization. The reformers turned their attention from fighting regulation to the suppression of prostitution, the reform of prostitutes, sex education, the single moral standard, censorship of pornography and married women's right to refuse sex. The social purity movement was directed by women's organizations (particularly the WCTU), clergy and urban reformers. The social purity movement also continued to have alliances with similar organizations in Britain and continental Europe.³⁷

The social purity movement shared interlocking leadership with the feminist movement. Feminists promoted temperance, social purity and suffrage all at once. Although some grass-roots groups were reluctant to discuss prostitution as too "indelicate" a subject, it soon became an integral part of the feminist campaign.³⁸ Women's groups also included the growing workingwomen's organizations. Although initially established by middle-class women for working women, the groups eventually became a forum for working women's concerns -- including

³⁵. Rosen, Lost Sisterhood, p.10.

³⁶. Pivar, Purity Crusade, pp.95-99.

³⁷. Rosen, Lost Sisterhood, pp.11-12.

³⁸. Hobson, Uneasy Virtue, p.151.

working conditions and equal opportunity.³⁹ Women reformers emphasized the role of sexual abuse and rape in the early lives of prostitutes.⁴⁰

Accordingly, in this period, the movement began to campaign to have the age of consent (set as low as 7 in some states) raised to an upper limit of 21. Purists had been unable, at first, to gain a majority of support in Congress -- given the rural constituency of many congressmen and their failure to see anything urgent about purity reform. By appealing to the public, however, reformers were able to gain raises in the age of consent in most states by 1895. The Stead exposé in Britain helped to bring public pressure to a head and defeat the obstinacy of the legislatures (some of which threatened to lower the age limit instead). Finally, with the help of the Knights of Labour, the reformers managed to have the age raised to 16 by the federal government in the District of Columbia and the territories. In 1899, the national Broderick Act set the age at 21.⁴¹

Some feminists, however, like Elizabeth Cady Stanton, drew on the Oneida community free love tradition in the United States and argued a "pro-sex" approach to women's rights. Although marginal to the 19th century feminist movement, Cady Stanton's approach did convince some feminists of their sexual

³⁹. Pivar, Purity Crusade, pp.175-179.

⁴⁰. Rosen, Lost Sisterhood, p.27.

⁴¹. Pivar, Purity Crusade, pp.138-146.

rights, particularly in terms of the right to divorce and remarry. Although the majority of feminists rejected this position, they endorsed another of Cady Stanton's campaigns, "voluntary motherhood". Early 20th century feminists were able to argue for birth control along these lines.⁴²

Alarmed by the growing international scare over white slavery in the 1880s, social purity organizers demanded the American government investigate the extent of the traffic in the United States in 1890. Frustrated by the government's refusal to take action, the movement set up its own investigative committee in New York in 1900. The New York Committee of Fifteen published numerous "vice reports" over the next decade; and, between 1910 and 1917, 43 cities conducted investigations into prostitution through their vice commissions, which were usually composed of civic and business leaders and clergy.⁴³ In 1907, Congress appointed a commission to investigate the "importation of women for immoral purposes". The commission agreed with the reformers' finding: an extensive trade did exist in the States. The result was the infamous Mann Act of 1910 which proscribed the transportation of women across state boundaries for "immoral purposes".⁴⁴

⁴². Ellen Carol Dubois and Linda Gordon, "Seeking Ecstasy on the Battlefield: Danger and Pleasure in Nineteenth-century Feminist Sexual Thought," in Carole S. Vance, ed. Pleasure and Danger: Exploring Female Sexuality, (Boston: Routledge and Kegan Paul, 1984), p.40.

⁴³. Rosen, Lost Sisterhood, pp.13-15.

⁴⁴. Rosen, pp.14-19.

Barbara Meil Hobson insists that women's lack of an independent power base in either political parties or unions, led to their dependence upon male groups for political power. After the defeat of regulationism, female reformers sought the "conversion" of the country's medical community to the anti-prostitution project. Eventually they achieved this goal; but it also served to undermine the feminists' goal of sexual equality, because doctors tended to see the suppression of prostitution mainly as a way to limit venereal disease.⁴⁵ The American reform movement added to the usual list of reform organizations, corporate and commercial interests. The powerful anti-regulation study of Abraham Flexner was sponsored by J.D. Rockefeller.⁴⁶ The measures taken against prostitution in response to the purity campaign, according to Ruth Rosen, were mainly those which institutionalized state repression of prostitutes and reflected the orientation of the reform movements' powerful medical, judicial, business and political leaders.⁴⁷

Feminists, however, continued to press the importance of "preventative" measures in dealing with prostitution; in particular, they fought for the establishment of minimum wage laws; and, by 1913, they managed to have minimum wage legisla-

⁴⁵. Hobson, Uneasy Virtue, pp.152-153.

⁴⁶. Rosen, Lost Sisterhood, p.15.

⁴⁷. Rosen, p.16.

tion passed in eight states.⁴⁸ At the same time, however, more repressive legislation was also lobbied for and won. In 1909, Iowa passed the first red-light abatement act, which allowed any private citizen to file a complaint against any building used for prostitution. Such an act had been adopted in 31 states by 1917. A number of laws were also passed against procuring, pandering, pimping and keeping a disorderly house; or using saloons as houses of assignation. States also prohibited the sale of liquor at dance halls and the use of small rooms and booths in saloons for prostitution purposes. A few states also passed laws prohibiting the sale of women "for immoral poses".⁴⁹ The result of all this legislative activity, however, was to drive prostitution underground and further into the criminal underworld.

With a refracted federal state, the American reform movement had difficulty in imposing uniform standards on American society. Even with the defeat of regulationist lobby in the 19th century, attempts at regulation continued to occur in the early 20th century.⁵⁰ Congress, in fact, could do little about prostitution, aside from interstate trafficking; so the issue remained mainly a state and municipal matter until the World War I which gave the federal state the

⁴⁸. Rosen, p.28.

⁴⁹. Rosen, p.9.

⁵⁰. Such as in San Francisco between 1913 and 1915. See Rosen, pp.16-18.

authority to interfere in such matters. Despite this division of the state, reformers still felt that legislative activity was an important goal. Moreover, they found they could achieve this goal more effectively through public campaigns rather than direct lobbying. The result of all this activity, however, was a more repressive legislative regime against the prostitute. The participation of working women and the influence of a free-love tradition led the feminist movement to pursue goals of liberalized divorce and birth control -- as well as equal opportunity and women's unionization.

The French case illustrates the importance of control over the protective discourse for reform. The French state had a well-entrenched system of brothel regulation in place by the mid-1800s. Although both socialist and bourgeois feminists -- in league with Paris' liberal radicals -- campaigned against the system of regulation, they failed to effect its demise. The dominant bourgeois movement, influenced by its socialist sisters, campaigned for seduction legislation and the suppression of the infamous morals police but also for women's equal right to work and education.⁵¹ However, its anti-clerical and liberal rights stance earned it the enmity of the Catholic church which characterized the feminists as anti-family. A new organization of Catholic feminism developed

⁵¹. Claire Goldberg Moses, French Feminism in the 19th Century, (Albany: State University of New York Press, 1984), p.234. See also Alain Corbin, Women for Hire, Alan Sheridan, trans. (Cambridge, Mass.: Harvard University Press, 1990), pp.218-225.

which declared itself the "resolute enemy of free-thinking feminism".⁵²

This opposition, and a growing split between socialist and bourgeois feminists with the increasing numbers of working women in the late 1800s, lost the bourgeois movement much popular support. Although it had the ear of the government and succeeded in passing divorce and education laws, it was defeated in the end by a neo-regulationist lobby of doctors. The neo-regulationists successfully capitalized on the mood of French society by linking the increase in venereal disease to family break-ups and divorce, as well as to an eventual decrease in the population. The latter argument was particularly effective on the pro-natalist French state. The movement also advertised the horrible effects of venereal disease on "innocents" -- babies, children and virgins.⁵³ The doctors' lobby was soon joined, in the early 1900s, by a moral Catholic crusade. This new coalition focussed on the issue of child prostitution and the white slave trade -- both of which called for better regulation, according to the coalition. Young girls, it argued, needed the protection of the state in order to maintain their chastity; and the regulation of brothels helped to preserve that status.

⁵². Marilyn J. Boxer, "'First-Wave' Feminism in Nineteenth Century France: Class, Family and Religion," in Elizabeth Sarah, ed. Reassessments of 'First Wave' Feminism, (Toronto: Pergamon Press, 1982), p.553.

⁵³. Corbin, Women for Hire, pp.246-250.

The French situation, therefore, illustrates the importance of feminist control over the protective discourse. Such a discourse came to be used to entrench the system of state regulation rather than to further feminist goals. The situation in France also illustrates how the French feminists' particular network of allies -- although contributing to a more liberal position on prostitution -- failed to capture powerful groups of support, such as the medical profession and the moral and Catholic societies. Without a strong alliance between these forces, the more powerful of them was able to manipulate popular fear about venereal disease and white slavery to their own advantage.

These examples, then, illustrate the importance of contextualizing women's activity in shaping the politics of prostitution in terms of the political opportunity structures women faced -- even while noting the systems of race, class and gender into which they fed. The patriarchal system is not enough to explain the divergences in prostitution policy among different countries. Nor is the discourse of protectionism itself sufficient. Rather, the shape of the political struggle undertaken by political actors -- together with the discourses on which they drew -- must be analyzed in order to understand the shape of prostitution policy in the various countries.

The Politics of Prostitution in Canada: Chapter Outlines

In this thesis, therefore, I set out to look at the politics of prostitution on a number of levels. I challenge the notion that the way actors respond to the issue of prostitution is purely the result of the operation of ahistorical structures such as race, class and gender domination. Instead, in this study, I look at political actors as both subjective and the subjects of structures. Thus, I look at prostitution not only as a symbol, but as a lived reality reflected in subjectivities of the women of the time. As well, I place women's political activity within the context of the political struggles of the period. I see women's history and experience as integral to, rather than separate from, the history of the time. Thus, I explore the politics of prostitution as affected by broad political relations of race, class and gender. Therefore, in this thesis, I seek to understand why Canadian legislation concerning prostitution changed between Confederation and the First World War -- by looking at how and why women and other social groups organized around the issue of prostitution.

In chapter 2 I discuss some of the theories that have been put forward concerning agency and structure, the state and women in history and I outline the theoretical approach of this thesis. In particular, this study points towards a theory which is agency-driven, historical and specific. At the same

time, I emphasize the interaction between agents and structures. The state is seen as a not necessarily unified institution which responds both to its own internal demands (contradictory though they may be) and to the demands of society, as framed within the dominant political discourse. Finally, in this chapter, I outline various approaches to women's history -- drawing mostly on those which see women as historical agents within limited circumstances.

Chapter 3 is a survey of the federal legislation surrounding women, sexuality and prostitution in Canada at the time of Confederation. This legislation penalized prostitution as a status offence, based on an understanding of prostitutes as immoral individuals. The law also circumscribed the sexual freedom of non-prostitute women; and, therefore, shaped their approach to sexual issues in both personal and political life. This survey illustrates how the individualistic approach of early Canadian legislation failed to recognize the systematic oppression faced by women. Women's critique of the law, therefore, was based on a different vision of women that also was found in some legal practices -- woman as victim. Thus, the legal situation helped to shape women's approach to legislative change in the sexual sphere.

My purpose in chapter 4 is to examine the basis for women's organizing at the end of the 19th century, and to examine how their own particular opportunities for such

organization shaped their understanding of prostitution. I explore the development of the maternalism and the moralism of the English-Canadian women's movement by showing how this orientation made sense to the women involved. In addition to the legal space given to moral women, women were also able to draw upon their important social function as moral and "civilizing" influences in a pioneer society. As well, their changing socio-economic role during the transition to industrialization increased women's importance as mothers. Finally, women's role within religious circles as workers in benevolence and mission work provided a basis for an expanded public role for women with the approval of the church. All of these roles, however, carried linkages to structures of race/ethnicity, class and gender. As well, the hierarchical structuring of benevolent organizing shaped the approach of women's further political organizing and institutionalized the linkages to structures of race and class dominance.

In chapter 5 I concentrate on the political opportunities faced by women which allowed them to operationalize their new understanding of women's position. Women were able, as moral mothers, to draw upon the resources of the temperance movement which sought to reform society through education and environmental changes by the state. Women became a critical part of the temperance movement by weaving their maternal feminism into the environmentalist and state-oriented discourse of the temperance movement. I examine now women's experience and

political opportunities shaped the organization of the Women's Christian Temperance Movement and the Young Women's Christian Association; and how these organizations contributed to the discourse on prostitution. The second half of the chapter examines the changes in the legislation governing women's sexuality and prostitution in the period of 1884 to 1892. These changes were brought about, for the most part, through male social reformers with strong connections to the evangelical Protestant churches -- although not without the discursive support of the newly formed women's organizations.

As I will demonstrate, these actors reflected the changing class-base of Canadian society as industrialization progressed. The social reform project was an important part of middle-class self-definition. Middle-class feminism was, therefore, part and parcel of the social reform movement. Women were not in the leading positions in the movement, and the problems identified by the movement were mostly male-defined; but women's involvement gave them a relatively powerful position in society. However, this involvement also reinforced the middle-class bias of the women's movement. This bias was sustained by the weakness of labour forces in the mainly rural Canadian polity. Labour often turned to the social reform and women's movements for allies. The dominant approach for dealing with prostitution was framed in the language of the social reformers, backed by the church, rather than that of the unions.

This approach led to a particular bent in the legislation of the period of 1884-1992. The legislation reflected the concerns of male social reformers who wished to protect women from procurers and brothel-keepers. It de-emphasized dealing with prostitutes themselves and saw them in a more victimist light. Unions, too, campaigned for legislation which protected women, having accepted that women's true and proper place was in the home -- an argument that fit with the unions' narrow craft base. The debate in the House of Commons, however, showed that the legislative arm of the state was as yet to be convinced of the desirability of a protective approach. A variety of discourses on women's sexuality and culpability continued to exist. The bureaucracy, nevertheless, was more open to such change.

Chapter 5, therefore, is a study of the struggle to provide the dominant framework for understanding women, particularly women in prostitution. The growing control of this framework by middle-class, male social reformers explains, in part, why the women's movement's ignored class issues in analyses of prostitution. Without a strong labour ally, particularly labour women, the middle-class women were not challenged to look outside their own class interests. At the same time, middle-class women's own particular perspective on sexual issues -- particularly their sexual fears -- made the protective approach seem beneficial for all women.

In chapter 6 I examine the culmination of the dominance

of the discourse on sexual morality and prostitution by middle-class reformers in the white slavery scare of 1909 to 1913. The strength of this approach resulted in the protectionist legislation of 1913. I examine the importance of the social reform project -- and its establishment of an active sexual morality -- both for women and for the formation of Anglo-Saxon, middle-class and, hence, "Canadian" identities. On the organizational front this reform project was carried out by women's groups, as well as other reform groups and churches. In this chapter I look at the rise of the National Council of Women of Canada in its role as the national voice of women and in its place in the reform movement. The social reform alliance, however, was led most importantly by the churches whose new "social gospel" approach further usurped class-based analysis. Labour, therefore, maintained its weak position and continued to look to the reform movement for allies. The unions also continued to ignore their own female members and looked instead to middle-class reform women for advice on women and labour. Once again, without female working-class allies, the feminists took a moralistic approach to the problems of working women. Middle-class women often became mediators between the middle-class and working-classes in interpreting women's situation, particularly that of working-class women.

The white-slavery scare of 1909 to 1914 reflected all of the aspects of race/ethnicity, class and gender which had been

drawn into the prostitution debate by the social reform alliance. Although the feminists tried to stress other causes and cures for prostitution, the main thrust of reform's analysis was to reduce prostitutes and potential prostitutes to innocent and naive children. These "victims" were (or could be) kidnapped by procurers (often understood to be Asian) and forced into prostitution, once outside the protection of the family. The result was a state response in 1913 of very protectionist legislation that addressed neither the issues of economic distress nor the desire for individual freedom as causes of prostitution. Eventually, this meant a more protectionist stance by the state towards all women -- to the point where feminists and reform-workers themselves were discredited as providers of protection for other women.

In chapter 7 I draw together the main arguments of this thesis by discussing how the politics of prostitution that developed in this period represented both women's needs and fears, and these politics helped to establish race and class dominance in Canada. I also discuss how, in this process, prostitutes and "potential prostitutes" were denied any sense of subjectivity. Instead, they were seen as victims who needed protection. This status of victim was derived from -- and sustained by -- the lack of voice of prostitutes, working-class and minority women in defining the approach to prostitution. The experience of women that was generalized within the social discourse was dominantly that of Anglo-Saxon Protes-

tant, middle-class women supported by middle-class reformers and the church. The chapter concludes with a discussion of the implications of the protective approach for the state.

This thesis, then, provides a political analysis of the past which reinterprets other historical or political analyses. By closely examining the formation of the approach informing prostitution policy in Canada during the period of early feminist organizing, I make an argument for an analysis which sees both actors and structures, and which sees women as an integral, and active, part of politics. The limitations of such a study are many. Because of the focus on federal legislation, the experience of Canadian women has been generalized at a national level. A more comprehensive study would require closer attention to differences among women in various provinces, especially Quebec, and to the different experiences of women of colour, and working-class women. I do not set out to discuss the conditions or causes of prostitution in Canada in this period. Nor do I go into depth on the experiences of marginalized groups in Canada who were so affected by this legislation. Here, too, more study is required. The drawback of my approach is to reproduce the history of the dominant rather than the dominated. Indeed, I focus on Anglo-Saxon, Protestant, middle-class women in an attempt to contextualize their contribution to race and class dominance as they fought for some kind of freedom for women. Where possible, however, the resistance and active history of

those affected by social reform activities have been noted.

Chapter 2: Theory

The theoretical perspectives informing this paper are many and varied. The works I rely upon the most take a comprehensive approach which includes both agency in particular historical locations and structures over time. They look at the politics of race and gender as well as class. The approaches taken in these works are part of an attempt to critique structuralism, to de-centre the state and to go beyond economic determinism to look at discourse and meaning. The need for such a multi-faceted approach to history was identified by Linda Gordon in her discussion of welfare history. She suggests that a better history requires a synthesis of various approaches. In order to produce such a history, she writes:

[o]ne need is a better specification of the balance between "structure and agency", that is, between the long-term economic and ideological patterns that organize societies and the more short-term influence of political elites and political subordinates. More particularly this will require synthesizing structural and functionalist critiques of the operation of welfare programs with detailed histories of their development. It will require rejecting determinist models of historical narrative that assume that final outcomes were somehow inevitable and that defeated proposals were ipso facto impossible, it means writing history with foresight as well as hindsight, so to speak, from the vantage point of participants who did not already know the outcome. Another need ... is the fuller

integration of activity among minority groups and the influence of racial attitudes and practices throughout the society. This must, furthermore, identify the important differences among the experiences of various minority groups.... These two needs in turn suggest a needed advance in gender analysis: examining not only the relationships between women and other family members, and between women and the state, but among women as well.⁴

This kind of approach applies as well to prostitution policy as to welfare policy. Because of prostitution policy's intimate link with sexual issues, understanding requires a theory which sees both subjectivity and structures. Because sexual regulation has much to do with race (including ethnicity, language and religion), gender and class regulation these three components must be included as well. Because this regulation is carried out --at least in part -- by the state, the state too must be included. Gordon's statement is a call for a more integrated approach to history in general -- a history which is agency-driven, yet aware of structures, which is particular and historical, and aware of broad patterns, and which sees the connections between race, class and gender politics, as well as the divisions among and within them. Such an integrated approach is a long way from earlier approaches and requires that a broad range of theories be drawn from. Therefore, in this chapter I will trace the nature of the debates over structure and agency, the role of the state or

⁴. Linda Gordon, "The New Feminist Scholarship on the Welfare State," in Linda Gordon, ed., Women, the State, and Welfare, (Madison, Wisconsin: The University of Wisconsin Press, 1990), pp.29-30.

state institutions, the role of women in history, and their importance for the project at hand.

Making History: Approaches to Agency and Structure

One of the most important projects of the social sciences is to explain how history is made. While early theorists often assumed that the world around them was the natural and inevitable outcome of particular processes, this assumption came to be questioned in the post-war world. Marx's assumption that the revolution would someday come was not being played out as capitalism continued to grow and prosper and the working classes failed to "rise up". As well, the liberal declaration that "man" was on a particular path of development and progress was challenged by the questions of those who did not seem to be included in this march of progress. The continuing poverty of third-world countries, exploitation of workers and oppression of women and people of colour contradicted the notion of history as the story of inevitable progress. The project of writing history, therefore, became less one of tracking progress than one of explaining the failure of humankind to achieve this progress and, eventually, to question the viability of a concept of "progress". In this process, history became a more open-ended project with no pre-determined or necessary end shaped both by structures and agents working with and against each other.

Some theorists explained the failure of progress by looking at the social structures which continued through time. Their history became ahistorical rather than teleological. For feminists, the concept of patriarchy as an overarching structure throughout all history explained the oppression of women in all times and spaces.⁵⁵ This approach was quickly challenged for its victimism and ignorance of the operation of class and race. Marxist structuralists attempted to explain the tenacity of capitalism, while addressing the disjuncture in Marx's work over the question of historical change. Marx had oscillated between structures and agents as the motors of history, first explaining change as the result of a contradiction between the forces of production and the relations of production and then as the product of class struggle.⁵⁶ Going beyond Marx's economism, Marxist structuralists, like Louis Althusser, explained the continuity of capitalism through ideological apparatuses which maintained the capitalist system.⁵⁷ This sort of approach rejected the idea of agency in history and pointed to deterministic structures -- structures which determined subjects and in no way were created or

⁵⁵. See Mary Daly, Gyn-Ecology: The Metaethics of Radical Feminism, (Boston: Beacon Press, 1978). Shulamith Firestone, The Dialectic of Sex, (New York: Morrow, 1970); or Kate Millett, Sexual Politics, (New York: Doubleday, 1970).

⁵⁶. Perry Anderson, In The Tracks of Historical Materialism, (London: Verso, 1983), p.34.

⁵⁷. Quentin Skinner, The Return of Grand Theory in the Human Sciences, (1985), chapter 8.

controlled by them. Such an approach failed, however, to address the problem of change or to account for the variations among capitalist systems. It also discounted the capability, creativity and knowledgeability of human actors.

Both coming out of -- and responding to -- structuralism, poststructuralism concentrated on language and discourse. The early poststructuralism of Foucault, Derrida and Lacan bore a close resemblance to structuralism proper with its dismissal of agency. By expanding the concept of power, Foucault was able to re-insert some agency by arguing that agents resist structures. These structures are constructed, however, through discourses apart from agents. It is these discourses, therefore, which have power. In this way, power becomes agentless and directionless and exists only as sheer will. Such an all-pervasive will must generate its own opposition -- hence, resistance by subjects.⁵⁸ However, because causality disappears from history in the post-structuralist world, there is little reason for agents to struggle at all.

Despite this limitation, many feminists and social historians have drawn on Foucault's concept of resistance to explore the histories of oppressed groups in order to see these groups not only as victims but as actors. As well, structuralist and poststructuralist schools emphasised the importance of discourse and meaning in history. Discourse analysis allowed an examination of the politics of knowledge

⁵⁸. Anderson, Historical Materialism, p.51.

and meaning production. Historical "fact" could be viewed, in part, as historical "fiction" -- analyzed for both what it concealed as well as revealed. The emphasis on discourse harked back to earlier theoreticians like Weber who pointed to the importance of ideology, as well as economics, in explaining history.

According to some critics, however, in extrapolating from linguistic theory to social theory -- and, indeed, coming to see language as entirely self-explanatory and as a explanatory metaphor for social events -- this poststructuralist tradition denied the possibility of truth and the fixity of meaning. As well, the post-structuralists' approach lost explanatory power through their replacement of causality with classification.⁵⁹ Post-structuralist history became chance with no discernible direction at all. And, finally, the collapsing of structure and subject into one another in post-structuralism did not produce, according to Perry Anderson, a pure structure but destabilized the concept of structure itself. By making structures entirely self-referent and freed from any subject, as in Derrida, structures lost their definition as structures and become "absolute chance". The lesson, Anderson points out, is that subjects and structures have always been interdependent categories.⁶⁰

The structure/agency debate has, of course, been import-

⁵⁹. Anderson, pp.46-49.

⁶⁰. Anderson, pp.50-54.

ant within feminist scholarship as well. Early feminist scholarship on women looked at gender oppression, or patriarchy, as the fundamental determinant of women's position. Women's historical past, therefore, was seen as a function of the operation of patriarchy. The system of patriarchy was reproduced through the institutions of the state and the family, and eventually embedded in the psyche.⁶¹ For women to break out of their oppression they would have to challenge these institutions. While some, like Kate Millett, argued that patriarchy was found in the realm of ideas (and could therefore be combatted by newer ideas); others, like Shulamith Firestone, looked to women's biology as the root of their oppression -- an approach which doomed women to oppression.⁶² Only once women were no longer burdened with biological reproductive tasks through technology would they be freed from their subordination.

These radical feminist analyses were important in establishing the gender system as fundamental in shaping history. Critics, however, pointed out that such analyses failed to see the importance of other systems of oppression such as those organized around race, class, and ethnic identity. Looking at women's history as a process of finding the roots of patriarchy also fell prey to the difficulties of structuralism. In this vision of society women were only victims and not actors,

⁶¹. See Millett, Sexual Politics.

⁶². See Firestone, The Dialectic of Sex.

an approach which seemed to support sexist, racist and classist notions. The reliance on an ahistorical structure of patriarchy gave this approach little explanatory value for the variations among women's situations in different historical junctures and gave little credence to women's capabilities as actors.

Anthony Giddens responded to the lack of agency in both structuralism and functionalism by introducing the concept of the dialectic of control. These schools of thought, he argued, refused to treat human beings as "knowledgeable, capable agents".⁶³ Actors, according to Giddens, no matter how seemingly powerless, always have some control; because they are part of a social relationship and are never wholly dependent. Rather they are always able to mobilize some resource to "carve-out 'spaces of control' in respect of their day-to-day lives and in respect of the activities of the more powerful".⁶⁴ Giddens links agency to structure through the process of structuration wherein the activities of actors, in drawing upon certain rules and resources, contribute to the production and reproduction of social systems.

For Giddens, structure is as much internal as external, because it is reproduced by actors through social practices based on memory traces. The knowledge of human actors in being

⁶³. Anthony Giddens, Profiles and Critiques in Social Theory, (London: Macmillan, 1982), p.199.

⁶⁴. Giddens, Profiles, pp.197-198.

able to "go on" in daily living is integral to the "persistent patterning of social life", that is, to structures. Thus, "structure has no existence independent of the knowledge that agents have about what they do in their day-to-day living".⁶⁵ The activities of these agents, however, create unintended consequences which condition future action. According to Giddens:

Human history is created by intentional activities but is not an intended project; it persistently eludes efforts to bring it under conscious direction. However, such attempts are continually made by human beings, who operate under the threat and the promise of the circumstance that they are the only creatures who make their 'history' in cognizance of that fact.⁶⁶

Giddens thus avoids the tendency of functionalism and structuralism to look for the "origins of [agents'] activities in phenomena of which these agents are ignorant" while, at the same time, resisting the tendency of other schools of thought to discount structures completely and view society as the "plastic creation of human sul_acts".⁶⁷ He reaffirms the power of the agent and the ingenuity and creativity of humans. Giddens' emphasis on human subjectivity overcomes the condescension of the "false consciousness" explanation of human activity.

⁶⁵. Giddens, "Elements of the Theory of Structuration," in The Constitution of Society, (Cambridge: Polity, 1984), p.26.

⁶⁶. Giddens, "Structuration", p.27.

⁶⁷. Giddens, "Structuration," p.26.

In response to the ahistorical approach of structuralism new approaches to history began to emphasize the importance of specificity in time and space in order to explain differences in patterns of development. History thus abandoned teleology, and was seen instead as being constructed in each particular time and place. Post-Althusserian regulation theorists proposed that the continuation of capital was not inherent within capitalism itself; rather the reproduction of capital was a problem to be resolved in each historical moment.⁶⁴ In addition, some theorists of this school problematized the constitution of social actors, rather than assuming that their identities were inherent and pre-existing. Such an approach emphasizes the importance of agency and subjectivity. This approach responded to the growing influence of post-structuralists and post-modernists whose emphasis on discourse questioned the identity of the "subject".

Feminists, faced with the critiques of the totalizing discourse of gender, used the methods of deconstruction to disaggregate terms such as "women" to disclose who precisely this refers to and uncover the hidden biases (often white and middle-class) in the category.⁶⁵ Such an approach was import-

⁶⁴. Rianne Mahon, "From 'Bringing' to 'Putting': The State in Late Twentieth-century Social Theory," Canadian Journal of Sociology, 16.2 (1991), p.128.

⁶⁵. Judith Butler, "Contingent Foundations: Feminism and the Question of 'Postmodernism'," in Judith Butler and Joan W. Scott, eds., Feminists Theorize the Political, (New York: Routledge, 1992), pp.15-16.

ant, therefore, in uncovering the power structures hidden in language. However, it was also strongly criticized for its "nihilistic" tendencies which reduced everything to discourse and denied the reality of experience.

Jane Jenson looks at both lived experience and discourse in her analysis. Jenson examines how the stabilization of social relations occurs and how such structures of social relations continue across time -- even though they are not perceived by actors as structures. Jenson's approach grants legitimacy to both structures and the lived experience of agents by looking at actors as simultaneously subjects of structures and acting subjects. The structure of social relations, therefore, may be both a structure and a terrain in which actors make change. Possibilities for such change, as well as stability, are carried in the practices and meaning systems of actors. Thus, the political action of actors contributes to social relations being in regulation or in crisis.

The subjectivity of the actor is also restored in Jenson's work. In the world of politics, actors struggle for political representation in the "universe of political discourse, a space in which socially-constructed identities emerge in discursive struggle".⁷⁰ These struggles are part of the process of reproduction of power relations based on

⁷⁰. Jane Jenson, "Paradigms and Political Discourse: Protective Legislation in France and the United States Before 1914," Canadian Journal of Political Science, 22.2 (June 1989), p.238.

difference. The actors who contribute to the institutionalization of meaning systems through a societal paradigm which becomes dominant will be the most powerful. Different identities and meanings are marginalized once a hegemonic societal paradigm is created. Jenson thus rejects the idea that identities are in any way imposed by structures and focuses on the subjectivities of actors.⁷¹

The debate over agency and structure in recent years has yielded important new insights into the interaction of agency and structure. It has also produced new understandings of history as specific and open-ended. In this paper, I draw on these new insights by rejecting the argument that laws around prostitution are the product of patriarchal reproduction of the double moral standard which would not explain, for example, the change in approach to prostitution between Confederation and the First World War. Instead, I look at the participation of actors in shaping this change even as they drew on meanings and practices which linked them into broader social structures. I rely on all these approaches which give emphasis to the daily lives and subjectivities of actors and by looking at these actors as "knowledgeable, capable" beings. Women, for example, are seen as having some power within their own lives, no matter how limited it may be. Structures are seen as both enabling and constraining in giving actors opportunities to appeal to larger social discourses. Actors

⁷¹. Jenson, "Paradigms," pp.235-240.

are also seen as being able to subvert practices and meanings to serve their own needs and reflect their own lived experience even while they are constrained by them. Discourse, therefore, is not seen as an autonomous structure unreflective of experience. Thus, while the lesson of poststructuralism is taken into account, and the question of "whose" experience is being articulated is constantly asked, the validity and reality of that experience for those actors is not denied but is made central to the analysis.

Such an approach begins to address Gordon's call for a more integrated analysis. It includes the divisions between and among women, in particular. It sees the importance of lived experience and subjectivity. And it sees history as open-ended and as constructed by actors in particular times and places, and yet it is aware that "not everything was possible".⁷²

Theories of the State

The role of the state in history has also been a fiercely contested issue. In pluralist versions, the state has simply been reflective of the strength of particular social groups at particular times. Other theories challenged this view and looked to prove how the state operated to reproduce relations of domination in society. For feminists, the state acted to

⁷². See Jenson, "Paradigms," p.236.

enforce patriarchy, often in conjunction with race and class oppression. In Marxist versions of the state, the state has acted historically as the executive arm of the bourgeoisie.

How, precisely, the state has carried out its functions has been the subject of many different theories within the Marxist school. For Althusser, the state's most important role is carried out through its "Ideological State Apparatuses" (particularly education) which reproduce the relations of production. By subjecting themselves to the ideology produced by these apparatuses, individuals are defined within society.⁷³ Drawing on the structuralism of Althusser, Nicos Poulantzas argued that the state serves to organize the diverse factions of the capitalist class, while disorganizing the working class. The state, therefore, has a degree of relative autonomy from the capitalist class.

Poulantzas' characterization of the state was challenged by Ralph Miliband who argued that the state operated on behalf of the capitalist class because of the individuals occupying positions within the state who, by virtue of their backgrounds, were first concerned with the maintenance of capitalism. Whether by personnel or by structural necessity, both views agreed that the state functioned to work in the interests of capital.⁷⁴ Drawing on the terms of this debate, Claus

⁷³. Martin Carnoy, The State and Political Theory, (Princeton, New Jersey: Princeton University Press, 1984), pp.89-127.

⁷⁴. Mahon, "From 'Bringing' to 'Putting'," p.121.

Offe suggested that the state actually has two competing interests: both to provide for the conditions of accumulation [because of the state's (or state personnel's) dependence on capitalist accumulation for its (their) survival], and to legitimize that function by disguising it from the general public in order to maintain political power. Such a functionalist approach, others have pointed out, ignores the "strategic intelligence" of governments and state agencies.⁷⁵ Nor does it illustrate how or why a state would react in a particular manner. The brush strokes of functionalism remain too broad.

Feminists, too, were involved in this debate over the role of the state. Their major concern was with the state's (particularly the welfare state's) role in reproducing women's oppression. The attempt to squeeze women into Marxist theory, however, seemed to deny the importance of gender as a distinct system and instead, reduced gender oppression to a function of the system of production. Some Marxist feminists, therefore, took the "dual systems" approach to women's oppression, seeing it as the result both of systems of capitalism and of patriarchy unified in the state. This approach also proved unsatisfactory because it reduced one category or the other to a residual category. Other Marxist and socialist feminists have moved between two other approaches to the state -- that which

⁷⁵. David Held and Joel Krieger, "Theories of the State: Some Competing Claims", in Steven Bornstein et. al., eds., The State in Capitalist Europe, (London: Allen, 1984), p.18.

sees the ideological remnants of pre-capitalist patriarchy as responsible for the oppression of women and that which sees women's oppression as resting on a material base, particularly child-bearing.⁷⁶ On their own, either one of these theories becomes too reductionist, basing women's oppression either an ideological or a material base.

Dual systems theory was used by Zillah Eisenstein to explain the role of the modern welfare state in women's oppression. Eisenstein argued that the state's role is to mediate the needs of the systems of capitalism and patriarchy. The state was built on the separation of public and private spheres. Meeting the needs of both capitalism and patriarchy, however, has required that the state intrude on the private sphere through its welfare activity, while, at the same time, it attempts to maintain this division. The contradictions inherent in the welfare state's position provides room for women to force fundamental change.⁷⁷ Mary McIntosh's explanation of the state's contribution to women's oppression took a more unified approach. The state contributed to women's oppression through its role in the maintenance of a family household dependent on a male wage and female domestic labour. This household system maintains women as a reserve army of

⁷⁶. Jane Jenson, "Gender and Reproduction: Or, Babies and the State," Studies in Political Economy, 20 (Summer 1986), pp.23-24.

⁷⁷. Zillah Eisenstein, The Radical Future of Liberal Feminism. (New York: Monthly Review Press, 1981).

labour and provides for the reproduction of the working class.⁷⁸

Jenson's critique of McIntosh points out that such an approach assumes that the capitalist state has a necessary role to play in gender oppression and links the needs of capital directly to the state without giving the state any sense of autonomy from economic forces.⁷⁹ It also assumes that women are necessarily the ones required by capital to do domestic labour and that the private/public division of labour has continued unchanged through time since the inception of capitalism. Jenson's main point is that although the state may be abstractly designated as contributing to the reproduction of the mode of production and to women's oppression, how precisely it does this is not pre-determined but can only be found in the political struggles of particular times.⁸⁰ A similar critique is found in the work of Robert Connell. Connell argues that the state is not inherently patriarchal (unlike the radical feminists) but it is historically constructed as patriarchal in a "political process whose outcome is open".⁸¹ The state is at "the centre of a reverberating set

⁷⁸. Mary McIntosh, "The State and the Oppression of Women," in A. Kuhn and A. Wolpe, eds., Feminism and Materialism, (London: Routledge, 1979), p.255.

⁷⁹. Jenson, "Babies and the State," p.10.

⁸⁰. Jenson, "Babies and the State," pp.11-14.

⁸¹. R.W. Connell, Gender and Power: Society, the Person and Sexual Politics, (Cambridge: Polity Press, 1987), p.129.

of power relations and political processes in which patriarchy is both constructed and contested." However, the state does play a vital role in constituting social categories and thus the interests at play in sexual politics which in turn react on the state. The power of the state, therefore, is of strategic importance.¹² The interests and identities constituted by the state may be able to their (negatively or positively) "legitimated" identity to make demands on the state. This can be seen in women's claiming of their victimised status.

The "social control" approach to the welfare state that came out of neo-Marxism and was adopted by feminists like Eisenstein and McIntosh, also obscured women's activity and agitation for welfare policies. Such an approach tends to posit women as victims rather than agents, dominated and controlled by the male state. Catherine MacKinnon took this pessimism about the state to new heights by arguing that the state is essentially a "male" state which views and treats women as men view and treat women. Male dominance is institutionalized through laws which adopt male epistemology disguised as "neutrality".¹³ The "social control" approach provided a much needed critique of modernization theorists who saw the welfare state as a logical response by the state to

¹². Connell, p.130.

¹³. Catherine MacKinnon, Towards a Feminist Theory of the State, (Cambridge, Massachusetts: Harvard University Press, 1989).

the difficulties of an increasingly complex society or the functionalism of Talcott Parsons -- who saw the welfare state as a progressive and conflict-free transferral of functions from the family to the state. However, as the neo-institutionalists have pointed out, the "social control" approach presents the state as a passive tool of larger interests.⁴

The Marxist and Marxist-feminist approaches to the state were challenged by the neo-institutionalist theorists of the 1980s. Neo-institutionalists such as Theda Skocpol challenged the functional assumption in neo-Marxist state theories that the state inherently knew, and was capable of responding to, the needs of capital. Skocpol contended that the actions of states could be accounted for by the need to maintain order, by states' particular extra-national orientations and by the resources available to officials. Skocpol's state-centric approach criticized the society-centred (or economy-centred) analyses of neo-Marxists, and instead looked at how the activities and structures of states influenced collective social action. Skocpol's analysis allowed for variation among states through time and space and across policy areas. No one grand theory of the state, according to Skocpol, could account for these specificities and differences in state action.

⁴. Linda Gordon, "The New Feminist Scholarship on the Welfare State," in Linda Gordon, ed. Women, the State, and Welfare, (Madison, Wisconsin: University of Wisconsin Press, 1990), pp.15-16.

Skocpol's analysis, however, erred too far on the side of state-centric explanations, by ignoring the contribution made by economic and social factors. Her state-centric approach to welfare state development also obscured non-governmental activism.⁵⁵

Other neo-institutionalists, such as Peter Hall also emphasized the importance of variation among states -- although not with the same state-centric approach as Skocpol. Hall looks specifically at the organization of labour and capital in particular states to account for differences among economic policies. Hall sees the state as a "distorting mirror" which combines and changes the interests of groups by its imprinting of its own interests and organizational characteristics.⁵⁶ The state is thus more than the "condensation of class forces" put forward in Poulantzas' later position on the state. In Hall's rendition of state activity "the institutions which organize inter-group relations act as a kind of social memory, imprinting the conflicts of the present with the institutional legacy of the past".⁵⁷ Institutional orders thus become power bases distinct from the economic base. The "institutional inertia" of this view,

⁵⁵. Gordon, p.17.

⁵⁶. Peter Hall, "Patterns of Economic Policy: An Organizational Approach," in Steven Bornstein, David Held and Joel Krieger, eds., The State in Capitalist Europe: A Casebook, (London: Allen, 1984), p.24.

⁵⁷. Hall, p.25.

however, makes it difficult to use in explaining crisis periods.⁸⁸ On the other hand, such an approach would seem to be particularly fitting for explanations of court and legal practices. Hall's approach also leaves more room for social influence on state activity.

Women's role in shaping the (welfare) state is also drawn out in new feminist work on the establishment of the welfare state. Non-feminist scholarship on the state, it has been pointed out, have relied on male models of political behaviour and male-focussed welfare policies and have ignored women's role in shaping welfare policy.⁸⁹ Linda Gordon has looked at the activism of the clients' of the newly emerging welfare state in the United States.⁹⁰ The maternalist approach taken by middle-class women activists also indicates a sense of power rather than victimization on the part of these women. Indeed, feminist scholars have begun to trace the role of women in bringing about the welfare state. Carolyn Andrew, for one, points out that if the welfare state is viewed as the state's taking over of the reproduction of the labour force, women's welfare and reform activity for the amelioration of the living conditions of working women and children in late

⁸⁸. Mahon, "From 'Bringing' to 'Putting'," p.124.

⁸⁹. Seth Koven and Sonya Michel, "Maternalist Politics and the Origins of Welfare States in France, Germany, Great Britain, and the United States, 1880-1920," American Historical Review, 94.4 (October 1990), pp.1180-1181.

⁹⁰. See Linda Gordon, Heroes of their Own Lives: the Politics and History of Family Violence, (New York: Viking, 1988).

19th century Canada was essential in laying the groundwork for state involvement. Women's groups also directly pressured the government to become involved in social issues. Andrews borrows from Jenson in contending that women's goals were framed by the current universe of political discourse which defined women in terms of the family role. Thus, women's activities within the state have tended to reflect this orientation, hence women's predominance in the "caring professions." These particular positions, however, tend not to be the more powerful ones and women remain in a subordinate position.⁹¹

Anne Showstack Sassoon also looks at women as actors in shaping the welfare state. In this Gramscian approach, the state expands in response to social needs brought about by economic development and articulated by social actors. The state is not an instrument of a certain class, nor can state policy be seen as the outcome of rational design. Rather, the state responds to problems emanating from social development and the resultant "organic crises". Women's changing position in developing industrial capitalism forms this sort of organic crisis, according to Showstack Sassoon. Following Gramsci, however, she feels that it is important to understand these contradictions by examining how women cope with them and how this coping in their everyday lives contradicts hegemonic

⁹¹. Caroline Andrew, "Women and the Welfare State," Canadian Journal of Political Science, 17.4 (December 1984), pp.667-683.

social ideas about women's roles. She also asks, however, why women accept these given roles (when they do), what it is they get out of them, and how these roles both constrain them and provide space for change.⁹² This approach gives an important sense of women's activism both vis a vis the state and their social roles.

The regulation school took up the demand for more agency in theories of the state. In this it answered to the neo-institutionalists and their emphasis on variety in the organization of capitalist societies. In this school, various regimes of accumulation and modes of regulation define the particularity of specific times within the capitalist mode of production. There is no assumption that capitalist reproduction moves forward necessarily; rather reproduction is a problem to be addressed at every stage. Thus the struggles of classes and other agents are important in determining how this problem will be solved at any particular point in time. Regulationists, therefore, respond to the critiques of earlier theories which called for greater agency and the "de-centring" of the state. The state in regulation theory is one institutional site among many in the mode of regulation. Whether or not the state is important is left to empirical investigation.

⁹². Anne Showstack Sassoon, "Introduction: The personal and the intellectual, fragments and order, international trends and national specificities," in Anne Showstack Sassoon, ed., Women and the State, (Boston: Unwin Hyman, 1987), pp.16-21. See also her "Women's new social role: contradictions of the welfare state", in the same volume.

The danger, according to some, is the possibility of seeing the state only as an important site for economic regulation -- while missing its role in political regulation."

Bob Jessop's approach to the state sees a relationship between political and economic systems, although he sees the systems as essentially autonomous. Through "structural coupling", one system may respond to problems in the other system -- although on the former's own terms. Alternatively, the political system may respond to the economy (or vice versa) through "societal guidance", wherein one system attempts to regulate the other by forming its own model of how the other system operates and then designs policies to elicit the response it requires. Through societal guidance the state can regulate and obtain the consent of civil society. The effectiveness of this regulation depends as much on state strategies as on its structures. Thus, there is no guarantee of the victory of dominant social forces; instead, other social actors can -- if they choose the correct strategies and understand the possibilities opened up within state structures at any particular time -- influence the state.⁹³ Jessop, therefore, allows for both agency and structure in state activity. The constitution of social actors, however, remains problematic -- an issue taken up by Jenson. According to Jenson, the inferior position of women, for instance, can only

⁹³. Mahon, "From 'Bringing' to 'Putting'," pp.127-129.

⁹⁴. Mahon, p.135-137.

be socially constructed. Thus, Jenson herself looks not at the basis of difference or oppression but the constitution of difference in particular historical formations."⁵

Jenson, like Jessop, deals with the political role of the state. She pictures the state as a site "crossed" by the forms of domination present in the discourses of agents struggling for representation.⁶ The policies and activities of the state reflect the universe of political discourse and the particular stage of capitalism in which the state finds itself.⁷ Jenson, therefore, looks at the differences in welfare policies among states as reflective of their varying universes of political discourse. Agents who are able to manipulate the terms of the dominant discourse are most likely to influence the shape of legislation.⁸

Mariana Valverde and Lorna Weir add to the debate on regulation by introducing the category of "moral regulation", an important concept in dealing with women's political activism at the turn of the century. Valverde and Weir "de-centre" the state to some degree by pointing out that this type of regulation, particularly in liberal democratic states, needs to be carried out by extra-state agencies because such states are committed to the maintenance of a "private sphere".

⁵. Jenson, "Babies and the State," p.26.

⁶. Jenson, "Babies and the State," p.27.

⁷. Jenson, "Babies and the State," p.41.

⁸. See Jenson, "Paradigms and Political Discourse".

Thus regulatory practices, hidden in discourses, may be multi-locational and contradictory. By focussing on the relationship between regulation and resistance, Valverde and Weir argue, the dialectical relationship between the two may be exposed. Thus, although resistance may be shaped by the form of moral regulation it opposes, the shape of that regulation (its problematic, definitions and terminology) may be shaped by that resistance."

In this thesis I draw both on Jenson's work and on the neo-institutionalists'. In part, I see state policy as the result of societal struggles over meaning and representation. This is particularly true, as Mariana Valverde has pointed out, in liberal democratic states such as Canada when dealing with issues of moral regulation because of their liberal democratic nature. There are internal struggles in the state as well, however, over these same meanings and discourses. The various locations within the state can have different concerns and interests both from each other and from society. On this count, Judith Allen has argued that feminism does not require a theory of the state because of the non-specificity of such a concept. Instead, she argues "the state" should not be studied as a whole, but should be disaggregated. Feminists, therefore, should look at the police, the bureaucracy, the

"Mariana Valverde and Lorna Weir, "The Struggles of the Immoral: Preliminary Remarks on Moral Regulation," Resources for Feminist Research, 17.3 (September 1988), pp.31-34.

courts, the government etcetera in their historical specificity.¹⁰⁰ These interests mean the state will not simply take up the call of the most powerful societal voices. Indeed, the state may interpret these demands in such a way as to make them "fit" with the state's (or a particular part of the state's) interests, as is suggested by Hall's "distorting mirror". The organization of the state and society is important in determining social actors' opportunities of being heard within the state and, alternatively, actors' openness to state direction. Therefore, in this paper I look at networks of alliances among social actors and institutions, including the state. In all, the relationship between the state and society is seen as a dialectical one.

Gender and History: The Subject, the State and Sexuality

Although many radical feminists would show women as victims throughout history, the turn of the century shows a period of hitherto unknown women's activism. The issues around which they organized were often explicitly sexual -- prostitution, reproduction, sexual morality, marriage and divorce. Dealing with sexuality calls for an approach which pays close attention to subjectivity and experience as well as discourse. It also requires an understanding of the state whose control

¹⁰⁰. Judith Allen "Do We Need a Theory of the State", in S. Watson, ed., Playing the State: Australian Feminist Interventions, (London: Verso, 1990).

of women has often been through the medium of sexual regulation.

In both Marxist and non-Marxist feminist theories the state plays a key role in legislating and controlling women's sexuality in order to control their reproduction. Gerda Lerner's history of the creation of patriarchy makes this crucial link very clear by noting how control of women's reproduction and, therefore, their sexuality, is also linked to the class distinction of women. The state, she argues, is founded on this original division of women and ensures the continued control of their sexuality. In this she refutes Engels' approach to the origin of women's oppression in the rise of private property. Instead, she sees women's oppression as the basis for class and race oppression.¹⁰¹

State control of sexuality has been posed in a different way by radical feminists. Catherine MacKinnon argues that sexuality is to feminism as class is to Marxism. While class may be the basis of (working-class) men's oppression, the basis of women's oppression is sex. To overthrow the system of sex oppression, women need to mount an epistemology based on women's subjectivity which challenges the claims of "neutrality" of the laws of the male state. MacKinnon sees sex as part

¹⁰¹. It is only through women's subordination that agricultural production could be developed for exchange, an exchange governed by the ancient state, who in turn develop the bureaucratic powers of monopoly on writing and cultural symbols, apart from women. Gerda Lerner, The Creation of Patriarchy, vol.1, (New York: Oxford University Press, 1986).

of the practice of male domination both in experience and in mental constructs. Women with anti-feminist views on sexuality cannot be rejected, according to MacKinnon, on the basis of "false consciousness" -- or accepted on the grounds of "free choice" -- but must be seen as reflecting male epistemology. By developing a female epistemology from women's "standpoint" such dualistic, subject/object divisions are undermined.¹⁰²

Radical feminist accounts of this type have often been taken to task by other feminist theoreticians and historians, most obviously for their reductionism and oversimplification but also for their essentialism. While such accounts obviously have great difficulty in positing an essential female subjectivity and experience without taking into account the divisions among women themselves, their insistence on a female experience cannot be entirely rejected. On the other hand, socialist feminists, drawing from Foucault's work, have emphasized the social construction of sexuality. Foucault dismissed the earlier "repression hypothesis" concerning Victorian sexuality and, instead, argued that the vast production of knowledge of sexuality in the Victorian era served precisely to expose sexuality and regulate it. Feminists reasoning from Foucault's approach have often taken Victorian feminists to task for their "conservatism" in regards to sexuality which fed into and sustained existing

¹⁰². See Catherine MacKinnon, Towards a Feminist Theory of the State.

power systems of race, class and gender. Early feminists, in this account, should have recognized the operation of these systems and resisted them. Opposing this trend, other historians point out that women's concrete experience of sexuality (which could involve both pleasure and danger) needs to be taken into account. Psychoanalytic approaches to feminism have been helpful in this regard in expostulating female subjectivity in sexual matters -- such as the re-examination of hysteria as a response to female sexual submission.¹⁰³ In a sense, then, earlier radical feminist analyses of MacKinnon's type in fact recognized (and in a sense, repeated) the sexual fear which characterized the lives of early feminists. Later analyses, however, exposed the racist, sexist and classist implications of their organizing on the basis of this fear.

Judith Allen has identified part of the methodological problem in this debate in the study of the history of women. Women's history, she argues, has been marked by periods of identification, contextualization and repudiation by modern feminists.¹⁰⁴ Early feminist women's history characterized the women's movement as occurring in two waves, divided by a period of inactivity between the 1920s and 1960s. Such a periodisation, Allen argues, reflects a search for identi-

¹⁰³. Judith Allen, "Contextualising Late-Nineteenth-Century Feminism: Problems and Comparisons," Journal of the Canadian Historical Association, 1.1 (1990), p.21.

¹⁰⁴. Allen, "Contextualising Late-Nineteenth-Century Feminism," pp.17-36.

fication with earlier feminists on the basis of issues currently of interest for the feminist movement of the 1970s. Because women in the 19th century failed to reject marriage, family and bourgeois morality they were considered irrelevant by feminists in the 1970s. Instead, feminists such as Firestone and Millet identified with "free-love" feminists such as Mary Wollstonecraft and Emma Goldman.

Later studies, however, argued that there was greater continuity between the two periods of feminism than earlier believed. When the gains of the sexually progressive era of the 1960s and 70s began to be questioned by the feminist movement in the late 1970s, a new contextualization of the early movement began to appear. New studies in the late 1970s recognized the radicalism of female demands for sexual morality in the late 19th century.¹⁰⁵ Such an approach offered proof of greater continuity between first and second "waves", as 19th century demands concerning sexuality were seen as explicitly "feminist".

The early 1980s, however, marked a renewed rejection of late 19th century "feminism" while continuing to reject the two waves periodisation. These new studies argued that it was precisely in the inter-war period that the roots of modern feminism could be found. Rejecting the sexually conservative

¹⁰⁵. See, for example, Linda Gordon "Why Nineteenth Century Feminists Did Not Support 'Birth Control' and Twentieth Century Feminists Do," in B. Thorn and M. Yalom, eds., Rethinking the Family: Some Feminists Questions, (New York: Longman, 1982), pp. 40-53.

politics of late nineteenth century women as part of the "woman's movement", feminists such as Nancy Cott argued that modern feminism found its roots in the sexually radical politics of the bohemian communities of the 1910s and 20s.¹⁰⁶

Allen suggests that these debates reflect a preoccupation with current issues in the feminist movement and parochialism in approach. A greater internationalism would allow for the testing of the validity of interpretations. In particular, she notes that the Canadian case is often left out of these debates.¹⁰⁷ Indeed, the continuity between first and second waves of women's groups and institutions in Canada would seem to dictate the need for a more contextualized approach to Canadian women's history. In addition, these debates over the legitimacy of "first-wave" feminist (women's?) politics illustrates the need for careful consideration of women's experience and agency in history. Using an approach that is both aware of the limits to women's action and the possibilities at both subjective and structural levels produces a more contextualized history. This is possible through a study of

¹⁰⁶. See Nancy Cott, The Grounding of Modern Feminism, (New Haven: Yale University Press, 1987). Also, Judith Walkowitz, "Male Vice and Female Virtue: Feminism and The Politics of Prostitution in Late Nineteenth Century England," in Ann Snitow, Christine Stansell and Sharon Thompson, eds., The Powers of Desire, (New York: Monthly Review Press, 1983), pp.419-438; and, Ellen Carol DuBois and Linda Gordon, "Seeking Ecstasy on the Battlefield: Danger and Pleasure in Nineteenth-Century Feminist Sexual Thought," in Carole S. Vance, ed., Pleasure and Danger: Exploring Female Sexuality, (Boston: Routledge and Kegan Paul, 1984), pp.31-49.

¹⁰⁷. Allen, "Contextualizing Late Nineteenth-Century Feminism," pp.28-36.

the political context of women's organizing which sees women's concerns about sexuality as part of a broader political strategy which faced both limits and opportunities in the broader political sphere.

Following Mary Beard, Gerda Lerner puts women back into history as agents. For her, because women were excluded from symbol-making activity their experience is not recorded in history. The exclusive focus on historical ideologies about women obscures women's own experience and reality, a reality very different from that of men as made clear in studies done by Carroll Smith-Rosenburg on women's culture.¹⁰⁸ Women, however, are actors who make rational choices within constrained circumstances to exchange their reproductive and sexual services for these class privileges. Lerner's approach marked a departure from the victimist approach of radical feminist texts. It also set out to put women in history not as a separate and special case, nor as summed up in the activity of certain exceptional individuals, but as the other half of humanity. Women were no longer invisible nor victimised but an active part of the creation of history. At the same time, this approach entailed looking at the operation of the system of gender throughout history.

Striking a balance between women's experience and their participation in the male world is key to Joan Scott's under-

¹⁰⁸. See Carroll Smith-Rosenburg, "The Female World of Love and Ritual: Relations Between Women in Nineteenth Century America," *Signs*, 1.1 (Autumn 1975), pp.1-29.

standing of women's history. However, in true post-structuralist fashion she is not so certain that the "women" or "gender" of women's history can be unproblematically defined. She argues that the effects of recent attempts at re-writing history into "her-story" isolates women as a separate topic in history and conflates valuation of women's experience with a positive assessment of that experience. "Her-story" writings also rely too heavily, according to Scott, on economic explanations of women's oppression.¹⁰⁹ Alternatively, studies which concentrate on how law reflects gender, while positing a social rather than biological explanation for women's inequality, neglect women's agency by neglecting their experience in their personal lives.¹¹⁰ By looking at the representation of sexual difference in political discourse, she argues, the link between women's history and political history can be made.¹¹¹

Scott, therefore, sets out to redefine a number of concepts for women's history. In looking at women as subjects, Scott argues that in order to get past the theoretical constitution of men as universal and women as particular, historians require a notion of all human subjects as particu-

¹⁰⁹. Joan Wallach Scott, Gender and the Politics of History, (New York: Columbia University Press, 1988), pp.20-21.

¹¹⁰. Scott, Gender, p.24.

¹¹¹. Joan Wallach Scott, "Rewriting History" in Margaret Randolph Higonnet, Jane Jenson, Sonya Michel and Margaret Collins Weitz, eds., Behind the Lines: Gender and the Two World Wars, (New Haven: Yale University Press, 1987), p.25.

lar and specific. To investigate how these particular subjects come together to act in union, historians also require an understanding of gender. The use of such a term indicates the importance of relations between the sexes as a primary aspect of social organization; the strength of cultural determination of male and female identities; and the constitution of the differences between the sexes by hierarchical social structures and vice versa. It is not enough, she continues, to study the constitution of these differences only in the legal and governmental realms; instead, a larger definition of the political must be used (as per Foucault) in order to expand the terrains on which this difference is constituted.¹¹²

In post-structuralist tradition, Scott questions the notion of a objectively determined "experience" or "interest" which she sees as being the object of discursive struggles. "Experience", she argues:

is not seen as the objective circumstances that condition identity; identity is not an objectively determined sense of self-defined needs and interests; politics is not the collective coming to consciousness of similarly situated individual subjects. Rather politics is the process by which plays of power and knowledge constitute identity and experience.¹¹³

As Mariana Valverde has pointed out in her critique of

¹¹². Scott, "Gender," pp.25-26.

¹¹³. Scott, "Gender," p.5. See also Joan Scott, "Experience," in Judith Butler and Joan W. Scott, eds., Feminists Theorize the Political, (New York: Routledge, 1992), pp.22-40.

Scott, one of the main difficulties in using discourse analysis is its inherent bias towards "the sociology of domination". There is very little by way of texts produced by women themselves (as pointed out by Lerner). Because those in power are the ones most able to generate discourses, discourse analysis is less useful in understanding resistance than it is in understanding rule.¹¹⁴ Valverde criticizes Scott's unproblematic use of Foucault's concepts of power and of Derridean deconstruction.¹¹⁵ She also argues out that Scott has ignored the problematization of "experience" by debates over race, class and gender.¹¹⁶ Indeed, Scott's characterization of experience as discursively constituted seems to dismiss the reality of experience itself.

Valverde's own work relies heavily on discourse analysis, but she does not reject the importance of historical materialism. Instead, she construes discourse in such a way as to transcend the "idealism/materialism" debate around discourse theory by signifying, through discourse, both words and objects. That is, 'discourse' refers "not to language as separate from the real world but rather to organized sets of signifying practices that often cross the nineteenth-century

¹¹⁴. Mariana Valverde, "Poststructuralist Gender Historians: Are We Those Names?" Labour/Le travail, 25 (Spring 1990), p.232.

¹¹⁵. Valverde, "Poststructuralist Gender Historians," pp.232-233.

¹¹⁶. Valverde, "Poststructuralist Gender Historians," p.229.

boundary between 'reality' and 'language'.¹¹⁷ She also maintains that discourses can not be seen as an absolute starting point because they are shaped by pre-existing social relations of race, class and gender as much as these relations are articulated in and through these discourses. Thus Valverde goes beyond an analysis of gender alone in history, and looks equally at race and class and the crossings between them. This puts gender into the larger context of political history.¹¹⁸

In this thesis, I consider women's lived experience an essential focus for the contextualization of women's past. It is understood that the experience articulated in first-wave feminism was that of a select group of women. This does not mean that such experience simply should be dismissed. Instead, it should be looked at in its proper context. The experience women had certainly carried linkages to larger social structures -- as Giddens has pointed out, structures are reflected within people's experience through practices and memory traces. Therefore, I pay close attention to women's organizational practices in particular. Giddens has also argued that actors can reflect on and be critical of their own experience. However, the ability to be critical of experience rests, in part, on the availability of ideas and theories with which to do this. By examining the frameworks and allies available to

¹¹⁷. Valverde, The Age of Light, Soap, and Water, (Toronto: McClelland and Stewart, 1991), p.10.

¹¹⁸. Valverde, The Age of Light, pp.9-13.

women, we can see what was within the realm of the possible for women and other actors in dealing with the issue of sexuality. At the same time, we can explore how women's own experience shaped the discourses around sexuality and to what extent, thus discovering both how women shaped the politics around them and were shaped by them.

Chapter 3: Women, Prostitution and Law in Canada: 1860s-1880s

To begin the discussion of women's role in the change in Canada's prostitution law, in this chapter I explore the limitations -- both discursive and material -- that women faced in the laws concerning women's sexuality. I lay out the original shape of prostitution law at the time of Confederation and its implications. I examine the laws and policies implemented by the state to regulate women's sexual behaviour and study the images of women portrayed by those laws in the early post-Confederation period. In particular, I consider how the images of the prostitute and of women in general operated in the early Confederation-period to restrict women's behaviour.

The theoretical importance of the laws concerning women's sexuality is that they articulate the status of all women to that of prostitute women. The laws which governed prostitution also governed the behaviour of non-prostitute women. Women who were sexually active outside of marriage were considered to be like prostitutes. Thus, women's sexual independence was linked to prostitution. Chastity, on the other hand, implied that a woman's sexuality was the property of her male protector: she preserved her sexuality only for his use. The prostitute, or the woman who behaved like a prostitute, used her sexuality for her own ends. The way that women's sexuality was dealt with under the law, therefore, implied how women's independence was viewed by society. Despite a trend in laws concern-

ing women and sexuality in the 19th century in Canada which considered women as "independent persons", that is not the property of their parents or husbands, but in reality this only moved the "responsibility" for chastity to women themselves.

Canadian prostitution laws in the mid-nineteenth century present a fairly typical view of prostitution as the result of individual moral depravity and sin. In law, being a prostitute was viewed as a status crime which deserved to be fairly harshly dealt with -- particularly when mixed with annoying public behaviour. This must be seen in conjunction with how non-prostitute women's sexual behaviour was controlled through rape and seduction laws. If a non-prostitute woman overstepped the bounds of acceptable female morality, she would -- like a prostitute -- no longer receive the protection of the law but its approbation. Because a prostitute (in this understanding) could not be raped, a woman had to prove her non-prostitute status -- chastity -- before she could bring charges of rape.¹¹⁹ Non-prostitute status offered some protection to women which was extremely important to maintain. There was little room, in this context, for women to empathize and identify with prostitutes. In real terms, this meant that for non-prostitute women, their superior morality was their best

¹¹⁹. Constance Backhouse, Petticoats and Prejudice, (Toronto: The Women's Press, 1991), pp.256-257.

and only weapon against unwanted sexual attention.¹²⁰ If they should fail they would be marked for life. When women began to organize in the 1870s, therefore, it made sense that they should draw upon this position of superior morality and chastity as a critique of male behaviour. The irony of women's capitalization upon their chaste status was the dependent status implied within this.

Why would a protective role make sense to women when they had been making some gains in their legal independence? As I will demonstrate in this chapter, the protective orientation of their response was in fact a feminist response to the seeming "independence" granted by their early legal status in Canada. Such legal status did not take into account the barriers faced by women in a patriarchal society. As Catherine MacKinnon has argued the law hid a patriarchal bias behind claims of neutrality. In addition, in practice this autonomy very clearly took place within the confines of the double moral standard. If a woman failed to protect her chastity, she was akin to a prostitute; she had lost her chastity because of moral laxity. Thus, women faced a double bind in the law which required them to protect their chastity through their own actions. In this way women became heavily reliant on their own moral uprightness to protect them from unwanted sexual attention. At the same time, spaces in the law provided

¹²⁰. The law also did not consider the possibility of marital rape.

protection for women who were chaste (or concerned to protect their chastity) as they could be seen as victims of society.

Women and the Law in 19th Century Canada

The operation of the laws concerning women was not monolithic over time or space. Canadian legislation in the early post-Confederation period did show a different understanding of women than was the general pattern. Historically, women often were seen in law as the property of their fathers or husbands. This position denied women the autonomy and power to control their own lives. Paternal control of sexuality, for example, was exercised through rape, abduction and marriage laws. Offenses against a woman were seen as offenses against the father as the man who "owned" her. However, this control was not monolithic throughout history. At different periods of time and in different places, women have had more or less control of their sexuality.

Generally, women in the 19th century had little legal power. Under the practice of coverture, an English common law tradition transported to all the Canadian provinces except Quebec, all married women's legal and property rights were subsumed by their husbands.¹²¹ Women were also denied access

¹²¹. Constance Backhouse, Petticoats and Prejudice, p.177. Like English-Canadian women, married Quebec women could not take legal action or start up a business without their husbands' consent, however, they were not subject to the doctrine of "marital unity" but they could bargain some control through the legal concept of

to education, employment and citizenship rights which would allow them to have some influence over the laws affecting them. Of course, women did have some control within these limited circumstances. There were spaces in the law for female ownership and independence. There had been concern over married women's property rights in Nova Scotia since the 1820s, which eventually led to the passage of An Act for the Protection of Married Women in Certain Cases, in 1866, which gave some control over property and earnings to divorced or deserted women. Already, however, we see that this legislation was linked more to concerns about women's victimization (by drunken husbands) than their independence.¹²² In 1874, the federal legislature passed the Married Women's Property Act, giving married women the same property rights as single women, while maintaining women's dower right upon the deaths of their husbands.¹²³

"community of property" by signing a special marriage contract which gave the wife permission to maintain control over her own property. Backhouse, p.178. One should also note the continuation of aboriginal matrilineal traditions in this period. See for example, Marjorie Mitchell and Anna Franklin, "When You Don't Know the Language, Listen to the Silence: An Historical Overview of Native Indian Women in B.C.," in Barbara K. Latham and Roberta J. Pazdro, eds., Not Just Pin Money, (Victoria: Camosun College, 1984), pp.17-35.

¹²². Indeed, proposals concerning women's voting rights on corporate shares were dropped from proposed legislation as they came too close to female suffrage. Philip Girard, "Married Women's Property, Chancery Abolition, and Insolvency Law: Law Reform in Nova Scotia, 1820-1867," in Philip Girard and Jim Phillips, eds., Essays in the History of Canadian Law, Vol. III, Nova Scotia, (Toronto: University of Toronto Press, 1990), pp.86 & 92.

¹²³. Jane Ursel, "The State and the Maintenance of Patriarchy: A Case Study of Family, Labour and Welfare Legislation in Canada", in Papers presented at the Canadian Law in History Conference,

Prostitution Law

Following Britain's lead, the Province of Canada passed a Contagious Diseases Act in 1865, designed primarily to protect the British Royal Navy while in Canada.¹²⁴ However, there was none of the public outcry that took place in Britain. The Canadian Contagious Diseases Act was a dead letter almost from its inception, partly because the country lacked the facilities to carry out the required medical or police supervision. Constance Backhouse also suggests that the government of the United Provinces of Canada wished to avoid the disturbances and controversy which took place in Britain.¹²⁵ Laws in the British North American colonies, therefore, seem to have avoided -- for the most part -- the regulation of prostitution. In practice, however, (particularly in the west and the Maritime provinces) a de facto system of toleration and segregation of prostitution was

(Ottawa: Carleton University, June 8-10, 1987), pp.167-168. Although the enactment of the Married Women's Property Act appears, on the surface, to have merely been a response to similar British legislation, Girard's studies in Nova Scotia show considerable concern over, and attempts to pass legislation on, married women's property rights (especially in cases of drunken husbands) previous to the enactment of British legislation. Girard, pp. 80-91. Ursel also points out that the practice of coverture may not have been as useful in non-aristocratic countries such as Canada. The Property Act may also have been in response to growing concerns over destitute dependents. Ursel, p.167.

¹²⁴. See Province of Canada, An Act for the Prevention of Contagious Diseases at Certain Naval and Military Stations, 1858, 29 Vict., c.8.

¹²⁵. See Backhouse, "Prostitution Law," p.392.

carried out.¹²⁶ The law itself was characterized, instead, by a stridently moral condemnation of the prostitute, which, in the late 1800s, was overlaid by more progressive preventative measures.

A debate over regulation did take place in 1866, after a Grand Jury recommended the practice be established in the Province of Canada. The Toronto Daily Telegraph endorsed the idea of regulation but it was soon attacked for its position by its rival, the Globe. The Globe felt that regulation "...would make sin outwardly decent" and serve to encourage it further.¹²⁷ Later arguments in favour of the regulatory approach by some elite members of society were rejected by politicians.¹²⁸ From the beginning, then, Canadian reformers and feminists were not propelled toward a radical critique of the state by its regulatory practices. Instead, the reformers continued to view the state as an ally and the law -- not as

¹²⁶. See, for example, Judith Fingard, The Dark Side of Life in Victorian Halifax, (Porters Lake, NS: Pottersfield Press, 1986) and James Gray, Red Lights on the Prairies, (Toronto: MacMillan, 1971).

¹²⁷. Constance Backhouse, "Nineteenth Century Canadian Prostitution Law," Social History, 18 (1986), p.392.

¹²⁸. Backhouse, "Prostitution Law," p.392. Toronto journalist C.S.Clark was one of those who supported regulation. He recounted a 1898 conference between Archbishop Bruchesi, Bishop Bond, Judge Desnoyers, Recorder De Montigny and E.L.Bond, president of the Citizen's League, at which it was decided to ask Montreal City Council to require weekly medical examinations of brothel prostitutes. In 1882, the Ontario Provincial Board of Health recommended that lock hospitals be established to control prostitution. However, the recommendation was not implemented. Backhouse, "Prostitution Law," pp.392-393, note 24.

a punitive measure -- but as a chief method of "prevention".¹²⁹

More generally, prostitution in Canada was dealt with under vagrancy provisions. After Confederation the various provincial acts respecting vagrancy were consolidated into the federal Act Respecting Vagrants of 1869.¹³⁰ The new Act was modelled on earlier British legislation which called for the arrest of "all common prostitutes, or night walkers wandering in the fields, public streets or highways, lanes or places of public meeting or gathering of people, not giving a satisfactory account of themselves".¹³¹ Obviously, the aim was to keep prostitutes from public view. Unlike British legislation, Canadian legislation did not require disorderly conduct as grounds for arrest. Rather, prostitutes could be arrested simply for being "common prostitutes". A prostitute was

¹²⁹. Mariana Valverde, The Age of Light, Soap and Water: Moral Reform in English Canada, 1885-1925, (Toronto: McClelland and Stewart, 1991), pp.101-102.

¹³⁰. However, prostitutes still stood to be convicted under various vagrancy provisions at both provincial and municipal levels as well as under the federal law under the concurrent jurisdiction provision of section 92(14) of the British North America Act. However, the new federal act made vagrancy convictions much easier for local police as it eliminated the difficulties of labelling a prostitute as a "vagrant" or "lewd character" as in earlier Nova Scotian law. See Jim Phillips, "Poverty, Unemployment, and the Administration of the Criminal Law: Vagrancy Laws in Halifax, 1864-1890", in Philip Girard and Jim Phillips, eds., Essays in the History of Canadian Law, Vol. III, Nova Scotia, (Toronto: University of Toronto Press, 1990), p. 130. See also B. Jane Price, "'Raised in Rockhead. Died in the Poor House': Female Petty Criminal in Halifax, 1864-1890", in the same volume, p.202.

¹³¹. Canada, An Act respecting Vagrants, (1869), 32 & 33 Vict., c. 28.

presumed to be recognizable on sight and easily identified by police. This suggests that one's reputation was very valuable. This would be one factor that would strengthen women's need to maintain non-prostitute status.

Canadian law appeared, at least, to be fairly equitable in terms of gender. It condemned keepers of bawdy houses and those who maintained themselves from the avails of prostitution and penalized habitual frequenters of bawdy houses. In practice, however, the provision pertaining to frequenters was rarely applied.¹³² Women, on the other hand, were quite harshly treated by the prostitution laws. Constance Backhouse's research in Toronto reveals that many of Toronto's poorer prostitutes served a number of stiff penalties throughout their lifetimes. They were often convicted of the various charges coming under vagrancy: drunk and disorderly, inmate of a disorderly house, disorderly character and the like.¹³³ The provisions gave a wide scope of powers to the police in controlling working-class women. The police and courts were also particularly harsh on black and Irish prostitutes.¹³⁴

Toronto police, however, may have been the most zealous

¹³². Backhouse, "Prostitution Law," p.390.

¹³³. Backhouse, "Prostitution Law," pp.396-407.

¹³⁴. Backhouse, "Prostitution Law," p.291. B. Jane Price suggests that this may have been a result of black and Irish (Catholic) overrepresentation among the poor as well as institutional racism. Price, "'Raised in Rockhead'," pp.213-216.

in applying the law to prostitutes.¹³⁵ The newly expanding west showed a more lenient attitude on the part of the police and the courts. The western acceptance of prostitution -- while founded itself on the double sexual standard, where men require sexual servicing and a class of women must be sacrificed to provide it -- gave a certain amount of autonomy to prostitutes who could work relatively undisturbed. Generally, brothel madams could avoid the difficulties of a raid by paying off local officers either for advance warning when local citizens pressured police into action or to keep police at bay altogether.¹³⁶ This system was not entirely beneficial for prostitutes because it also meant they were subject to several relations of control within the brothel setting, particularly with the madam herself.¹³⁷

In the Maritime provinces there was also some tradition of leniency towards prostitutes. In 1858 the Commissioner for

¹³⁵. The actual level of convictions for prostitution in this period is difficult to determine because of the variety of charges under which prostitution could be classed. B. Jane Price's study of female criminals in Halifax suggests that if charges for drunk and disorderly conduct (included in Constance Backhouse's numbers for Toronto) are excluded, the Toronto rate of conviction for prostitution is 17 per cent, compared to the 63 to 87 per cent given by Backhouse between 1846 and 1890. According to Price, an average of 22.6 per cent of all crimes committed by women in Halifax between 1864 and 1890, were prostitution-related. Price also notes a lowering of prostitution charges in times of economic upswing such as the 1880s in Halifax. See Price, pp.209-211.

¹³⁶. See for example, James Gray, Red Lights on the Prairies, for the attitudes of the Northwest Mounted Police.

¹³⁷. See for example, Andree Levesque, "Le bordel: Milieu de travail controlee," Labour/ Le travail 20 (Fall 1987), pp.13-32.

Public Institutions recommended to the New Brunswick legislature that some means be provided for the women because they were generally friendless and destitute.¹³⁸ In Halifax, where prostitution was notoriously rife owing to the "garrison port" character of the city, there was little legal activity to curtail the trade. Concern was limited because of the circumscribed area and population in which prostitution took place. It had little effect on the white, middle and upper-class families. Since prostitution was mostly associated with soldiers and sailors and involved many black women, "respectable" society felt little direct threat and took little direct action.¹³⁹

The acceptance of prostitution as a necessary evil on the part of the courts, therefore, provided some benefits for the prostitutes themselves in that they were not subject to constant harassment or, at least, if arrested, they would be only lightly sentenced. However, the courts' behaviour rested on an assumption of two classes of women: the good and the bad. Women who had "fallen", like prostitutes, were part of that class of women whose sexually depraved nature had gotten the better of them. The sexuality of these women was now open

¹³⁸. Joanne Reid "Witches, Whores and Waifs: Judicial Treatment of Deviant Women in Pre-Confederation New Brunswick -- Selected Examples," Papers presented at the Canadian Law in History Conference, (Ottawa: Carleton University, June 1987), pp.125-126.

¹³⁹. Judith Fingard, The Dark Side of Life in Victorian Halifax, (Porters Lake, NS: Pottersfield Press, 1989), pp.96-97. Around forty percent of prostitutes arrested in Halifax were black. See Fingard, p.104.

to the public (as we shall also see in rape cases). The "necessary evil" thesis also depended on racist/ethnocentric, nativist and classist assumptions about the worth of prostitute women. These women were not considered to be worth the concern of society. Seen as public property, prostitutes were considered to have no need for protection from or vindication for sexual assault. Thus, prostitutes were only protected from harsh punishment: if they had no rights to sexual protection and were viewed as naturally evil; or they were seen as poor, unfortunate victims of society with no autonomy at all. At the same time, the harsh letter of the law for prostitution offenses served as a warning to other women to maintain their chastity (dependence) or lose it at their own peril. Indeed, even women of the poorer classes, at least, who attempted economic independence (such as setting up a business) were threatened with prostitution-related charges -- as Judith Fingard relates from charges on single women operating in downtown Halifax who may merely have been in the vicinity of prostitution related activities.¹⁴⁰

Rape Law

The negative associations of independence and women in prostitution law were also apparent in other aspects of law affecting women's sexual behaviour. Legal provisions concern-

¹⁴⁰. Fingard, p.112.

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ing rape in Upper Canada hint at an individualistic and autonomous understanding of women. Indeed, the relative independence of women has been noted in rape cases of the period -- such as the case of a Mrs. Scott who brought assault charges against Dennis Duff in Kingston in 1850. The incident had occurred when Mrs. Scott had given Duff and his wife a lift in her wagon. That a farmer's wife would be able to take a wagon into town unescorted shows the degree of female independence available in pioneer society.¹⁴¹ Women were seen less as male property than as individuals who deserved the benefit of and the protection of the law. Canadian legislation --unlike Britain's -- did not require the "emission of seed" as proof of rape.¹⁴² The requirement of emission of seed is linked to the establishment of harm against the man's property in an interference with the woman's reproductive capacities. Canadian law was content with proof of any degree of penetration.¹⁴³

¹⁴¹. Ruth A. Olsen, "Rape: An Un-Victorian Aspect of Life in Upper Canada," Ontario History, 68.2 (June 1976), p.77.

¹⁴². The first provision for this requirement was made in Prince Edward Island in 1836. (See Revised Statutes of Prince Edward Island, 1836, 6 Wm. 4, c.22.) This was changed in New Brunswick law in 1854 to "least degree of penetration". (See Revised Statutes of New Brunswick, 1854, 17 Vict., c.149, s.22.) Both provisions were combined in the 1869 federal legislation, An Act Respecting Offenses Against the Person, 1869, 32-33 Vict., c.20, s.65.

¹⁴³. Constance Backhouse, "Nineteenth-Century Canadian Rape Law, 1800-1892," in David H. Flaherty, ed., Essays in the History of Canadian Law, Vol.II, (Toronto: University of Toronto Press, 1983), p.207. See also Canada, An Act Respecting Offenses Against the Person, 1869, 32-33 Vict., c.20, s.65.

The offense of rape in post-Confederation Canada carried much harsher penalties than it did in Britain. Rape remained a crime punishable by death in Canada¹⁴⁴, even after this practice had been abolished in Britain in its 1861 legislation (and in Nova Scotia in 1853.¹⁴⁵). Some Canadian legislators were concerned that such a penalty could lead to the death of a wrongly accused man on the grounds that women could use the charge of rape to cover-up an infidelity. This fear illustrates the common suspicion of independent women. Others, however, viewed the punishment as justified in the case of rape of an "aggravated character".¹⁴⁶ In 1873, the rape legislation was amended to provide the alternate punishment of life imprisonment or imprisonment not less than seven years, while retaining the possibility of death. Nonetheless, the sentences remained harsher than those in Britain.¹⁴⁷ The death penalty was eventually removed in 1877 in cases of statutory rape (rape of females under the age of ten).¹⁴⁸

While the Canadian legislature did view rape as a serious crime, there was less concern with protecting the "child" of adolescent years than in Britain. Constance Backhouse argues

¹⁴⁴. Canada, An Act Respecting Offenses against the Person, 1869, 32-33 Vict., c.20, s.49. "Whosoever commits the crime of rape is guilty of felony and shall suffer death as a felon."

¹⁴⁵. Canada, Senate, Debates, June 1, 1869, p.246.

¹⁴⁶. Canada, Senate, Debates, June 1, 1869, p.247.

¹⁴⁷. Backhouse, "Rape Law," p.208.

¹⁴⁸. Backhouse, "Rape Law," p.211.

that these provisions show an understanding of rape and defilement as offenses against women as persons rather than the property of their parents. Canada's decision to reduce the penalty for statutory rape from death to life imprisonment at the same time as Britain was invoking increasingly harsh measures may be based, according to Backhouse, on a more 'rural' understanding of women's and children's sexual character.¹⁴⁹ In such a view, neither women nor children are necessarily understood as innocents and victims. Indeed, there was very little concern over the age of consent being as low as 12 until the change in the 1869 Offenses against the Person Act. Unlike Britain, the Canadian government did not pass legislation dismissing consent as a defense to charges of statutory rape until 1890.¹⁵⁰ Thus, the Canadian law retained a sense of children as more sexually precocious than British law would imagine at that time.

The darker side of this seeming liberality, however, was a parallel belief in the deliberate seductiveness of women and children, a view reflected much later in discussions of women and sexuality in the House of Commons. Such assumptions about children and sexuality may certainly have inspired women of the time to challenge the male understanding of women and children. That there was an alternative discourse on child-

¹⁴⁹. Backhouse, "Rape Law," p.211-212. See also Backhouse "Prostitution Law."

¹⁵⁰. Backhouse, "Rape Law," p.227.

ren's sexuality among the Canadian public is reflected in the fact that while juries may have been unwilling to invoke the full strength of the law in rape cases because of the harsh penalty, in cases involving girls under 10 they were much more likely to do so.¹⁵¹

The rural attitude towards women and children -- which seemed to take on progressive tendencies in the legislation -- was narrowly interpreted in application. While the recognition of their individual status put women on a closer par with men, it also ignored their particular status as women. Thus, as individuals under the law, women were seen as responsible for protecting their own chastity. The individualistic focus left little room for understanding the patriarchal structure faced by women. For instance, the Canadian courts expected women to show a great deal of resistance and struggle before the courts would convict the accused in a case of rape. A woman's resistance would prove her "unwillingness" and "chastity". Such an interpretation of the law tended to narrow the potential benefits of a more individualistic approach. While the law itself did not make a requirement for chastity, the benefits only accrued to "chaste" women. The courts were concerned that women would use the stringent rape laws to

¹⁵¹. Olsen, "Rape," pp. 77-78. It is interesting to raise the question here of whether women at this time were concerned about what is now considered child abuse, as well as the sexual exploitation of women, and this whether this formed part of their cause for action.

protect themselves from the discovery of infidelity.¹⁵² Thus -
- for prostitute women, non-prostitute women and children --
greater sexual autonomy was linked to assumptions about the
inherent sexual depravity and willingness of all women, which
relieved men of any responsibility for sexual crimes.

Abduction and Defilement

The understanding of women and children's sexual natures,
and how the two are linked, is illustrated in laws concerning
defilement and abduction. Such laws reveal the extent to which
women were seen to be in control of their own sexuality,
whether they could choose their sexual and/or marital partners
and at what age they could do so. That such laws only applied
to women show us already the constrained circumstances of
women's choices. Laws concerning defilement and abduction also
illustrate the links between age and gender in regulating
sexuality by indicating who was considered to have control
over women's sexuality at what time. Canadian laws of the
post-Confederation period attest to the presence of a compet-
ing image of women and children, particularly girls, which saw
them as in need of some protection from sexual harm.

In the pre-Confederation period most of the British North
American colonies relied on British legislation concerning age
of consent, which was ten years of age. Nova Scotia had passed

¹⁵². Backhouse, "Rape Law," pp.227.

legislation in 1758 which set the age of consent at twelve years.¹⁵³ New Brunswick, in 1829, and Prince Edward Island, in 1836, deemed carnal knowledge and abuse of a female under ten years of age a capital offense; carnal knowledge and abuse of females between ten and twelve years of age was misdemeanor deserving only mild punishment at the discretion of the judge.¹⁵⁴ The same laws in New Brunswick and Prince Edward Island, and enacted in the Province of Canada in 1841, provided for the abduction of girls under sixteen years of age. Section 19 of the Province of Canada Act made it a misdemeanor to abduct propertied hieresses under the age of 21, a provision which was adopted in all the Canadian colonies.¹⁵⁵

These laws were all consolidated and amended in the 1869 Offenses Against the Person Act. This Act made provisions relating to the defilement of females under the age of 21. The legislation was influenced mainly by the British legislation of 1822 and 1861.¹⁵⁶ The British legislation of 1861 provided

¹⁵³. See Statutes of Nova Scotia, 1759, 32, Geo.2, c.13, s.7.

¹⁵⁴. Statutes of New Brunswick, 1829, 9 & 10 Geo.. 4, c.21, s.11 and Revised Statutes of Prince Edward Island, 1836, 6 Wm. 4, c.22, s.11. See Graham Parker, "The Legal Regulation of Sexual Activity and the Protection of Females," Osgoode Hall Law Journal, 21.2 (1983), p.211.

¹⁵⁵. Statutes of the Province of Canada, 1841, 4&5 Vict., c.27, s.17-19. Parker, p.212.

¹⁵⁶. Backhouse, "Prostitution Law", p.395, note 33. See also Graham Parker, "The Legal Regulation of Sexual Activity and the Protection of Females", Osgoode Hall Law Journal, 21.2 (1983), pp.212-214.

parents with the ability to charge their daughter's "abductor" -- more likely a lover or suitor -- with depriving them of the services of their daughter: or, if the woman had property, the parents could prevent a marriage to the abductor on the grounds of "false allurements".¹⁵⁷ The concern with the abduction of women stemmed from the practice of abducting heiresses in order to force a marriage and inherit property. The Canadian legislation included women with and without property, but with additional restrictions on women under the age of 21.

The Offenses Against the Person Act of 1869 punished (with up to two years imprisonment with, or without, hard labour) the procuring of any woman under the age of 21 through false pretenses for "illicit carnal connection".¹⁵⁸ This new legislation also made the abduction of any woman for the purpose of marriage punishable by up to 14 years with hard labour. The statute specified that this act must be against the will of the woman involved.¹⁵⁹ For women of property under the age of 21, however, there was no question of her consent. Rather the abduction was an offense if it was against the will

¹⁵⁷. Deborah Gorham, "The 'Maiden Tribute of Modern Babylon' Revisited: Child Prostitution and the Idea of Childhood in Late Victorian England," Victorian Studies, 21.3 (Spring 1978), pp.364-365.

¹⁵⁸. Canada, Offenses Against the Person Act, 1869, Sectn. 50.

¹⁵⁹. Canada, Offenses Against the Person Act, 1869, Sectn. 54 & 55.

of her parents.¹⁶⁰ Thus, while the state was expanding its protective domain from the propertied classes to all women under 21 in the case of procuring, in the abduction clauses the law left open the possibility of consent -- unless the woman was both propertied and under the age of 21. The law was careful to provide for paternal control of female sexuality for young and/or propertied women, nevertheless it did grant some autonomy to other women.

The offense of procuring the defilement of females under the age of 21 shows that at this early stage there was an awareness of the need to protect young women and children from being tricked into prostitution. However, the emphasis of the legislation was placed on the fraudulence of the act rather than on the act itself. Women in this understanding were still capable actors. A vision of them as completely passive in sexual matters was yet to develop fully in Canada. In this clause dealing with procuring there is no mention of consent. The emphasis on "fraudulent" procuring suggests that if women were not defrauded into prostitution, then, by implication, they had "chosen" to enter into it. Women were slowly gaining some recognition in law as actors, independent of paternal control. However, that recognition as individuals failed to recognize the structural difficulties faced by women. Instead, the laws were based on a vision of women as cunning and deceitful and not as innocent or disadvantaged. An understand-

¹⁶⁰. Canada, Offenses Against the Person Act, 1869, Sectn. 54.

ing of women as "innocents", however, also had a place in the law of the time in its treatment of young women in danger of procuring and abduction.

Abortion, Infanticide and Birth Control

Canadian legislation, therefore, embodied an individualistic approach which expected women to be more "responsible" for their sexuality even while assuming that women were, by nature, sexually irresponsible. In a sense, women were given power as actors, yet the patriarchal context in which they lived was not taken into account. Women faced numerous other restrictions on their sexual activity and their control of their bodies. One must consider the harshness of abortion and infanticide legislation in Canada which restricted women's control over their own bodies. The laws concerning abortion, infanticide and birth control also illustrate how women were constrained in their response to prostitution. If their sexuality was tightly controlled through laws restricting abortion and birth control, women were unlikely to fight for greater sexual freedom for women because the consequences of that freedom remain harsher for women than men. Conversely, where such practices were tolerated, women may have found more room for sexual activity and may not have regarded the consequences as that threatening.

Until 1869, infanticide legislation in some parts British

North America operated under a presumption of guilt of the mother and condemned guilty parties to death as murderers.¹⁶¹ The particularly draconian British law of James the I intituled An Act to prevent the destroying and murthering of bastard children which presumed guilt was enacted in Lower Canada, New Brunswick , Prince Edward Island, Newfoundland, and Upper Canada by the early nineteenth century.¹⁶² However, the act was removed in 1869 in the Offenses Against the Person Act, which provided for women to be tried according to the rules of evidence and presumption for trials for murder.¹⁶³

Birth control and abortion were not completely unavailable to women in the British North American colonies. Common law on abortion allowed for the "regularizing of menses" previous to the "quickening" of the foetus, believed to take place in the fourth month of pregnancy. Women saw it as their right to induce abortion before this point.¹⁶⁴ Gradually, however, between 1810 and 1900 abortion laws became extremely harsh in Canada. The concept of "quickening" was dispensed with and abortions were rendered subject to a maximum penalty of life imprisonment. Upper Canada was the first to dispense

¹⁶¹. Backhouse, Petticoats and Prejudice, p.114

¹⁶². Backhouse, Petticoats, p.114.

¹⁶³. Canada, An Act Respecting Offences Against the Person, 1869, 32-33, Vict., c.20, s.62. The act was also removed in Upper Canada in 1831. Richard Splane, Social Welfare in Ontario, 1791-1891, (Toronto: University of Toronto Press, 1955), pp.218-219.

¹⁶⁴. Backhouse, Petticoats, p.146.

with the "quickenings" distinction entirely in 1841.¹⁶⁵ The 1869 Act made the administration of drugs or use of instruments to procure an abortion a felony carrying up to life imprisonment. The procuring or supplying of abortifacients was considered a misdemeanor liable to two years imprisonment with or without hard labour.¹⁶⁶ However, the legislation was applied primarily to the procurers rather than the obtainers of abortions. The "quickenings" concept continued to hold true for many women up until the early 1900s and many folk remedies and traditional abortifacients were available throughout the 19th century.¹⁶⁷

The concern with abortion was raised by physicians worried about the declining birth rate among the "respectable classes" in the face of the apparent fecundity of the Irish and French. Indeed, the Canadian population in general was showing a marked decline from 1851 through to the 1920s.¹⁶⁸ It was the abortion practices of Anglo-Saxon, Protestant, married women that worried the doctors. Middle-class women may have been better able to afford pecuniary inducements to doctors to

¹⁶⁵. Backhouse, Petticoats, p.147. See Upper Canada, An Act for Consolidating...Offenses against the Person, 4&5 Vict., c.27.

¹⁶⁶. Canada, An Act Respecting Offenses against the Person, 1869, 32-33 Vict., c.20, s.59 and s.60.

¹⁶⁷. See Angus McLaren and Arlene Tigar McLaren, The Bedroom and the State, (Toronto: McClelland and Stewart, 1986), pp.32-35.

¹⁶⁸. Backhouse, Petticoats, p.151. See also, Angus McLaren and Arlene Tigar McLaren, The Bedroom and the State, (Toronto: McClelland and Stewart, 1986), p.11.

break the law and perform an abortion.¹⁶⁹ Although doctors were sometimes sympathetic with single women seeking abortions, they were shocked at the actions of married women, who they considered to be shirking their maternal responsibilities. Married women may have been turning more frequently to abortion because of the lack of proper information on birth control techniques, a knowledge that was tainted with association with prostitution and was held back by physicians. The concern over abortion also marked a growing power struggle between doctors and women over control of the birth process. Doctors fought to convince the public and the government that life began at conception despite popular beliefs. Accordingly, doctors sought greater restrictions on abortion and abortifacients and argued that women requesting abortions should be immediately reported to "some competent executor of the law".¹⁷⁰ Indeed, doctors felt themselves to be put at risk by women requesting abortions because of the potential criminal penalties. Some felt that they could be victimized by women, who vengeful at the doctor's unhelpfulness, could entrap them in criminal proceedings by implicating the doctor in their own failed attempts to procure an abortion.¹⁷¹ In addition, the conviction rates for abortion charges were over fifty percent

¹⁶⁹. See Eric Jarvis' study of Toronto, "Mid-Victorian Toronto: Panic, Policy and Public Response, 1857-1873", PhD diss., University of Western Ontario, 1978, pp.132-134.

¹⁷⁰. McLaren and McLaren, The Bedroom and the State, pp.36-43.

¹⁷¹. McLaren and McLaren, pp.36-37.

in some provinces, while almost two-thirds of the manslaughter and murder charges related to infanticide were acquitted.¹⁷² Instead, women were usually charged under the lesser charge of concealment of a birth which constituted a misdemeanor, although convictions were still relatively rare.¹⁷³

Indeed, a relatively lenient attitude on the part of the courts at certain times was reflected in the application of infanticide laws. Infanticide cases were difficult to prove and convictions were accordingly rare. In Toronto in the 1860s between 50 and 60 dead infants were found but only 7 women were charged with infanticide.¹⁷⁴ In 1862, writers in the Upper Canada Law Journal were pleading for leniency in infanticide cases, in view of the "loss of reputation" unmarried pregnant women faced in the society of the day. They also argued that "the consequence at times is a life of prostitution, loathsome disease -- in a word, a living death".¹⁷⁵ The courts were also aware of the limited circumstances faced by the women, since there was little by way of services for mothers and children in mid-century.¹⁷⁶ Thus, tolerance for desperate acts such as infanticide was premised on women's maintenance of their non-prostitute status.

¹⁷². Backhouse, Petticoats, p.162.

¹⁷³. Jarvis, "Mid-Victorian Toronto," p.146, note 72.

¹⁷⁴. Jarvis, "Mid-Victorian Toronto," pp. 134-135.

¹⁷⁵. Backhouse, Petticoats, p.136.

¹⁷⁶. Backhouse, Petticoats, p.137.

Although the courts could see the constraints faced by women, they did not question the justness of such constraints.

In all, it is clear that women faced constraints on their sexuality and could pay great penalties for deviating from moral standards. Even where these penalties were largely formal the difficulties associated with sexual activity -- the ineffectiveness and lack of knowledge about birth control, the risk of venereal disease -- acted to restrict women's activity. To the restrictions of abortion and infanticide law can be added the injustices of child custody law and divorce law. Child custody law recognized the rights of the father almost exclusively. In 1855 an Upper Canadian law was passed which gave women some rights to their children under the age of twelve. Women were immediately disqualified, however, if they were guilty of adultery. Similarly, the adultery of wives provided the only single basis for divorce in Canada until the late 1800s.¹⁷⁷

Conclusion

Although Canadian legislation at the time of Confederation granted women a sense of legal autonomy where they were seen as individuals rather than the property of their parents,

¹⁷⁷. Backhouse, Petticoats, pp.177-190, p.203. Indeed, John A. MacDonald was horrified by changes to British law in 1857 which loosened restrictions on divorce and was quite proud of the impediments to divorce maintained in Canadian law. See Backhouse, p.188.

in practice this only shifted the burden of the maintenance of chastity from parents or husbands to women themselves. This shift failed to recognize the very unequal power position of women. In addition, this autonomy was linked to a view of women as naturally cunning, wicked and sexually "loose". Women's moral uprightness thus became extremely important to them for their sexual protection. This was reinforced by provisions punishing prostitution; restricting women's access to birth-control and abortion, and condemning women for practicing infanticide.

At the same time, there were spaces in the law which recognized the unfairness of these conditions for women if they were fighting to maintain their non-prostitute status and could be seen as victims of these very conditions. New spaces were also being established which enabled girls and young women to be seen as innocents rather than as sexually precocious, particularly in regards to prostitution. However, this too served to reinforce women's position as dependent (innocent) children of their parents. Thus, the habit of the courts to grant legal protection to "deserving" women -- women who were trying to preserve their chastity -- granted some legitimacy to claims for protection by creating a space where women could benefit from the law if they could be seen as innocent victims. This gave early feminists an inroad in establishing a gender critique based on the "woman as innocent victim" approach. However, this required that women emphasize

their moral role to maintain this innocent status rather than claim their right to sexual autonomy. The moral high road put further distance between the prostitute and non-prostitute women as well as white women and women of colour. The only link that could be made was if the prostitute could be seen as a victim as well.

Chapter 4: Women's Roles in Canadian Society, 1860 - 1880

In this chapter, I examine the lived experience of women in Canada between approximately 1860 and 1880. I outline how women understood their own position in society, why they adopted the image of maternal morality as the basis for political organizing and what implications that had. I look at the changing lives of women between approximately 1860 and the early 1880s. Such an analysis will reveal how the lived experience of Anglo-Saxon, Protestant middle-class women, in particular, their changing roles and the frameworks available for understanding these changes shaped the way that they approached the issue of prostitution. I also look at how the organizational fora available to women were key in shaping their approach. Women's role in the family and benevolence were key in this regard. Women in Quebec faced not only the opprobrium of the Roman Catholic Church but were hampered by the Church's domination of the field of benevolence and education which left little room for lay-organizations to develop. Thus, the organization of French Roman Catholic women came later than in English Canada.¹⁷⁸

¹⁷⁸. Yolande Pinard, "Les debuts du mouvement des femmes a Montreal, 1893-1902," in Marie Lavigne and Yolande Pinard, Travailleuses et feministes: Les femmes dan la societe quebecoise, (Montreal: Boreal Express, 1983), p.180. Quebecois women also faced the additional burden of their responsibilities as guardians of the Christian (Catholic) faith, the French language and French traditions in the clerico-nationalist tradition of French Canada. Thus, Pinard argues, French-Canadian women had less freedom of action than English-Canadians. Pinard, p.180. See also Suzanne D. Cross, "The Neglected Majority: The Changing Role of Women in Nineteenth Century Montreal," Social History, 6.12 (November 1973),

The image of maternal morality operationalized by the early feminists and adopted by many male-led organizations helped lead the state to implement more protective measures for women in general. The irony of this change is that it failed to challenge the double moral standard for women: instead, it involved the state in keeping moral and immoral women separated. It also led to the denial of agency for many young women, women of colour and working-class women who became the "children" -- both of the women's movement and of the state. This child-like status meant that these women were consistently seen as victims rather than agents in their own history.

Women's Roles in Canadian Society: The Importance of
Motherhood and Morality, 1860-1880

Women in Canada, in the decade following Confederation, were in a difficult position. As seen in the previous chapter, while they were considered autonomous individuals under law, their very autonomy meant that they were responsible for their chastity in a very unequal power situation. At the same time, the penalties for losing one's chastity were harsh. Women, however, did not accept these conditions without resistance.

pp.215-216 concerning Bishop Bourget of Montreal's determination to keep all charitable operations under the control of the church from the 1820s to 1840s. See also Susan Mann Trofimenkoff, "Feminism, Nationalism, and the Clerical Defensive," in Veronica Strong-Boag and Anita Clair Fellman, eds., Rethinking Canada, (Toronto: Copp Clark Pitman, 1986), pp.123-136.

The basis for this resistance came out of women's lived experience and opportunities.

The most powerful positions that women occupied at the time were in their roles as mothers and moral role-models within the family and, gradually, within the church. It made sense, then, for women to capitalize upon the power they had in these positions. Building on their position as moral icons, however, left unquestioned the assumptions upon which it was founded --that is, the double moral standard itself and its racist/nativist and classist biases. These biases were reinforced by the image of women as mothers -- another basis on which women could build their power position but which also had implications for working-class women, youth, aboriginal women, immigrants and women of colour. The moral feminist movement, therefore, often reinforced other power structures such as race/ethnicity, class and religion. At the same time, however, it answered some of the true concerns of women at the time.

Upon white women's arrival in Canada, their role was perceived as that of a tamer of the wild frontier -- a frontier made up of white men and aboriginal men and women. It was over these groups that white women were expected to, and expected themselves to, have a moralizing and softening influence in the harsh pioneer society. This influence was significant in helping white pioneer women attain a social

status beyond "work and sex objects".¹⁷⁹ At the same time, women's economic importance in pioneer life and their strength, determination, and practicality, promoted an individualistic and autonomous female image. Indeed, the women themselves seem to have felt their role in pioneer life to have been important and fulfilling. Because of the diversity of the Canadian economy, the pioneer role for women was maintained in the West much longer than in Ontario -- making it an important note of independence well into the 20th century.¹⁸⁰

However, in the pioneer period, the moral role of white women was constructed in opposition to the aboriginal women around her. As Sylvia van Kirk has recounted in her histories of women and the fur trade, aboriginal women were often the legitimate and respected wives of white fur trappers in the frontier societies. With the arrival of white women on the Canadian frontier, a relationship was established which demarcated aboriginal women from white women on the lines of sexuality and morality. It is important that white women were

¹⁷⁹. Deborah Gorham, "Singing Up the Hill," Canadian Dimension, 10.8 (June 1975), p.36. For accounts of pioneer women's role in "holding the family together" see Jacqueline Gresko "'Roughing It in the Bush' in British Columbia: Mary Moody's Pioneer Life in New Westminster, 1859-1863" in Barbara K. Latham and Roberta J. Pazdro, eds., Not Just Pin Money, (Victoria: Camosun College, 1984). Also, Susan Jackel, ed., A Flannel Shirt and Liberty, (Vancouver: University of British Columbia Press, 1982).

¹⁸⁰. See Sara Brooks Sundberg, "Farm Women on the Canadian Prairie Frontier: The Helpmate Image," in Veronica Strong-Boag and Anita Clair Fellman, eds., Rethinking Canada: The Promise of Women's History, (Toronto: Copp, Clark Pitman Ltd., 1986), pp.95-106, for a discussion of women's helpmate role based on pioneer women's own interpretations.

cast as moral superiors not only to men, but to aboriginal women. In these circumstances, aboriginal women quickly became second-class citizens -- a factor which contributed to their later involvement in prostitution.¹⁸¹ As the Canadian economy become increasingly settled, women's economic and social roles remained important. Women fulfilled an important social function in carrying out charitable work -- running homes for the poor, orphans and "fallen women". Upper-class women, in particular, felt it was their duty to provide for the less fortunate. Women also had important economic role in the dominantly agricultural society of 19th century Canada. Indeed, women on the farms were important components of the economic survival unit. Both women's and children's labour was necessary for the survival of the farm. According to Marjorie Cohen this was particularly true in the staples-based Canadian economy. The instability of such an economy made subsistence production in the home of great importance.¹⁸² In this way, farm women had some independent standing in rural society.

As some observers have pointed out, however, women's economic indispensability does not necessarily determine their societal status. Rather, women's role as moral guardians

¹⁸¹. Sylvia van Kirk, "The Impact of White Women on Fur Trade Society," in Alison Prentice and Susan Mann Trofimenkoff, eds., The Neglected Majority, vol. 1, (Toronto: McClelland and Stewart, 1982), pp.27-48.

¹⁸². Marjorie Griffen Cohen, Women, Markets and Economic Development in 19th Century Ontario, (Toronto: University of Toronto Press, 1988), Chapter 2.

improved their status as pioneers and farm women.¹⁸³ Thus, women's superior morality was key for their ability to maintain some control and power in their lives and the lives of others. This moralism was carried out through their various roles as mothers, workers or benefactors.

The industrialization and urbanization of the second half of the 19th century generated a number of significant changes in women's roles. In particular, these processes led to a growing visibility of middle-class women's roles as mothers. As the middle-class developed with industrialization women's roles became more differentiated. Marjorie Cohen's analysis of women's work in Ontario in the 19th century illustrates these changes. While single, widowed and poor married women took advantage of the increasing opportunities for waged labour for women, other women maintained their position in the home. These changes reflected an increase in the number of unmarried women. As more marriage-aged men moved West because agricultural land in Ontario became scarce, a trend toward delayed marriage developed. Opportunities for paid labour in the cities were on the increase just as these women were finding it increasingly difficult to sustain themselves on the farm. Thus, an increasing number of single women were migrating to the cities. Between 1871 and 1901 the rural population declined from 81.2 per cent to 62.5 per cent of the Canadian

¹⁸³. Gorham, "Singing Up the Hill," pp.35-36.

population.¹⁸⁴ Women increasingly tended to outnumber men in urban populations.¹⁸⁵ Young, single women were taking on a much differentiated role from older, married women. While single women were increasingly to be found in the cities at work, married women's roles as mothers were becoming of growing importance.

For married women the low pay for female labour and the limitations in kinds of work available to women, combined with the economic necessity for subsistence production in the home, made the move into wage-labour much less compelling.¹⁸⁶ Indeed, women's work in the home was becoming increasingly demanding. The establishment of compulsory education, which had started in Upper Canada in the late 1840s, began to put

¹⁸⁴. Wendy Mitchinson, "The WCTU: 'For God, Home and Native Land': a Study of Nineteenth-Century Feminism," in Michael S. Cross and Gregory S. Kealey, eds., Canada's Age of Industry, 1849-1896, (Toronto: McClelland and Stewart, 1985), pp.190-191. Rural outmigration was also increasing in the Maritimes. Studies in Nova Scotia show a great increase in rural outmigration of youth as the Maritime economy worsened in the 1870s. See Alan A. Brookes, "Family, Youth, and Leaving Home in Late-Nineteenth Century Rural Nova Scotia: Canning and the Exodus, 1868-1893," in Joy Parr, ed., Childhood and Family in Canadian History, (Toronto: McClelland and Stewart, 1982), p.101. The number of young women leaving rural Nova Scotia also increased in this period of economic hardship, as in Ontario, as women sought employment in the cities. Brookes, p.100. Rural-urban migration in some parts of Ontario between 1870 and 1920 was, in fact, dominated by young women. Domestic workers tended to go the furthest from home to the big cities while it became impossible to get domestic help on the farms. See Alan A. Brookes and Catherine A. Wilson, "'Working Away' from the Farm: The Young Women of North Huron, 1910-1930," Ontario History, 77.4 (December 1985), p.282, pp.289-290

¹⁸⁵. Cohen, "Women, Markets and Economic Development," p.121.

¹⁸⁶. Cohen, pp.118-130.

more emphasis on the child as a student rather than a worker. This was particularly true in the urban areas. The changing role of children had great political implications. The increased emphasis placed on children as future citizens gave women a political tool for greater social influence. However, it also linked women into discourses which carried strong class and race/ethnic overtones.

Women, Children and Education

The introduction of public schooling was very much a class issue, based as it was on a concern with urban juvenile crime developed as early as the 1830s in Upper Canada.¹⁸⁷ Public schooling was seen as a way of reforming youngsters and preventing juvenile crime. However, this program was directed particularly toward poor, urban youth rather than the children of the wealthier classes.¹⁸⁸ Poor children were in need of such education because of the neglect and inability of their parents. As it was argued in the House of Assembly :

Accustomed, in many instances, to witness
at home nothing in the way of example,
but what is degrading; early taught to
observe intemperance, and to hear obscene

¹⁸⁷. The 1840 census reveals that half the population of Upper Canada was under 16 years of age. The rising concern with juvenile delinquency also led to the development of welfare institution designed specifically to deal with children, which were often run by women. Richard Splane, Social Welfare in Ontario, (Toronto: University of Toronto Press, 1965), pp.220-230.

¹⁸⁸. Susan E. Houston, "Politics, Schools, and Social Change in Upper Canada," Canadian Historical Review, 58.3 (September 1972), pp.255-256.

and profane language without disgust; obliged to beg, and even encouraged to acts of dishonesty to satisfy the wants induced by the indolence of their parents -- what can be expected, but that such children will in due time, become responsible to the laws for crimes, which have thus, in a manner, been forced upon them?¹⁸⁹

Thus, compulsory education reflected growing class awareness in Upper Canada.

The debate over education had also been affected by the Rebellion of 1837. There was great concern that such unruliness was the result of improper training and the failure to instill national values in the colony's youth (particularly, because of the presence of American republicans).¹⁹⁰ Educational reformers in the 1840s worked to remove education from the control of rural communities (which had proved to be disloyal to the colonial administration both in 1837 and in the political turmoil of 1843-1844) and to place it in the hands of the central government. This was a process largely carried out through the activities of Egerton Ryerson, a Wesleyan Methodist leader who fought for continued imperial control of Upper Canada in the face of agitations for autonomy in 1843-44. Ryerson felt that the education of the public in productive labour, Christianity and political order would

¹⁸⁹. Quoted in Houston, p.255.

¹⁹⁰. Bruce Curtis, "Preconditions of the Canadian State: Educational Reform and the Construction of a Public in Upper Canada, 1837-1846," in Jim Albert and Alan Moscovitch, eds., The Benevolent State, (Toronto: Garamond Press, 1987), pp.51-52.

produce a less refractory public.¹⁹¹ Bruce Curtis is careful to point out that the rise of education in Upper Canada was not the result so much of the desire for social control and the formation of a disciplined working class (which was not yet sufficiently large in Upper Canada to warrant such attention) but was part of a dialectic process of political (re)construction of the state and its citizens.¹⁹² Thus the development of education and the changing image of the child were embedded not only in class relations but in the processes of the formation of the state and of national identity.

Education was also affected by the changing rural/urban composition of Canada. School attendance required not only the provision of schools but parental belief that children were no longer needed to work at home.¹⁹³ The patterns of increasing school attendance varied according to location (countryside, village and city) as well as class, and gender. Middle-class parents in villages and towns or cities were much more likely than either working-class or farming parents to send their

¹⁹¹. Curtis, p.54.

¹⁹². Curtis, pp.50-62.

¹⁹³. Chad Gaffield, "Schooling, the Economy, and Rural Society in 19th Century Ontario," in Joy Parr, ed., Childhood and Family in Canadian History, (Toronto: McClelland and Stewart, 1982), p.88. Gaffield also points out that school attendance would require that the children be interested in going to school. This may have been the case, he argues, because children would find greater social opportunities in the school and be able to escape the constant togetherness and oppressiveness of family life. Gaffield, p.91.

children to school in the period of 1860 to 1880.¹⁹⁴

School attendance was also marked by gender differentiation. Women realized the need for new skills to cope with the changing society. Women in Ontario insisted on education for their daughters, as well as their sons, and vociferously opposed Egerton Ryerson's attempts in 1866 and 1867 to prevent girls from attending school.¹⁹⁵ By 1880, girls often outnumbered boys at school.¹⁹⁶ The later school-age leaving of girls and their more obvious presence in the schools may have begun to change the old social acceptance of a shorter youth for girls than boys.¹⁹⁷ Indeed, some studies of emigration patterns of youth show a smaller age-range (between 16 and 21) for emigration for girls than for boys (between 16 and 26) denoting a shorter period of 'youth' for girls, even while the lengthening time between school leaving and marriage for girls

¹⁹⁴. See Gaffield, pp.69-92.

¹⁹⁵. Leo Johnson, "The Political Economy of Ontario Women in the Nineteenth Century," in Janice Acton, et. al. eds., Women at Work Ontario, 1850-1930, (Toronto: The Canadian Women's Educational Press, 1974), p.25.

¹⁹⁶. See Gaffield, pp.84-85.

¹⁹⁷. One wonders whether women's awareness of the changing nature of childhood and of girls' differential position in the child/adult divide was also a factor in their pushing for education for girls. Education would put girls in the more protected category of children for a longer time than usual in order to protect them from too early exposure to adulthood and its attendant burdens, including sexuality and motherhood.

was expanding this "youthful" period.¹⁹⁸

As mentioned above, the removal of child labour on the farms, particular girls' labour, meant an increased burden on farm women as they spent more of their time serving the needs of both husbands and children.¹⁹⁹ The declining numbers of domestic servants -- associated with compulsory education for young girls and the increasing urban migration of girls to urban centres -- throughout the second half of the 19th century made farm women's work even more onerous.²⁰⁰ Although farm women's domestic production was becoming more market-oriented, the pressing need for domestic subsistence meant that as this production became increasingly market-oriented and more profitable it was often taken over by men.²⁰¹ Women's work in the home, therefore, retained a great deal of importance despite the growing numbers of women in waged labour.

The changing roles of women led to a change in the relationship between women and children. Because women were marrying later there was a large decline in the birth rate in English Canada starting as early as 1851. The birth rate in

¹⁹⁸. Alan A. Brookes, "Family, Youth, and Leaving Home in Late-Nineteenth Century Rural Nova Scotia: Canning and the Exodus, 1868-1893," in Joy Parr, ed., Childhood and Family in Canadian History, (Toronto: McClelland and Stewart, 1982), pp.102-103.

¹⁹⁹. Johnson, "The Political Economy of Ontario Women," p.24.

²⁰⁰. Cohen, Women, Markets and Economic Development, p.137.

²⁰¹. Cohen, p.155. See her analysis of the dairy industry in Chapter 3 of Women, Markets and Economic Development.

Quebec also fell between 1851 and 1921, but only by 21 percent while the rate in Canada overall fell by 41 per cent.²⁰² The declining rate reflected the fact that many women chose -- in view of the limited job options available as well as the contempt held for spinsterhood -- to marry and limit the number of children rather than remain single.²⁰³ Indeed, that the marriage rates remained stable in this period suggests that English-Canadian families, at least, were using some form of birth control.²⁰⁴ The decline in the birth rate may have led to an intensification of the mother-child relationship.²⁰⁵

The increasing differentiation among women, however, meant that the mother-child relationship would change differently according to women's economic status. Those women who entered the work force who had children were usually poor married women. They were dependent on other people to perform care-giving functions -- older children, husbands, and extended family. In Quebec facilities for child-care were made available to French Canadian working women through various charitable and religious institutes. It was becoming increasingly common for married French Canadian women to go out to

²⁰². McLaren and McLaren, p.18.

²⁰³. R. Marvin McInnis, "Women, Work and Childbearing: Ontario in the Second Half of the Nineteenth Century," Social History, 24.48 (November 1991), pp.237-262.

²⁰⁴. McLaren and McLaren, p.18.

²⁰⁵. Mitchinson, "The WCTU," p.191.

work, unlike their English Canadian counterparts.²⁰⁶ For other married women, their role as mothers took on increasing importance. For married women in urban centres for example, the increasing availability of transportation enabled men to leave the home in order to work elsewhere, leaving women to assume more of the child-raising responsibilities.²⁰⁷ Indeed, in English-Canada:

mothers came to wield 'an influence so potent with their children' that it became 'almost omnipotent'. This increased responsibility, which came at a time when the new perceptions of childhood were laying greater burdens on parents made many middle-class women into rather self-conscious artisans in a new and highly specialized occupation called 'Motherhood'.²⁰⁸

The reconstruction of the image of childhood in the mid-1800s offered women the opportunity to expand upon their newly emphasized role as mothers. As noted above, however, this reconstruction involved elements of class and the changing geographical base of the economy. It also reflected questions of the ethnic and racial composition of Canada, as can be seen

²⁰⁶. D. Suzanne Cross, "The Neglected Majority: The Changing Role of Women in Nineteenth Century Montreal," Social History, 6.12 (November 1973), pp.210-214.

²⁰⁷. Neil Sutherland, Children in English-Canadian Society: Framing the 20th Century Consensus, (Toronto: University of Toronto Press, 1976), pp.23-24.

²⁰⁸. Sutherland, p.24.

in the Manitoba Schools Crisis.²⁰⁹ The approach taken to the problem of juvenile delinquency displayed an early understanding of children being shaped by their environments rather than as naturally evil and morally culpable.²¹⁰ The environmental approach, however, was clearly rooted in race/ethnicity and class relations. It was the distress of poor, urban youth that challenged the individualistic and moralistic approach of earlier days.

Indeed, the environmental approach to social problems came out of the debate around race, heredity and environmentalism led by Darwin, de Lamarck and Galton. The use of 'the race' in 19th century Canada denoted both the 'human race' and what was presumed to be its apex, the Anglo-Saxon Protestant ruling bloc.²¹¹ Thus, concerns about race, included concerns about ethnicity, language and religion as well as nativism. The environmental approach resulted from de Lamarck's defense of environmental causation and the inheritance of acquired traits.²¹² The school was commonly seen as an instrument of

²⁰⁹. Indeed, there was a great deal of concern exhibited over the un-British influence of American teachers after 1837. Houston, "Politics, Schools and Social Change," pp.260-261.

²¹⁰. Houston, p.255.

²¹¹. See Mariana Valverde, "'When the Mother of the Race is Free': Race, Reproduction, and Sexuality in First-Wave Feminism," in Franca Iacovetta and Mariana Valverde, eds. Gender Conflicts: New Essays in Women's History, (Toronto: University of Toronto Press, 1992), pp.3-26.

²¹². Carol Lee Bacchi, Liberation Deferred?, (Toronto: University of Toronto Press, 1989), pp.105-106.

Canadian identity formation in these terms.²¹³

The Implications of "Motherhood"

The beginnings of women's organization, therefore, must be analyzed in the light of the changes taking place in women's roles and experience. Married women would have been particularly sensitive to the changes taking place as their relationship with their children intensified and younger women left the rural areas for the cities in increasing numbers. It made sense, then, that women capitalized on their motherhood roles as the pressures of urbanization and industrialization raised new social problems and intensified old ones. They would have been particularly concerned about the young women going into the cities and leaving behind the protection of their families. The concurrently changing image of the child gave women a mechanism to link their concerns about these changes to the social concerns around them. Women's emphasis on motherhood, however, carried with it a number of linkages in terms of race/ethnicity and class.

The construction of 'the child' provided a base on which women could make their claims on society as the protectors and educators of children. The educational role of mothers infused

²¹³. Houston, "Politics, Schools and Social Change," pp.262-266. See, in particular, Ryerson's statement on the importance of education for preventing poverty among the newly arriving Irish Catholics. Houston says, "...it appears obvious that without schools, Irish children would perpetuate racial behaviour patterns and grow up 'in the idleness and pauperism, not say [sic] mendicity and vices of their forefathers.'", p.266.

a sense of positive power in shaping and guiding, and providing the right environment for, those considered to be children. In this capacity, women could also draw on their "superior morality" to defend their position as the educators of children. Thus, women stood to gain from their newly emphasized role by increasing their power position vis à vis both men and children. At an important level, women's construction of their power position on the basis of their moral parenthood allowed them to criticize men for their failures in parenting. Expanding on this basis, women were also able to justify their move into the public sphere. The image of the innocent child became a powerful base from which to criticize a number of social ills -- such as prostitution and alcohol abuse -- as the rapid industrialization and urbanization of the late 1800s set in.

Through women's motherhood approach, however, race/ethnicity and class were reconstituted in terms of innocence and childhood. The concept of motherhood carried within it protectionist sentiments, particularly as the concept of 'child' was changing away from that of worker and towards that of student. Children were no longer seen as little adults. They were in training for adulthood, with a need for a protected environment and proper upbringing. The changing concept of childhood as not morally culpable implied a sense of innocence, including sexual innocence. Indeed, early women's organizations would be among the first to agitate for

sexual education -- something that had to be taught in a controlled atmosphere, rather than learned from observation and experience -- and a raising of the age of consent.

The concept of 'child', as innocent in need of protection and education, could be expanded to other groups. Age became a way of expressing the concepts of innocence and need for protection and these were closely articulated to gender, race/ethnicity and class. Young working women, therefore, first became those deemed in need of special protection. As increasing numbers of women and girls between the ages of 15 and 30 migrated into the cities to find work in the newly expanding industries, middle-class women became more and more concerned to provide for them -- as is seen in the emphasis placed on young working women by women's organizations such as the Young Women's Christian Association.²¹⁴ Initially, this transition from children to young or "other" women was carried out through benevolence.

Women and Benevolent Work

The increasing wealth of the middle class meant that women had the time to capitalize on their changing roles and engage in extra-domestic activity, particularly benevolent work. Using the concept of extended motherhood, women could take their private roles into the public sphere. The urban-

²¹⁴. Cross, "The Neglected Majority," pp.203-205.

ization and industrialization of Canada appeared as a threat to the stability of the family unit. In this context, women's emphasis on motherhood and private family values had great social appeal. At the same time, it allowed them to cross the treacherous divide between public and private spheres. Their role in benevolence, as motherhood writ large, allowed women to take this step. Like motherhood, benevolence linked middle-class women into a protective orientation.

Because most women working to eliminate social evils, such as drinking, did not experience these difficulties in their own families, they did not relate to other women who faced these problems as their "sisters in suffering". Instead, middle-class women related to other women from their position as mothers and providers of benevolence.²¹⁵ The benevolent role involved a clear power relationship between givers and recipients. Relations with other women, therefore, were clearly marked by class differentiations. Thus it was impossible to initiate such gendered political action as a wife's strike, because women did not relate across class lines in this way. Rather women fell back on the church-sanctioned organizing principle of benevolence.

Women's organizing in churches had led many of them into benevolent activities beginning in the early 1800s. These

²¹⁵. Indeed, the growing geographical separation of rich and poor in urban areas in the mid-1800s, reinforced this trend. See Jocay Noble "'Class-ifying' the Poor: Toronto Charities: 1850-1880," Studies in Political Economy, 1.2 (Autumn 1979), pp.113-114.

activities provided the base for women's involvement in houses of reform, orphanages and other benevolent institutions in mid-century. These involvements were often women's first experience of organizing for social change. This experience shaped women's orientation to later organizational efforts. Accounts of women's early benevolent work in Canada, starting in the 1830s, attribute their involvement to sufficient wealth in the 1830s to make philanthropy possible and the challenge to Protestants of the obvious philanthropy of the Catholic church. Women, in particular, could become involved because of the changing pedagogical theories of the time which idealized the mother-child relationship.²¹⁶ The growing immigration and numbers of poor and unemployed alerted many upper-class women to the need for charitable work probably out of a sense of Christian duty and a desire to protect the family.³³ These organizations also encouraged the growth of a female culture as they provided an opportunity, for upper-class women at least, to work together.³⁴ Women's control over these charitable institutions, although often limited through male supervision, placed upper and middle-class women in a position of power and supervision of working-class women. In this

²¹⁶. Patricia T. Rooke and R.L. Schnell, "The Rise and Decline of British North American Protestant Orphans' Homes as Woman's Domain, 1850-1930," *Atlantis*, 7.2 (Spring, 1982), p.26.

³³. Jane Errington, "Pioneers and Suffragists," in Sandra Burt, Lorraine Code, and Lindsay Dorney, eds., Changing Patterns: Women in Canada, (Toronto: McClelland and Stewart, 1990), pp.60-61.

³⁴. Errington, p.61.

context, women were truly "their sister's keeper".

Women's maternal role was reflected in their involvement in orphanages as one of the earliest targets of exclusively female organization and attention. The "poor, uncared for destitute children" in Kingston were rescued from the House of Refuge which were considered "a crowded receptacle of misery where they were too often consigned to those who desired them as household drudges". The Widows' and Orphans' Friend Society put the children "into so pleasant and comfortable a home, where, as one family they were preserved from evil influences without, instructed in the fear of the Lord, and trained in habits of virtue and regularity".³⁵

Benevolent women's organizations were also particularly concerned with girls, as well as widows and unwed mothers, in order to prevent them from falling prey to procurers and prostitution.³⁶ Under the pretext of providing motherly care for, and training of, girls who would otherwise grow up "under the most baneful influences", the women of societies (such as the Halifax Ladies Society) were able to take over the running of the institutes from the male founding committee.³⁷

Women's efforts to rescue and reform fallen women in the early to mid-19th century were the forerunners of the subsequent reform movement. Women in the first half of the 19th

³⁵. Rooke and Schnell, "The Rise and Decline," p.23.

³⁶. Rooke and Schnell, p.24.

³⁷. Rooke and Schnell, p. 24.

century challenged the view of women as naturally wicked. They felt that women who had become prostitutes should be reformed rather than punished. Houses of reform and rehabilitation for women -- such as the Toronto Magdalene Asylum and the Montreal Institute for Female Penitents -- had already been given legislative status in the early 1800s. Middle-class women, critical of the penal approach to prostitution, set up homes in which they attempted to reform prostitutes through religion.³⁸

Such institutes began to appear more often in the 1860s and 1870s.³⁹

It became common for the law to deal with convicted females by sending them to a house of reform. This meant that the state was often dependent upon religious societies and middle-class women for their reform work. Thereby an early link between women's reform work and the state was established.⁴⁰ Prostitutes themselves, however, often found they

³⁸. For the beginnings of these homes in Halifax see Judith Fingard, The Dark Side of Life in Victorian Halifax, (Porters Lake, NS: Pottersfield Press, 1989), Chapter 6 "'I have no refuge': Homes for Female Offenders," pp.135-144.

³⁹. Constance Backhouse, "Nineteenth Century Canadian Prostitution Law," Social History, 18 (1986), p.415, note 83.

⁴⁰. There had, of course, been a long tradition of state dependence on church activities, such as poor relief. The Anglican church, in particular, was associated with this role. The government in Halifax used the Halifax rector to distribute relief on a regular basis. See William H. Elgee, The Social Teachings of the Canadian Churches: Protestant, The Early period, before 1850, (Toronto: Ryerson Press, 1964), pp.162-168. Such dependence on women-run orphanages also continued even when such old-style charities were out of fashion with the new scientific approach of

preferred the prisons to the strict moral and religious guidance of the reform houses and some refused to be sent back after their initial experience.⁴¹ This resistance by the prostitutes resulted in increased attention to special women's prisons and longer prison terms. The penalties for women convicted under the Vagrancy Act were increased in 1871 and 1874 through additions of hard labour and maximum sentences of six months. Quebec women were required to stay in a reformatory for a minimum of five years.⁴²

Gradually, social activists replaced benevolence work with "scientific charity". The scientific approach was not so much concerned with simply keeping the poor alive as with bringing them to the point where they could provide for themselves. This new approach, which became prevalent in the 1870s, pointed to the inefficiency of "indiscriminant almsgiving" and its tendency to manufacture "pauperism" -- an inability or disinclination to work one's way out of pov-

the Children's Aid Society. The Society often used the orphanages to house Society wards. See Rooke and Schnell, "The Rise and Decline," pp.30-31.

⁴¹. Joanne Reid "Witches, Whores and Waifs: Judicial Treatment of Deviant Women in Pre-Confederation New Brunswick -- Selected Examples," Papers presented at the Canadian Law in History Conference, (Ottawa: Carleton University, June 10-12, 1987), p.126. See also Judith Fingard, The Dark Side of Victorian Halifax, chapter 6 for examples of prostitute resistance to reform.

⁴². Backhouse, "Prostitution Law," pp.416-417.

erty.⁴³ This approach was whole-heartedly taken on by the women's charity organizations, demonstrating a commitment to the values of the industrializing society and probably reflecting their family connections to businessmen. The movement was also concerned to instill the poor with middle-class values.⁴⁴ The increasing popularity of scientific discourses with the rise of industrialization meant that scientific approaches gave legitimacy to social endeavors. The superiority of middle-class women was maintained in this approach as working-class women appeared as ignorant and in need of instruction by middle-class women. This again emphasized a mother-daughter or teacher-student relationship.

Women's missionary societies were another early form of women's organizing -- starting as early as 1825 in Prince Edward Island.⁴⁵ These societies expanded to provincial and national associations in the 1870s, becoming "the most

⁴³. Noble, "Class-ifying the Poor," pp.112-113. Noble documents the Women's Christian Association Mission and Relief Committee's rigorous commitment to the principles of scientific benevolence. This involved the classification of the poor into "deserving" and "undeserving" categories. Noble sees this as the beginning of the process of the control of knowledge by experts separated from experience which objectifies the "known", and separates the expert from the subject. Indeed, charity work of this sort laid the basis for later professionalization of social work. See Noble, pp.122-126.

⁴⁴. Wendy Mitchinson, "Early Women's Organizations and Social Reform: Prelude to the Welfare State," in Alan Moscovitch and Jim Albert, eds. The Benevolent State, (Toronto: Garamond Press, 1987), pp.82-89.

⁴⁵. Wendy Mitchinson, Canadian Women and Church Missionary Societies in the Nineteenth Century: A Step Towards Independence, "Atlantis, 22.2, Part II (Spring 1977), p.61.

powerful of Canada's first great female alliances."⁴⁶ The missionary societies gave women valuable organizing experience, as the President of the Woman's Baptist Missionary Union of the Maritime Provinces formed in 1884 explained, "the women at the time when this missionary work was thrust upon us had had no experience in conducting business, speaking in public, or any such work, but we had to learn."⁴⁷

The evangelism of Protestant churches gave impetus to these activities and strengthened the traditional religious base of women's organizing. Most of the organizations which grew up in the 1870s and 1880s had some link to the church. This gave women a sense of "moral rightness" in their benevolent work. Indeed, the Protestant women felt that Christianity preached the equality of the sexes -- all women having been redeemed from the curse of Eve through Christ's birth.⁴⁸ Women were sometimes even encouraged, particularly by the Methodist church, to participate in church life.

Many of the women's missionary societies began to turn their attention inward, and to apply the lessons they had learned in supporting overseas work in their own backyards. In this way, Baptist women involved themselves with the issues of

⁴⁶. Veronica Strong-Boag, The Parliament of Women: The National Council of Women of Canada, 1893-1929, (Ottawa: National Museum of Man Mercury Series, 1976), p.57.

⁴⁷. Quoted in Mitchinson, "Canadian Women and Church Missionary Societies," p.60.

⁴⁸. Mitchinson, "Early Women's Organizations," p.80.

aboriginal people and the French Catholics (who were seen as "willing prisoners to the fascination of a tyrannical fanaticism").⁴⁹ Home missions also became an important aspect of Methodist women's work. The turn towards home missions, however, required a change in approach from foreign mission work because the religious and cultural values which were supposed to reform foreigners were already accepted at home; yet problems remained. The Methodists, for instance, were willing to use the state and secular reform to bring about religious conversion. The Methodists' support of the reform movement, therefore, helped to make the transition to more secular reform in the late 19th century.

The "missionary" approach of women's organizations again linked into a benevolent attitude, where women were always one step removed from the people they were actually helping. The missionary played the intermediary between the women and the recipients of their benevolence.⁵⁰ Although, ostensibly, the turning inward of the missionary groups should have broken down this barrier between women, the organization of early women's groups [such as the Young Women's Christian Association (YWCA)] was such that the group membership had little direct contact with its clients. Like the Methodist church, other women's groups (such as the WCTU) turned to the government as their intermediary and had little to do with individ-

⁴⁹. Mitchinson, "Early Women's Organizations," p.82.

⁵⁰. Mitchinson, "Early Women's Organizing," p.83.

ual drinkers or their families.⁵¹

In addition, women's ability to build on these benevolent roles was often dependent on the availability of domestic servants -- of which there was a great shortage in the 1870s.⁵² Middle-class women's ability to engage in benevolent work, therefore, rested on a fundamental contradiction. Since women had built their position on their motherhood, it was also inconceivable to ask for men to be more involved in domestic duty. Their involvement in philanthropy depended on working-class women going into positions of domestic service. Indeed, the lack of sufficient servants was an important issue for many of the early women's groups. Yet, the frustrations and limitations faced by domestic workers (including low pay, low prestige and lack of private time) often led to their involvement in prostitution.⁵³

⁵¹. On Women's Mission to Women see Jean Lawrence L'Esperance, "Woman's Mission to Woman: Explorations in the Operation of the Double Standard and Female Solidarity in Nineteenth Century England," Social History, 12.24 (November 1979), pp.316-338.

⁵². Cross, "The Neglected Majority," p.209.

⁵³. For discussions of domestic service see Genevieve Leslie "Domestic Service in Canada, 1880-1920," in Janice Acton et. al. eds., Women At Work: Ontario 1850-1930, (Toronto: Canadian Women's Educational Press, 1973). See also Lori Rotenberg "The Wayward Worker: Toronto's Prostitute at the Turn of the Century," in Women at Work, pp.39-41, for discussion of domestic servants' involvement in prostitution. Joey Noble's research on the poor in Toronto in the mid-19th century also reveals that "One of the most stable sources of income for families of the labouring class at th's time was to have a young member work as a live-in servant and give their small salary to the support of their destitute kin". The poor were a relatively large group at the time because of the difficulty of obtaining cheap land with the Family Compact in control. See Noble, "Class-ifying the Poor," p.111. One wonders, given present-day

The importance of women's role as employers of other women, however, was never recognized by the women's movement. This role was probably the most important in establishing a better understanding of prostitution because of the link between it and domestic service. Unlike motherhood and benevolence, this role had no support within the dominant political discourse. Instead, the dominant discourse of the time was one based on the notion of family. It was within this discourse that discussion of domestic service, prostitution and working women took place. Thus, the greatest threat for women was to be outside of the family and the answer to the problems of women in the above areas was to provide them with a "family atmosphere". Class in this case was not seen as a problem to be redressed but as a basis for parental responsibility to the lower class. This benevolent approach reinforced the class and protective nature of women's organizing in the late 1800s.

Conclusion

Women's position as mothers gave them some power within the private sphere as their economic position changed with industrialization. The image of women in pre-Confederation-period legislation involved a sense of autonomy for women -- based on woman's role as a pioneer and partner in the Canadian

research on sex-trade work and family support in Third-World countries, if the slide from domestic-work to prostitution was accompanied by continued financial support of family dependents.

frontier. In the later part of the 1800s the changing economic status of middle-class women gave them less of a direct role in production. Women became more dependent on their role as wives and mothers for power within the family and in society in general. It also, however, gave them a chance to organize; and many middle-class women took up that opportunity.

The female image utilised by these women was based, understandably, on their maternal roles. The vulnerable position of children allowed women to point to children's vulnerability and innocence in criticizing men's irresponsible behaviour. Middle-class women's work in charity and benevolence also put them in a maternal position towards poor women. Women's maternal position vis à vis children and working-class women led middle-class women to see these others as in need of "parental" protection. Women's approach linked up with moves within society to extend greater protection to children (particularly in urban society), and with a belief in the need for a wholesome atmosphere for children.

The image of moral motherhood, however, did not support an image of women as workers nor the previous image of women as pioneers. Rather, feminists' maternalism and their moralism reinforced and sustained each other in promoting an image of women as victims at the same time as it challenged the patriarchal order by turning the double moral standard on its head and using it to fight for women's rights.

Chapter 5: Political Activity, 1870-1892

Changes in the legislation concerning prostitution and the protection of women between the ages of 10 and 21 in the 1880s and 1890s made Canadian law "the most comprehensive in the Commonwealth" by the time of the codification of the Canadian Criminal Code in 1892.¹ As early as 1882, an Ontario Grand Jury, deploring the great increase in the "social evil", had recommended stricter enforcement of prostitution laws, particularly against brothel keepers. It also had recommended the publicizing of the names of frequenters of bawdy houses.² The changes that were enacted between 1884 and 1892 reflected this new concentration on keepers and frequenters as the understanding of women's involvement became gradually more victimist. Provisions were passed relating to aboriginal prostitution, and to seduction and procuring in response to social concerns over the increasing immigration to, and urbanization of, Canada. Such concern was linked to changing gender and age roles as well as the formation of middle-class sexual morality.

Obviously, the social concern over prostitution was rising with the urbanization and industrialization of the late 1800s and the organization of women, temperance groups,

¹. Graham Parker, "The Legal Regulation of Sexual Activity and the Protection of Females," Osgoode Hall Law Journal, 21.2 (1983), p.214.

². Constance Backhouse, "Nineteenth Century Canadian Prostitution Law," Social History 18 (1986), p.394, note 30.

benevolent groups, and the increasing activity of unions and churches. These groups were key interpreters of these new problems and it was their interpretation that often became part of the dominant discourse. The understanding of prostitution was also changing to reflect the attitudes of these groups. There was a higher concern with keepers -- rather than the prostitutes themselves -- and with the morality of men who frequented brothels. This was an approach very similar to that of women's groups who encouraged a change from the exclusive focus on the prostitute as sinner. In the period of 1884-1892 such an approach is increasingly reflected in the legislation. To trace these changes in the legislation it is important to look at the social activity leading up to them. In this chapter I look at the period of political between 1870 and 1892 which was key in the creation of a new approach to prostitution.

Women's Organizing: Temperance and the WCTU

Women's maternal role had enabled them to perform more societal roles such as benevolence. In the 1870s, social concern with drinking and the strengthening of the temperance movement provided women with another vehicle to take some of their private concerns to a societal level. The eventual strength of the temperance movement in Canada has led some to argue that, particularly in the west, any social outcry over

prostitution was an outgrowth of, or sidetrack from, social concern with temperance.³ Although temperance forces had made some headway in Ontario in the 1850s and 1860s, it was not until the 1870s that their presence began to be felt nationally.⁴ Women's new organizing strength and their increasingly social roles allowed them to link into this movement.

Alcohol was easily pinpointed as the root of all evil in Canada at the time. Consumption was estimated at 1.19 imperial gallons for everyone over the age of 15 in 1871, rising to 1.42 gallons in 1874.⁵ The response to this behaviour by way of a temperance movement was fuelled by the growing pressures of an increasingly urbanized and industrialized (and increasingly class-differentiated) society. Thus, the movement reflected some tension between the working and middle classes. As upright Protestants began to move into managerial positions through hard work, restraint and sobriety they became more threatened by the working class's apparent disrespect for such

³. See James Gray, Red Lights on the Prairies, (Toronto: Macmillan, 1971), pp.1-25.

⁴. Until the beginning of the 1900s, prohibitionism was mainly a rural movement with its greatest support in those rural areas neighbouring on urban centres. Malcolm Graeme Decarie, "Something Old, Something New... Aspects of Prohibitionism in Ontario in the 1890s" in D. Swainson, ed., Oliver Mowat's Ontario. (Toronto: MacMillan, 1972), p.156.

⁵. Wendy Mitchinson, "The WCTU: 'For God, Home, and Native Land'," in Michael S. Cross and Gregory S. Kealey, eds., Canada's Age of Industry, 1849-1869, (Toronto: McClelland and Stewart, 1982), p.193.

a lifestyle.⁶ There was also a direct link made between ethnic groups, particularly the Irish, and intemperance. Temperance was mostly supported by middle-class businessmen, professionals, the artisanal class and the clergy of the evangelical Protestant churches. The Anglican clergy, however, felt that the temperance movement was a threat as a substitute for religion.⁷ The Roman Catholic church also refused to support the movement.⁸

The working class was understandably less than enthusiastic about the efforts of the temperance movement. The saloon was often an important part of working-class life, performing a social, recreational and occasionally political function for workers. The movement received only tepid support from the unions, and that only up until 1890.⁹ The middle-class temperance campaigners, however, felt the unions should be spending less time striking for higher wages, and more striking against the saloons which would lead both to higher

⁶.Decarie, pp.156-158.

⁷. James H. Clemens, "Taste Not; Touch Not; Handel Not: A Study of the Social Assumptions of the Temperance Literature and Temperance Supporters in Canada West between 1839 and 1859," Ontario History, 64 (1972), pp.146-147.

⁸. Decarie argues that it was only the church leadership which showed any differentiation in temperance support. The value system of prohibition, he argues, was embraced equally among all religions. More important for differentiation in support were class positions. See M.G. Decarie, "Paved with Good Intentions: The Prohibitionists' Road to Racism in Ontario," Ontario History, 66 (1974), p.17.

⁹. Decarie, "Aspects of Prohibitionism," pp.158-163.

wages and to increased savings.¹⁰ Temperance reformers felt that poverty was a direct result of drinking. Their economic rationale, therefore, did not challenge capitalism but instead, argued that in the interests of economic growth and prosperity prohibition must be put in place.

Generally, despite a wide range of rationales for temperance among the different groups, after 1851, all of the groups felt that it was up to the government to remove the environmental cause and introduce prohibition.¹¹ Particularly in the urban areas, the evils of alcohol and related problems were no longer seen primarily as religious problems but as social ones which required social responses.¹² The belief in societal, rather than individual, solutions was a theme played out by much of the social reform movement. This led to a great deal of emphasis on state solutions to social problems.

The Methodist church was, perhaps, the most heavily

¹⁰. Hollie Levine, The WCTU: A Study of Women and Social Reform, M.A. diss., Carleton University, 1984, p.27.

¹¹. T.R. Morrison, "'Their Proper Sphere', Feminism, the Family, and Child-centered Social Reform in Ontario, 1875-1900," Part I, Ontario History, 68.1 (March 1976), p.53. James Clemens argues that the change from moral suasion techniques to agitation for legislation in 1851 was the result of Maine's passage of prohibition legislation in that year. At the same time, temperance organizations were realizing the ineffectiveness of moral suasion. Temperance organizers noted in mid-century that two-thirds of temperance audiences were women and children and therefore felt that they were missing the true target of their campaigns. See Clemens, "Taste Not," p.157. That women and children were such a large part of the audience, however, suggests that temperance was an issue of great concern for women.

¹². Decarie, "Aspects of Prohibitionism," p.164. See also Decarie, "Paved with Good Intentions," p.18.

involved of the Protestant churches. Church involvement, however, did support the statist orientation of the movement. The Canadian Protestant churches had never been fundamentally opposed to the state, seeing it as an essential ally in a country divided by French and English, Catholic and Protestant. Indeed, some of the churches themselves recognized the need for state action, as for example, stated by the Methodist church in 1877:

It is the duty of the Government to extend the aegis of its protection over the people, to shield them from injury or wrong; but by licensing the liquor traffic it plies them with temptations to crime, and then punishes them for its commission; it makes a profit out of their unhallowed passion for strong drink, and then inflicts its penalties for the indulgence of that passion.¹³

The Women's Christian Temperance Union (WCTU) was among the most vocal and active of the women's organizations in the late 1800s. Backed strongly by the Methodist church in particular, the WCTU maintained a strong link to religion. It was thus, in part, an extension of women's traditional roles within the church. However, the WCTU took this role to new ends, ultimately going beyond the realm of the church into the realm of politics. The WCTU anchored itself in a maternal feminist belief in women's domestic role writ large in society. It was believed that all social evils -- including

¹³. W.W. Withrow, "The Legal Prohibition of the Liquor Traffic the Duty of the Hour" quoted in Decarie, "Aspects of Prohibitionism," p.163.

poverty, debt, crime and prostitution -- flowed from the mouth of a bottle. WCTU women quickly realized that men were unwilling to deal with their own drinking. Therefore, it was up to women to see that something was done.¹⁴ For this task, women could draw upon the larger temperance movement, whose societal approach challenged older notions of individual responsibility and opened a space for women through their pro-statist approach which did not require women to rely on men.

Although women had been involved in temperance since its inception in the early 1800s, the first WCTU was formed only in 1874 in Owen Sound.¹⁵ Small town, middle class women had begun to organize on the basis of their role in "cleaning up" society. No doubt, these women became aware of the difficulties caused by alcohol merely by walking through the streets of their town. But their critical position was determined by their changing role and status in society. No longer working on the farm, but at home in town, these women were dependent on their position as mothers and moral educators for their influence. Thus, much of their literature focussed on the sufferings of children through their father's intemperance.¹⁶

The "innocent child" became a powerful image for gender

¹⁴. Mitchinson, "The WCTU," p.193.

¹⁵. P.B.Waite, "Sir Oliver Mowat's Canada: Reflections on an Un-Victorian Society," in Donald Swainson, ed., Oliver Mowat's Ontario, (Toronto: Macmillan, 1972), pp.16-17.

¹⁶. Decarie, "Aspects of Prohibitionism," pp.169-171.

critique. The education of children also became a major focus of their campaign. Temperance reformers were thus able to link up with the child-saving and education movements. In particular they supported the activities of the Prisoners' Aid Association to move child prisoners into separate cells from adults and the establishment of an agency to supervise delinquent children. They also supported, and were supported by, J.J. Kelso and his child-saving movement which ultimately led to the formation of the Children's Aid Society. Kelso felt that "intemperance produced three-fourths of the neglected and delinquent children".¹⁷ Thus, the WCTU established Bands of Hope to educate children on the evils of alcohol and kitchen gardens to train girls in domestic science. They also pushed for scientific "temperance education" in the schools. They were finally successful in 1885 when the Ontario government introduced such instruction (made compulsory in 1892).¹⁸ Indeed, the WCTU's involvement in education made it an early advocate of suffrage, starting with attempts to attain the franchise in order to elect "dry" school trustees.¹⁹

In accordance with their belief in male vice and female virtue, WCTU women did not believe that women drank (except for "fallen women"). Thus, while the maternal and moral role empowered women, the fact that it was mobilized first by

¹⁷. Morrison, "'Their Proper Sphere'," pp.57-58.

¹⁸. Morrison, p.59.

¹⁹. Morrison, p.59.

middle-class women with little contact with working-class women meant that it served to empower only middle-class women. The WCTU's approach did provide a change in the analysis of prostitution from that of the wicked, fallen woman, to that of blame of the male customer who resorted to prostitution because of alcohol. In fact, the WCTU often protested against only the names of the prostitutes being published after raids on brothels and asked that the customers' names be published as well so that "respectable women would know who to shun".²⁰ At the same time, the WCTU recognized the dangerous place of innocence within the understanding of women's morality and argued that such innocence only served to make women more vulnerable and campaigned for sex education.²¹ However, their analysis of prostitution remained based on men's use of alcohol which led to their lustful behaviour -- the prostitute was merely a victim of this lust.

It made sense for WCTU women to capitalize on their role as mothers, thereby differentiating themselves from children as innocents and themselves as the responsible parents. On this basis, women were able to make a fundamentally feminist critique of society by pointing to men and their drinking as the problem. On the other hand, those women who were respon-

²⁰. Mitchinson, "The WCTU," p.201.

²¹. Mitchinson, "The WCTU", p.201. Indeed, the WCTU also seemed willing to use young women's sexuality as bait for young men's adherence to temperance; witness the "Lips that touch liquor shall never touch mine" motto of the Young WCTU. See Levine, "The WCTU," M.A. diss., pp.118-119.

sible parents were very clearly members of the middle-class. On gender lines, the WCTU countered the image of poor women as being "bad parents" -- as had been intimated in the move for public education. However, because of their benevolent orientation and lack of direct experience of poor women's difficulties, the WCTU women painted poor women as innocents. As Protestant evangelicals, for the most part, WCTU women would have come from already temperate homes and may not, therefore, have experienced themselves the effects of alcohol on the family. However, they may well have observed its effects around them in their towns. Incidents in the newly expanding west in the later part of the 19th century illustrate that drink and prostitution were closely linked and the sexual danger for non-prostitute women greatly increased. James Grey relates the story of the attempted rape of one woman, by drunks who assumed, in a town well known for its red-light district, that she was a prostitute.²² Approaching the problem as middle-class women, without the direct experience and participation of poorer women, the WCTU could not recommend sisterly female action (such as a wife's strike).²³

²². James Grey, Red Lights on the Prairies, pp.50-51. For women in these situations, not only intemperance, but prostitution, threatened their own sexual integrity.

²³. More appropriately, in the Canadian context, women of the WCTU did not advocate what may have been traditional methods of coping with intemperance in small communities such as the tipping of stills or bootlegger's houses. According to Mitchinson, most executive members of the WCTU were married to professional men, marking their middle-class status. Mitchinson, "The WCTU," p.194.

Instead, middle-class women drew on their roles as mothers and providers of benevolence and moral education. At the same time, women's link with the temperance movement brought with it middle-class and pro-state overtones.

Maternal Feminism and Working-Class Women: The YWCA

The maternal orientation to working class women was echoed in the formation of the Young Women's Christian Association (YWCA). The YWCA picked up on the concern over children and over urban dangers. It expanded the apprehension over children to "young women" -- particularly working-class and rural women. The first YWCA was established in 1870 in St. John, followed by Toronto in 1873 and Montreal in 1874.²⁴ The YWCA's purpose was both charitable and reform-oriented. The Toronto YWCA declared that its purpose was the encouragement of "temporal, moral and religious welfare of young women who are dependent upon their own exertions for support".²⁵ The YWCA served to protect young women from the dangers of searching for a job or finding a place to stay in the city.

Like the WCTU, the YWCA's base was in the evangelical Protestant church, and it too found its interests to extend

²⁴. Veronica Strong-Boag, "Setting the Stage: National Organization and the Women's Movement in the Late 19th Century," in Alison Prentice and Susan Mann Trofimenkoff, eds., The Neglected Majority, Vol. 2, (Toronto: McClelland and Stewart, 1982), p.91.

²⁵. Morrison, "'Their Proper Sphere'," p.61.

beyond those of the church. The YWCA involved itself in the reform of women released from prison, believing that a controlled and family-like environment which removed them from temptation was essential for such reform. "Fallen" women did receive services from the YWCA in the 1870s and 1880s. The Halifax and Toronto YWCAs, in particular, became involved in the rehabilitation of delinquent girls and women. It was felt that these women would be regenerated through the removal of temptation and the provision of a controlled environment.²⁶ Often these women were trained for domestic service. For prostitutes, however, this often meant being sent back into the jobs which had led them into prostitution. Indeed, most of the YWCAs across the country directed women into service positions. YWCA women felt that if women had to work, at least they could work in private sphere jobs.²⁷

At the same time, the YWCA showed a great deal of class bias in the lack of regard they held for domestics. The Toronto YWCA boarding house had restrictions on allowing domestic servants in as boarders, suspicious that domestics looking for a place to stay had left their jobs for little good reason.²⁸ Domestic science training, on the other hand, established by the President of the Hamilton YWCA, Adelaide

²⁶. Wendy Mitchinson, "The YWCA and Reform in the Nineteenth Century," Social History, 12.24 (November 1979), pp.374-375.

²⁷. Mitchinson, "The YWCA," pp.377-378.

²⁸. Mitchinson, "The YWCA," p.377.

Hoodless, was very obviously to benefit women of the "better sort". The Hamilton Spectator, described the purpose of the construction of new domestic science facilities in the YWCA in 1896:

...the present design is not to provide a refuge for fallen women. The work of reclaiming the unfortunate is one of the noblest that can engage the attention of philanthropists; but it is not the work of which the ladies who now ask attention to their plans have undertaken. Their scheme is, and necessarily must be, wholly distinct from any work of reclamation. The two cannot be united. For if fallen women were admitted to the rooms of the Young Women's Christian Association, respectable young women would be driven away.²⁹

Such an approach illustrates the growing separation of reforming women from "fallen women", and their separation, in turn, of "fallen women" and "respectable women". The YWCA's target became almost exclusively these "better sorts" of women -- young women arriving from rural areas and those from overseas.³⁰ Patricia Saidak, however, in her study of the home economics movement, points out that domestic science was a key part of re-affirming the importance of women's work in the home and served to create a career for women as experts in

²⁹. Hamilton Spectator, 13 July 1894, quoted in Terry Crowley, "Madonnas before Magdalenes: Adelaide Hoodless and the Making of the Canadian Gibson Girl" The Canadian Historical Review, 67.4 (1986), pp.525-526.

³⁰. Diana Pederson, "'Keeping our Good Girls Good: The YWCA of Canada, 1878-1920," M.A. diss., Carleton University, 1981, pp.10-15.

home economics and to encourage the higher education of women.³¹ Gradually the services for prostitutes declined as greater emphasis was placed on preventative work. The Association felt that it was the innocence of young women which required protection. In response, in 1877 the Toronto YWCA petitioned for seduction to be made a crime punishable with imprisonment -- a good deal earlier than the issue was taken up by male reformers.³²

Even while the YWCA took this protectionist attitude, it also emphasized the Association's difference from charities by pointing to its work to enable women to maintain their economic independence which would allow them to resist moral temptation and remain respectable.³³ A charitable orientation, however, remained in much of their work. The organization of the YWCA was based on a pattern which gave little say to the running of operations to YWCA members. Rather, policy decisions were made by a Board of Managers elected by the membership, which did not include the boarders. There was little democratic discussion, therefore, over the affairs of the local YWCAs -- either by its broader membership or the

³¹. Patricia Saidak, "The Inception of the Home Economics Movement in English Canada: 1890-1910: In Defence of the Cultural Importance of the Home," M.A. diss., Carleton University, 1987, p.7.

³². Mitchinson, "The YWCA," pp.374-375.

³³. Mitchinson, "The YWCA," pp.380-381.

boarders themselves.³⁴

Indeed, many other endeavors linked with the YWCA were strictly charity oriented. The Toronto Relief Society was established in 1875 under the auspices of the YWCA. Its purpose was to dispense "systematic charity" which was considered a more reform-oriented approach. The Society undertook "to obtain and dispense assistance for the really needy; to investigate all cases of distress reported; to encourage a pauper [sic] spirit by helping people help themselves; and undertake the moral and spiritual improvement of those assisted."³⁵ Much of the Society's activity, therefore, involved the investigation and scrutiny of the lives of the poor. The Relief Society was also active in returning truant children to the schools and reporting cases of child abuse and neglect.³⁶

YWCA women saw themselves as substitute mothers for working women, many of whom were away from their parents for the first time. The YWCA members would even meet rural women coming into the cities at the train stations to ensure that they did not fall into evil hands.³⁷ By implication then, YWCA women felt that young women would not be lured into prostitution as long as they had a family to protect them. They showed

³⁴. Mitchinson, "The YWCA," p.375.

³⁵. Morrison, "'Their Proper Sphere'," p.61.

³⁶. Morrison, p.62.

³⁷. Mitchinson, "The YWCA," p.374.

little concern for the working conditions of these women, preferring to involve themselves with the domestic aspects of women's lives.³⁸ The YWCA, even though it was involved with working women, was more concerned with questions of their moral surroundings than their working conditions or pay. This was symptomatic of the YWCA's refusal to listen to the voices of working-class women. It failed to develop any kind of class analysis of working women's situation and, instead, reinforced class positions.

Other women's organizations of the period, followed a "mother-daughter" pattern, such as the Anglican Girls' Friendly Society formed in 1882. Middle-class women "associates" were to act as mothers to working-class members. The Society was involved in the reception and shelter of immigrant girls, and overseas and domestic missions. The moral character of members was strongly emphasized by the Society which expelled those who "lost their character."³⁹ The Dominion Order of King's Daughters followed similar lines and was also careful to emphasize its "formative" rather than "reformatory" character.⁴⁰ Again, this illustrates the careful distance being kept between "good" women and the "fallen".

The image of the "moral" woman, however, carried within it an understanding of women as fundamentally innocent. This

³⁸. Mitchinson, "The YWCA," pp.383-384.

³⁹. Strong-Boag, "Setting the Stage," p.92.

⁴⁰. Strong-Boag, "Setting the Stage," p.93.

had significant implications in terms of the protectionist stance taken by the state. It was also compounded by the emphasis on innocent children and by the class bias of the movement. The WCTU and the YWCA were attempting to answer the problems experienced by many women, their organizing practices, however, both reflected and reinforced this class bias. The class bias resulted in a much greater emphasis being placed on the control of working-class children. The protective concept put forward by the temperance movement was actualized by state intervention in child-rearing and training. The state had an interest, as well, in ensuring future generations of disciplined workers. The state also had an interest in protecting girls, in particular, as the nation's future mothers. Put in a context of an emphasis on parental responsibility and the importance of conducive atmospheres, the state's response was framed in a paternal, protective approach.

Women and Social Reform

The 1880s were years of great social change during which the discourse about women was evolving. The recession of the 1870s had given way to a moderate economic boom in the 1880s. The National Policy had encouraged industrial growth, particularly in the textile industry which soon began to absorb large numbers of women. Labour organizations -- particularly the

Knights of Labour -- began to take on new importance.⁴¹ However, even within this period of rapid social change and union activity, the discourse of class never became very strong in the Canadian milieu. A different constellation of political forces came together which essentially stole the thunder from labour organizations and interpreted social disarray within a discourse of family and state. The dominance of this framework meant there was very little conceptualization of prostitution as a labour-related or economic issue.

The mediating positions between social concerns and the state were held by middle-class reforming men with strong links to the evangelical Protestant churches. The weakness of the unions and the strength of the reform movement, coupled with the weakness of women within the labour movement, meant that middle-class women had no link to working class women. The middle-class reform movement began to define what was best for working-class women without the input of these women. Tracing the development of legislation in this period reveals the growing strength of a discourse on prostitution and on women's sexual morality directed by middle-class reformers backed by the Protestant churches.

The "social reform" movement which quickly began to control the discourse on prostitution in English-Canada was

⁴¹. Michael S. Cross and Gregory S. Kealey, "Introduction to Volume 3," in Michael M. Cross and Gregory Kealey, eds., Canada's Age of Industry, 1849-1896, pp.9-16.

made up of churches, temperance organizations, women's organizations, doctors and scientists (particularly eugenicists). The cooperation among these actors was made possible by the nationalization within English-Canada of a number of these groups by the late 1800s. With their broad-based links and increasingly sophisticated organization, these groups were able to undertake political action at a national level. Indeed, their goal was a national one -- to build a strong Canadian state based on a moral and healthy nation of families. The reformers wanted to purify Canadian society as it headed into the new century -- deemed "Canada's Century" by Prime Minister Laurier.

This was purity of a positive sort, a kind that meant that each citizen carried within herself or himself a healthy moral code. This involved a re-education of society into Anglo-Saxon, Protestant, middle-class values of control, hard-work, cleanliness and decency. Mariana Valverde has discussed this project as one of reforming the subjectivity of the nation's citizens through the regulation of (sexual) morality. The result was a reshaping of Canadian society in ways which legitimized the dominance of middle-class values and beliefs and shaped both the middle and working-classes to live harmoniously within these values.⁴² The sinister side of this movement was the overt racism of the "purification"

⁴². Mariana Valverde, The Age of Light, Soap and Water, (Toronto: McClelland and Stewart, 1991), pp.22-29.

project -- the middle-class values which were to be internalized by all citizens were also clearly Anglo-Saxon values which were threatened by the increasingly multi-ethnic character of Canadian society.

The feminists were both a product and a producer of the social reform discourse. Their connection with motherhood and family linked snugly into eugenicist arguments of a need for protection of the Anglo-Saxon race. Their middle-class roots meant that they supported and sustained the middle-class bias of the reform movement and, indeed, were instrumental in the process of class definition.⁴³ As we saw earlier, the increase in the importance of motherhood was an essential component of middle-class definition. Thus, it would be easier for middle-class male reformers of the time to accept the feminists' ideology on this basis rather than on the basis of pure equality of rights. The protective impulse could also be easily interpreted within patriarchal ideology as part of paternal responsibility for wives and daughters. Thus, a protective attitude toward women and children was part and parcel of the project of middle-class formation in Canada in this period. This attitude also became part of the formation of the bureaucracy which derived from and shaped the middle-class. Indeed, the social reform project created many roles for middle-class women and men in the bureaucracy as inspectors and the like.

⁴³. On this point see Valverde, pp.29-30.

Although few feminists adopted an explicitly eugenicist stance on social issues, eugenicist arguments by doctors and scientists lent support to Anglo-Saxon Protestant women's growing social power. Most women active in the women's movement leaned towards the environmentalist aspect of the "racial degeneration" debates. An environmental approach supported the usefulness of the reform efforts, while eugenicism only extolled women's biological capacity. However, reforming women did take a eugenic line in regards to mental capacity, arguing that environmental reform did little for the mentally incapacitated and recommended the breeding out of such persons.⁴ Interestingly, one of the leading causes of prostitution, put forward by the women's organizations, was mental disability.

The environmental approach, however, did not escape racism. Race/ethnicity became associated with "character" -- a trait acquired mostly through British customs as well as such character-building Canadian activity as clearing land. Such character involved individual self-control, particularly in sexual matters. Those of Protestant, British descent were seen as having a higher degree of such control while those of other races and ethnicities continued to propagate at an uncontrollable rate. The sex and gender practices of other peoples, such as aboriginal people, were seen as examples of

⁴. Carol Lee Bacchi, Liberation Deferred?, (Toronto: University of Toronto Press, 1989), pp.104-111. See also Mariana Valverde, "'When the Mother of the Race is Free'".

their non-civilization. It was felt that Christian missionary work would teach aboriginal people the proper respect for monogamous legal marriage and sexual self-control.⁴⁵ In effect, the social reformers sought to Christianize and Canadianize those of non-British heritage. Women involved in the missionary movement added to the list of crimes of other races, their treatment of women. Nellie McClung once wrote in defence of mission work:

Take the treatment of women! Even the most rabid suffragist who ever scorned our man-made laws, will agree that women are treated with greater respect in Christian and Anglo-Saxon countries than in any other....Child marriages, the burning of widows, the throwing out of girl babies...are all, I believe reasons for our efforts to extend Christianity and its humanities.⁴⁶

In regards to prostitution, the Chinese and aboriginal peoples were highly suspect of selling "their" women into the trade. The Chinese were also suspected of being active within the white slave trade.⁴⁷ The racial/ethnic (and imperialist) discourse in Canada at the time interacted with feminists' perceptions of prostitution, reinforcing their moral under-

⁴⁵. Valverde, The Age of Light, pp.114-115. See also the NCWC's discussion of aboriginal women in The Women of Canada: Their Life and Work, 1900. n.p. Reprinted by the NCWC in 1985. pp.432-442.

⁴⁶. Quoted in Valverde, p.120.

⁴⁷. Valverde, The Age of Light, pp.86-87 and pp.114-120. See also James Gray, Red Lights, pp.12-13 and pp.159-160 concerning native prostitution in the West, particularly Alberta.

standing of prostitution with racial arguments.

However, Anglo-Saxon women were trying to deal with the exploitation of immigrant women. Through the head taxes placed on Chinese immigrants in an effort to control the size of the Chinese population in Canada, the immigration of Chinese wives had been made extremely difficult. Therefore, young girls were brought into the country as prostitutes -- often smuggled in by merchants' wives. Of the 100 Chinese women in Victoria in 1885, half were prostitutes. Many may have been sold into prostitution by their fathers.⁴⁸ The response of the Women's Missionary Society (WMS) to the plight of Chinese prostitutes was quite radical -- given the context of anti-Asian sentiment that existed in British Columbia at the time. The WMS took over a rescue home for Chinese girls in 1888. Although attempts to reform the prostitutes quickly met with resistance and failure, the home became a refuge for many Chinese and Japanese women over the next 54 years.⁴⁹

⁴⁸. Karen van Dieren, "The Response of the WMS to the Immigration of Asian Women, 1888-1942", in Barbara K. Latham and Roberta J. Pazdro, eds., Not Just Pin Money, (Victoria, BC: Camosun College, 1984), pp.79-82. See also Tamara Adilman, "A Preliminary Sketch of Chinese Women and Work in British Columbia, 1858-1950," in the same volume pp.53-78.

⁴⁹. van Dieren. After the attempt to rescue prostitutes, the WMS women first turned their attention to female domestic "slaves" in Chinese households. These young girls often found their own way to the Home. Although they were often well treated in the Chinese households they had little opportunity for education and were likely to be sold in marriage. Other women to take refuge in the Home included second and third wives of wealthy Chinese men seeking to escape abuse. van Dieren, pp.85-86.

Women and Labour

The protective approach was reinforced by the relative weakness of a class-based discourse of women and work in 19th century Canada. Instead, the unions adopted a middle-class analysis of women workers which was centred on morality and maternalism. The focus on motherhood and morality forged alliances with major institutions such as reform organizations and the churches. However, in tandem with the weakness of class-based analyses of prostitution through the unions and women's organizational weakness within the unions, it closed off the possibility of looking at women as workers. Women's work was always considered to be temporary and as augmenting, or eventually being supplanted by, a husband's wages. This caused a major weakness in feminists' analyses of prostitutes -- who for the most part were young working women supplementing their wages or full-time prostitutes who were escaping the drudgery and low pay of factory or domestic work.⁵⁰

While the unions did see the link between women's low paid work and prostitution, their emphasis was placed on the problems of morality rather than of labour. They were interested in protecting the female labour force from moral impropriety as much as their middle-class sisters. Unions in

⁵⁰. See Deborah Nilson, "The 'Social Evil': Prostitution in Vancouver, 1900-1920," in Barbara Latham and Cathy Kess, eds., In Her Own Right, (Victoria: Camosun College, 1980), pp.188-205.

Canada, from Confederation to the turn of the century were not particularly strong. More importantly, they had given up much of their power to direct the political debate to the bourgeois political parties who focussed more on questions of the national interest and ethnic/linguistic and religious cleavages than on class conflict.⁵¹

Canadian unions, weak in numbers in a staples-based economy and a rural society had not yet developed sufficient power to form their own political base. According to Janine Brodie and Jane Jenson, major unions -- such as the Knights of Labour -- acted as sites of bourgeois party contest. Faced with the strength of the Catholic Church's hold over Quebec labour, the Knights were forced to limit their analysis of capitalism in order not to offend the church or the party it supported -- the Conservatives.⁵² The unions' analysis of working-class situations, therefore, was limited.⁵³

The support that women could find within the labour movement, therefore, was also limited in these ways. Importantly, most unions in Canada in the late 1900s continued to operate on a craft basis, which restricted entrance into the various trades to prevent competition and lower wages. Thus the exclusion of women and children from the various trades

⁵¹. Janine Brodie and Jane Jenson, Crisis Challenge and Change, Chapter 2, (Toronto: Methuen, 1980), pp.18-50.

⁵². Brodie and Jenson, p.35.

⁵³. Brodie and Jenson, p.37

was an important part of union organizing.⁵⁴ Most working women, therefore, were without the benefit of a union.

The Knights of Labour were, however, exceptional in their support of women's interests. The Knights articulated a working-class concern with the issues raised by an industrializing society. They supported the temperance and suffrage movements and expressed concern about child labour, poor working conditions, low pay and long hours.⁵⁵ However, the Knights' position on gender issues was contradictory. They remained distrustful of the bourgeois base of suffrage and supported the idea of a family wage. At the same time, the Knights made moves toward support of equal pay for women and strove to include women (as well as immigrants, the unskilled and black workers).⁵⁶ Importantly, however, the Knights' views on women were shaped by men alone; women never rose through the ranks of the organization in order to be able to significantly influence its positions. As Karen Dubinsky has argued:

The Order's first impulse towards its female constituency, which was one of protection, could often smother autonomous female activism and alliances. Yet, at the same time, the Order raised the

⁵⁴. Alice Klein and Wayne Roberts, "Besieged Innocence" The 'Problem' and Problems of Working Women -- Toronto, 1896-1914," in Janice Acton et. al., eds., Women at Work, Ontario 1850-1930, (Toronto: Canadian Women's Educational Press, 1974), p.220.

⁵⁵. Karen Dubinsky, "'The Modern Chivalry': Women and the Knights of Labour in Ontario, 1880-1891," M.A. diss., Carleton University, 1985, pp.3-4.

⁵⁶. Dubinsky, p.2.

vision of a robust, self-sufficient "working girl" as distinct from the helpless, fragile female of Victorian imagination.⁵⁷

When it came to prostitution, sexual harassment and seduction the Knights displayed these contradictory tendencies. Although the Knights recognized the difficulties faced by working women in the morally dangerous workplace and the low pay for their work, the men were contradictory in their response to these problems. They both recognized the strength of working class women to fight back for themselves and called for male protection of women.⁵⁸ Most importantly, however, the Knights called for working women to be restored to their right to virtue, chastity and morality.⁵⁹ This put working-class women on the same moral ground as middle-class women.

The State, Working-class Women and the Protectionist Approach

The extent of the state's concern with working class women was made clear in the Royal Commission on the Relations of Labour and Capital instituted by the MacDonald government in 1886. The Royal Commission interviewed 1,800 people in Ontario, Quebec, New Brunswick and Nova Scotia, of which 102

⁵⁷. Dubinsky, p.5.

⁵⁸. Dubinsky, p.192.

⁵⁹. Dubinsky, p.192.

were women.⁶⁰ Susan Trofimenkoff describes the voices of those women as "muffled". The women were afraid to complain openly to the Commissioners for fear of reprisals.⁶¹ The Commissioners, on the other hand, were not interested in investigating the male employers' attitudes about women workers as "docile, clean, quick, cheap and sober" --as well as temporary -- which allowed employers to keep wages low and to reap greater profits.⁶² The Commission's concern was not with women as labourers and the conditions and fairness of their work but with the immorality which working conditions could occasion. The Commissioners persisted in questioning witnesses on possibilities of immoral behaviour in the workplace; about shared washrooms, unwed mothers, and foul language -- despite a disappointing lack of evidence of bacchanalian behaviour in the factories. The Commissioners obviously saw working women as needing protection from moral corruption in the workplace.⁶³ The ambiguity of the Knights on this question, and the exclusion of women by other unions, did nothing to challenge this position by the state.

Protective labour legislation for women and children had been the subject of a number of private member's bills

⁶⁰. Susan Trofimenkoff, "102 Muffled Voices: Canada's Industrial Women in the 1880s" in Cross and Kealey, eds., Canada's Age of Industry, p.213.

⁶¹. Trofimenkoff, "102 Muffled Voices," p.219.

⁶². Trofimenkoff, "102 Muffled Voices," p.221.

⁶³. Trofimenkoff, "102 Muffled Voices," pp.223-225.

introduced by Dr. Darby Bergin. Bergin first proposed a bill in 1879 to restrict child labour, and broadened it to include adult women in 1880. Such a link between adult women and children, however, was criticized in the press, particularly in the Toronto Globe which felt that while legislation for children was desirable, restriction on any adult labour constituted too much interference by the state. Bergin justified his calls for protection for children with the new ideas about childhood. He argued that work interfered with children's education and religious instruction, rendering them unfit future citizens. Women, he felt, should be protected because of the damage done to their reproductive capacity by prolonged work.⁶⁴ The emphasis was obviously on the children of the future.

A protectionist attitude on the part of the state towards women could also be seen taking hold at the provincial level. The concern for the protection of children and particularly young, working-class women was reflected most strongly in Ontario. Oliver Mowat's Liberal government in Ontario was more open than the federal government to the requests of social reformers in the late 1800s. In particular, the Ontario government had proven amenable to calls for temperance education and child welfare reform. Provincial acts, beginning in Ontario as early as 1879, recognized the need to establish

⁶⁴. Constance Backhouse, Petticoats and Prejudice, (Toronto: The Women's Press, 1991), pp.269-270.

industrial refuges for children whose parents failed to provide them with the proper moral surroundings.⁶⁵ One specific category of those protected was those girls "[w]ho by reason of the neglect, drunkenness, or other vices of her parents... is suffered to be growing up without salutary control and education or in circumstances which render it probable that such a girl will, unless placed under proper control, lead an idle and dissolute life".⁶⁶ This marked the beginning of a more preventative approach which entailed a greater protectiveness of children by the state. By the end of the century numerous acts dealing with the protection of children had been enacted, including, most importantly, the establishment of Children's Aid Societies (through the efforts of J.J.Kelso and the WCTU).

The Ontario government also enacted a number of laws designed to protect women and children in employment. Beginning with the Factories Act of 1884, legislation required boys between 12 and 14 and girls between 14 and 18 to have parental approval for factory employment; women were prohibited from cleaning machinery with moving parts during operation; the hours of women and children were limited to no more than 10 hours a day or 60 hours a week and were to have a one hour

⁶⁵. John McLaren, "Chasing the Social Evil: Moral Fervour and the Evolution of Canada's Prostitution Laws, 1867-1917", Canadian Journal of Law and Society, 1 (1986), p.133.

⁶⁶. An Act to establish an Industrial Refuge for Girls, Province of Ontario, 1879, Section 6(5).

break for meals each day.⁶⁷ Further restrictions on age of employment and hours of women and children followed in the Shops Act and Mining Act as well as the Factories Act in the next 20 years. The legislation clearly linked women and children in terms of their need for protection.⁶⁸ In 1888, both Manitoba and Ontario passed legislation regulating children's labour in shops and included requirements for seating for women shop workers.⁶⁹

Legislative Changes: 1884-1890

This protective approach toward women found its way only gradually into federal legislation on prostitution. The first change to prostitution legislation in the 1880s was the addition of measures to prohibit aboriginal prostitution. Keepers of any house would be penalized for allowing aboriginal prostitute women on the premises. Provisions which required the house resorted to for immoral purposes to be proven a bawdy house were lifted in the case of aboriginal prostitution. In 1884, the Indian Act was amended to ensure that "tents and wigwams" were also included. The fines levied

⁶⁷. Jane Ursel, "The State and the Maintenance of Patriarchy: A Case Study of Family, Labour and Welfare Legislation in Canada," Papers presented at the Canadian Law in History Conference Papers, Ottawa: Carleton University, June 8-10, 1987, p.162.

⁶⁸. Ursel, pp.162-163.

⁶⁹. Backhouse, Petticoats, p.275.

were higher than those in the Vagrancy Act.⁷⁰ Obviously, the government was concerned to crack down on aboriginal prostitution. The government's motivations, however, are unclear (except to further harass the aboriginal population); and its approach is not necessarily protective, although it is important that the legislation aims at keepers more than at the prostitutes themselves.

In 1886, however, a more protectionist approach began to take hold when a scandal broke out in the Department of Indian Affairs over the trafficking in aboriginal women by employees of the Department. The involvement of aboriginal women in prostitution, as mentioned earlier, had its roots in the fur trade. Liaisons between white men and aboriginal women in the West continued to exist. A missionary on the Blood Indian Reserve near Fort Macleod charged that aboriginal girls were being sold by their parents to white men who later turned the girls out as prostitutes in Fort Macleod.⁷¹ In defence of the men, the Montreal Gazette printed an editorial which blamed the incident on the moral laxity of aboriginal cultural traditions.⁷² In response, the government enacted legislation which targeted aboriginal men. The 1886 legislation, which was removed in 1887, provided for the punishment of "every Indian

⁷⁰. Constance Backhouse, "Nineteenth-Century Canadian Prostitution Law," Social History, 18 (1986), pp.420-421.

⁷¹. Gray, Red Lights on the Prairies, pp.12-13.

⁷². See Gray, Appendix, pp.193-194.

who keeps, frequents, or is found in a disorderly house, tent or wigwam used for such a purpose".⁷³ White men, on the other hand, would have to be "habitual frequenters" before they would be charged.⁷⁴ Modern accounts of aboriginal women's involvement in prostitution dismiss a number of myths about "Indian princesses" and note the resourcefulness of those aboriginal women who were involved, as they were known to bring in their sisters to rough up their clients and make off with the money before services had been rendered.⁷⁵ At the same time, James Gray's study of prostitution in the west points to incidents of aboriginal prostitution with aboriginal men acting as pimps (according to the local police).⁷⁶

The legislation reflects a great deal of protectionism towards aboriginal women. It has been suggested that the government was concerned to enact legislation on aboriginal prostitution because of its fear of miscegenation, particularly in light of the uproar over the Metis uprising in Manitoba. Indeed, there may have been a bias which considered any aboriginal women who had sexual contact with white men -- or because of white bias against different aboriginal sexual

⁷³. Backhouse, "Prostitution Law," p.421.

⁷⁴. Backhouse, "Prostitution Law," p.421.

⁷⁵. Marjorie Mitchell and Anna Franklin, "When you Don't Know the Language Listen to the Silence: An Historical Overview of Native Indian Women in B.C." in Barbara K. Latham and Roberta J. Pazdro, eds. Not Just Pin Money, pp.17-35.

⁷⁶. Gray, Red Lights, pp.12-13, pp.159-160.

customs -- to be a prostitute. It also may have had to legislate separately because of the difficulty of applying vagrancy law to aboriginal peoples.⁷⁷ However, it remains important that the legislation was directed towards those other than the prostitutes themselves in an attempt to respond to charges of trafficking. The aboriginal women were seen as victims in this situation.

In the federal legislature, the most prominent defender of the need for protection for women and girls was MP John Charlton. Charlton was the main force in the House of Commons behind the introduction of legislation criminalizing seduction. Charlton took his cue from the British Lords' Committee on the Protection of Young Girls of 1882 which encouraged the introduction of a higher age of consent in order to stem the traffic in young girls between Britain and the continent.⁷⁸ Charlton's concern probably was encouraged by his involvement with the Presbyterian church and his involvement in the Lord's Day Alliance -- an alliance of church and labour groups.

Support for more protective legislation for women came from labour groups as well. The Knights of Labour's concerns with sexual harassment in the work-place led them to call for legislation which would protect working women from "licentious

⁷⁷. Backhouse, "Prostitution Law," p.422.

⁷⁸. Judith Walkowitz, Prostitution and Victorian Society, (New York: Cambridge University Press, 1980). pp.248-249.

overseers".⁷⁹ Thus, the Knights infused the analysis of male vice and female virtue with a class determinant calling the wicked male employers responsible for the seduction of female employees. The Knights supported Charlton's efforts to push seduction legislation through the House. After the Maiden Tribute revelations made by W.T. Stead about child prostitution in Britain in 1885, the Knights' calls for seduction legislation were redoubled. The Order criticized parliamentary stalling on the bill as being the result of the "strong personal reasons" of the "notorious libertines" on the Hill.⁸⁰

Charlton put forward a private member's bill in 1882 that would provide punishment for a comprehensive list of misdeeds involving the chastity of women -- making no reference to age -- which included seduction of "previously chaste" women and the inveigling of "previously chaste" women into houses of prostitution.⁸¹ He also provided for the punishment of teachers or instructors who had illicit intercourse with their students -- a clause which was ignored in the following debates and legislation.⁸² Charlton supported his argument for

⁷⁹. Dubinsky, "The Modern Chivalry," p.182.

⁸⁰. Dubinsky, p.184.

⁸¹. Charlton was also a supporter of the Lords' Day Alliance, an alliance of church and labour for a day of rest*, and an ardent opponent to birth control. Angus McLaren and Arlene Tigar McLaren, The Bedroom and the State, (Toronto: McClelland and Stewart, 1986), p.1.

⁸². Canada, House of Commons, Debates, March 15, 1883. p.221.

the need for these protections by the adoption of such laws in many American states.⁸³ The MP also had the support of the editors of the Canada Law Journal. The editors linked seduction of women to prostitution and criticized the double moral standard.⁸⁴

Although seduction had been a crime under common law practice as the deprivation of a daughter's services to her father because of resulting pregnancy, the growing independence of young women and their distance from the family made such charges less practicable than earlier. Instead of agitating for women's right to take up such charges against seducers, Charlton considered the act of seduction a crime against society. He 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".⁸⁵

Although women had little input, in any, on the seduction legislation. It later support in 1896 from the newly formed National Council of Women of Canada. The YWCA had also made a

⁸³. Canada, House of Commons, Debates, 1882, p.326.

⁸⁴. Backhouse, "Nineteenth Century Canadian Rape Law: 1800 - 1892," in David Flaherty, ed) Essays in the History of Canadian Law, Vol. 2, (Toronto: University of Toronto Press, 1981), p.232. Other journals, however, (such as The Legal News), held that women should be considered as responsible as men. Backhouse, p.232.

⁸⁵. Backhouse, Petticoats, pp.69-70.

proposal for such legislation five years earlier.¹⁶ More broadly, the approach taken towards young women by Charlton was one reflected in the approach of the YWCA and the WCTU -- that of, protector.

Charlton took a paternal approach to the legislation and posed his question to the House in those terms, asking how any father or brother could vote against such a seduction bill.¹⁷ Women were seen only in their familial context and only as sisters and daughters. The resistance Charlton met was based mainly on the earlier more individualistic approach to women, which posited women as either fully capable of protecting their own chastity, or -- if they should fail in this task -- as naturally evil and wily.

The introduction of the concept of seduction as a crime, marked a change from the "proof of resistance" approach taken by the courts. Seduction was a concept which rested on the presumption of female passionlessness; men were responsible for all acts of seduction.¹⁸ This provided a challenge to the earlier image of women as responsible for their own chastity. In this sense it was a revolutionary approach for women.

¹⁶. Backhouse, Petticoats, pp.75-80. See also the debate over the raising of the age of consent in the NCWC, Appendix to Women Workers of Canada: Being the Reports and Discussions on the Law for the Protection of Women and Children and on Pernicious Literature at the Third Annual Meeting of the National Council of Women of Canada, (Montreal: n.p., 1896) pp.311-327. Also see Chapter 6 of this paper.

¹⁷. Backhouse, Petticoats, p.70.

¹⁸. Backhouse, "Rape Law," p.231.

However, it also cast women in the role of innocent victims. Those legislators who supported the idea of female innocence, as opposed to the older notion of female cunning, emphasized the importance of women's chastity. To underscore this, the Canadian legislators required that the victim be of "previously chaste character", a notion vigorously contested later by the National Council of Women.⁸⁹ The "of previously chaste character" provision was based on the belief that having once experienced non-marital intercourse, a woman was no longer passionless and therefore likely a participant in the "seduction" rather than a victim. The loss of virtue was, therefore, a disastrous event.⁹⁰ Thus, the legislation concerning seduction remained firmly embedded in the double moral standard. The debates in the House of Commons that ensued from Charlton's proposals reflected a number of concerns with the changing society which included the state's role in social welfare and the nature of women's character. These issues were underscored by debates surrounding age, class, race, and the urban/rural divide.

The competition between older and newer visions of women are apparent in the discussions in the House on the nature of women and sexuality. Different visions of women -- as inherently evil-minded and wily, as pure and innocent, as indepen-

⁸⁹. Backhouse, Petticoats, pp.75-80. NCWC, Appendix to Women Workers of Canada, pp.313, 320-322.

⁹⁰. Backhouse, "Rape Law," p.230.

dent and morally responsible -- were presented during the debates surrounding the issues of seduction and procurement. Some members of the House were concerned that the inclusion of seduction through promise of marriage, which could be redressed by subsequent marriage, would open the way for female duplicity.⁹¹ They had the support of leading papers, such as the Hamilton Times.⁹² Women's wily and wrathful character is clearly portrayed in the debates where it is the young men, ironically enough, who are pictured as the victims of the women who would force them into marriage.⁹³ Other Members emphasized the shared guilt in the seduction with the woman being as intelligent and aware as the man in consenting to sex. The woman should not, therefore, be given any weapon to blackmail the man because this would condone her behaviour. The House was particularly concerned with young men of property being blackmailed in this way.⁹⁴ Even in the case of "inveigling" to prostitution, the woman's responsibility was

⁹¹. John P.S. McLaren, "Chasing the Social Evil," Canadian Journal of Law and Society, 1 (1986), pp.131-132.

⁹². The Times felt that it should be parental guidance and the fear of social opprobrium that should teach young women to guard their chastity well. Such training would do more to strengthen a woman's proposal than punishment would do to prevent a man's solicitation. Hamilton Times, March 16, 1883. Cited by Mr. Robertson (Hamilton) in Canada, House of Commons, Debates, March 20, 1883, pp.284-285.

⁹³. See for example Canada, House of Commons, Debates, March 15, 1883, pp.222-225.

⁹⁴. Canada, House of Commons, Debates, February 14, 1884, pp.288-289.

emphasized, unless the "inveigling" referred to "false pretenses"; otherwise, the woman would only have succumbed to "soft speeches". The making of "soft speeches", however, could not constitute a crime -- a point to which Charlton deferred.⁹⁵ Further debate was held on the trustworthiness of the female's testimony in such cases. It was finally agreed that there would need to be some corroboration of her statements.⁹⁶ This had not been a concern in the earlier rape laws.

Not all of the members of the House shared such a distrustful view of women. Charlton, for one, displayed some understanding of the operation of the double standard against women. He argued that:

--if the same measure of justice were meted out to [the male] as to the female, I would see the force of right hon. gentleman's objection. But no such fate befalls him. In the majority of instances, he congratulates himself upon having been able to do what many of his fellows think a very creditable thing. He is rather likely to hold up his head among a certain class of men and boast of his conquest, than otherwise. The fatal result that follows a woman, does not follow in his case.⁹⁷

Some Members defended a belief in the inherent virtuousness of women which rendered her a helpless victim of male desires.

⁹⁵. Canada, House of Commons, Debates, February 14, 1884, pp.291-292.

⁹⁶. Canada, House of Commons, Debates, March 20, 1883, p.286.

⁹⁷. Canada, House of Commons, Debates, March 15, 1883, p.223.

Some swore that the seduction of innocent young rural women was a regular menace, carried out, as one Member contested, by "some oiled and curl'd Assyrian bull, smelling of musk and of insolence"⁹⁸. Such incidents were portrayed as being followed by the miseries of abortion and death. Some members of the House also felt that it was well established that innocent, young, rural girls coming into the cities were being procured for houses of prostitution by "vile hags".⁹⁹

Indeed, the division between older and younger women was made fairly clear in that the older women were seen as the procurers. It was also felt that women over the age of 21 should not be protected by the same laws since they should "know better".¹⁰⁰ This testifies to a changing understanding of childhood in Canadian society. It was on the basis of protecting children and young women that legislators could begin to accept the enactment of seduction legislation. As the country experienced industrialization and urban migration, the concept of "rural" had undergone some changes. As the cities became a bigger threat, rural life took on an idyllic and innocent stature in urban myth. Where once the rural woman was considered sexually knowledgeable, she is now portrayed as the

⁹⁸. Canada, House of Commons, Debates, March 20, 1883, p.285, Mr. Foster.

⁹⁹. Canada, House of Commons, Debates, February 14, 1884, pp.287, 289.

¹⁰⁰. Canada, House of Commons, Debates, February 14, 1884, p.287.

innocent girl. She had not had the experience of more knowledgeable city women.¹⁰¹ Racial lines, as well, had become more clearly demarcated as one of the greatest threats to the rural girl's innocence was pictured as the "Assyrian bull". The imagery of the innocent girl-victim, which was obviously beginning to gain some ground in political circles, carried within it very clear racial and social implications.

In general, the debate in the House over the punishment of seduction and inveigling into prostitution in the early 1880s indicates that the primary concern was with the fraudulent behaviour on the part of the seducer or procurer. Thus, the clause "of previously chaste character" was struck from the section pertaining to inveigling into prostitution; in the case of seduction, it was the crime of intercourse under feigned marriage which was seen as a crime -- rather than under promise of marriage, which was understood as the equal responsibility of both parties. The act of fraud -- not the loss of chastity -- was the main concern of the House. The Canadian state did not feel it was its place to rule on such personal or moral matters like chastity. Indeed, Senator Alexander W. Ogilvie of Quebec argued in response to further legislation in 1886:

I do not think we can legislate people into virtue and morality. I think the proper place to inculcate morals in the minds of the youth of both sexes, and

¹⁰¹. See the speech by Mr. Foster, Canada, House of Commons, Debates, February 14, 1884, p.288.

especially the female sex, is in the family circle, in the Sunday School, in the church and in the public school. This Bill is an insult to the morality of the sex in Canada. A virtuous woman as a rule can protect her own honour.¹⁰²

In general, however, this reluctance to legislate to protect women shows that the government was not convinced that such legislation was needed; because women could, and should, protect themselves. The terms of the debate, however, saw women either as wily and wrathful or as innocent girl-children.

The state's involvement in such affairs was another strongly contested issue, as is shown by Senator Ogilvie's comment. Those who took a more individualistic approach to women were also loathe to increase state interference in social matters. Reformers like Charlton, however, felt that state interference was called for. Charlton's speeches are an interesting example of the changing attitude of the times:

The hon. leader of the Government the other evening, in some remarks upon this question, at the time the second reading was taken, said that he feared that I did not draw the line clearly and distinctly between a sin and a crime. Well, Sir, the line of demarcation between what might be properly called a crime, may not be very clearly defined in all cases; but I think, Sir that any offence named in this Bill may be justly characterised as a crime. It is surely a crime, Sir, to blight a home, to ruin a life; to make an innocent

¹⁰². Quoted in Backhouse, "Rape Law," p.231.

person an outcast of society, and to drive her to prostitution, when this is done by the exercise of wiles and false promises.¹⁰³

That the state had responsibility for such moral matters was a new concept in Canada. The Canadian state had long been involved in industrial development, however, in the 1880s, it was just beginning to reach into the social life so deeply affected by the industrial transformation. With the increased activity of the labour movement and the dislocations involved with urban migration, the government was forced to begin to re-examine the role of the state. The groundwork for involvement in social issues was already being laid by women's organizations such as the WCTU and the YWCA.¹⁰⁴ And, indeed, women held an important linking position between public and private life for the state, particularly in their role in houses of reform and women's prisons. The Royal Commission into the relations between Labour and Capital was the beginning of a series of governmental inquiries into social affairs. By 1892, another Commission undertook an inquiry into the liquor traffic. The expansion of the state's role, however, did not go unopposed. According to Backhouse, in the area of prostitution law, the higher, appellate courts of the

¹⁰³. Canada, House of Commons, Debates, March 15, 1883, p.220.

¹⁰⁴. Wendy Mitchinson, "Early Women's Organizations and Social Reform: Prelude to the Welfare State," in Allan Moscovitch and Jim Albert, eds., The Benevolent State, (Toronto: Garamond Press, 1987), p.77.

country consistently acquitted prostitution charges. The higher courts believed that criminal law should not be a tool of social reform.¹⁰⁵ In the coming years, however, the bureaucracy and, more slowly, the federal legislature, proved themselves to be more open to an expansion of state activity into areas of social reform.

The newer and more protective image of young women had gained strength by the mid-1880s, as becomes apparent with the enactment of legislation to provide punishment for "offenses against chastity" and to "provide protection for women and girls".¹⁰⁶ In place of Charlton's proposed bills -- all of which were defeated in the Senate -- the government introduced the An Act further to amend an Act intituled "An Act Respecting Offenses Against the Person" in 1885, which added to the offense of fraudently procuring women for the purpose of carnal knowledge the offense of enticing them into a brothel (only, however, in the case of fraud). The amended legislation also provided for the issue of a warrant to enter houses of "ill fame" upon complaint made under oath, based on the belief that any woman or girl had been so inveigled.¹⁰⁷ Legislation passed in 1886, in response to the British Criminal Law

¹⁰⁵. Backhouse, "Prostitution Law," p.409.

¹⁰⁶. Graham Parker, "The Legal Regulation of Sexual Activity," Osgoode Hall Law Journal, 21.2 (1983), p.216.

¹⁰⁷. Canada, An Act further to amend an Act intituled "A Act respecting offences against the person.", 1885, 48-49 Vict., c.82, s.1 & 2. McLaren, "Chasing the Social Evil," p.132.

Amendment Act of 1885, made it an offence to have unlawful carnal connection with a girl above 12 and under 16 -- with the Canadian caveat that the girl must be of "previously chaste character". Also, unlike the British legislation, reasonable belief that the victim was over 16 years of age was clearly indicated as sufficient defence against the charge.¹⁰⁸ A further section added a Canadian difference, in that a person over 21 committed a misdemeanour in seducing an unmarried female of previously chaste character under the age of 18, under promise of marriage.¹⁰⁹ This age was increased to 21 in 1887.¹¹⁰ Charlton had finally received his much hoped-for seduction law. In general, however, this provision was weaker than the British legislation. This was mostly because the House, particularly the Minister of Justice, Sir John Thompson, was still not completely convinced of the need for such legislation in Canada.¹¹¹ As such, the protections for male sexual prerogative were many -- including the requirement of chaste character on the part of the women and the require-

¹⁰⁸. Canada, An Act to Punish Seduction, and Like Offences, and to Make Further Provision for the Protection of Women and Girls, 49 Vict., c.52, s.4. This principle was only sorted out through case law in Britain, which specifically excluded this defense once and for all in 1922. See Parker, pp.215-216.

¹⁰⁹. Parker, "The Legal Regulation of Sexual Activity," p.216.

¹¹⁰. Backhouse, "Rape Law," p.229.

¹¹¹. McLaren, "Chasing the Social Evil," p.134.

ment of corroboration of the victim's evidence.¹¹²

The seduction legislation which was finally passed in 1886 did not go far enough to satisfy the Knights of Labour. The Knights' Legislative Committee met with Prime Minister MacDonald and Justice Minister Thompson to lobby for stronger legislation which would forbid "employers, superintendents, overseers, foremen or any other person exercising authority" from having illicit intercourse -- with or without consent -- with female employees".¹¹³ The dismissal of consent illustrates the Knights' paternal orientation towards working women. The bill introduced by Thompson in 1890, however, was narrower than that requested by the Knights, requiring women to be under the age of 21 and of previously chaste character -- showing the government's paternalistic protectionism towards younger women and their "older" view of the divide between good and bad women. (The House did agree to raise the age to 30 but this was rejected by the Senate. According to Dubinsky, the House also limited the legislation to factories as "the problem" defined by the Knights.¹¹⁴) The Knights' legislative Committee, however, echoed the government's concerns about

¹¹². Canada, An Act to punish Seduction, 49 Vict., c.52, s.5. The defendant, on the other hand, was considered a competent witness on his own behalf. See s.6.

¹¹³. 1889 Proceedings of the Legislative Committee quoted in Dubinsky, "The Modern Chivalry," p.184.

¹¹⁴. Dubinsky, p.186.

female "blackmail" without criticism.¹¹⁵ It was this concern which excluded domestics from seduction legislation for years to come, even when the work-place definition was expanded to include shops and the like.¹¹⁶

The Criminal Code: 1892

In 1892, following the enactment of the seduction laws promoted by the Knights of Labour, the Canadian government decided to codify its criminal law into the Criminal Code of Canada. The Code was an important rallying point for social reformers because of the strength of their belief in the law as an effective vehicle for social change. D.A. Watt, founder of the Society for the Protection of Women and Children, illustrated the importance of law for social reformers when he stated "the public conscience is, for the most part, created and maintained by statute law, and by scarcely anything else".¹¹⁷ The codification of the criminal law and the decision made in the 1890s that changes to criminal law be the preserve of the federal government, rather than the courts, gave the reformers both a target and a means of affecting the

¹¹⁵. Dubinsky, p.187.

¹¹⁶. James Snell, "'The White Life for Two': The Defence of Marriage and Sexual Morality in Canada, 1890-1914," Social History, 16.31 (May 1983), p.121.

¹¹⁷. Quoted in Snell, p.117.

law.¹¹⁸

The Montreal Society for the Protection of Women and Children and its founder, D.A. Watt, were an important influence on the prostitution provisions in the Code. The Society had been established in 1883 in the belief that procuring girls and young women for prostitution was commonplace. The Society was also concerned about the welfare of street children, and it was obviously influenced by the Stead revelations in Britain to intensify its campaign to protect these children from sexual abuse. Watt worked for the protection of children from abuse by parents, as well, and sought the interference of the state to protect them.¹¹⁹ He also supported Charlton's efforts to secure legislation against procuring.

Watt managed to convince the main Protestant churches to support his campaign to strengthen the law. In a statement prepared for the Senate by the Society in 1890, petitions from the churches were attached that asked for the extension of protective laws for the chastity of women, and particularly that the laws already protecting rich women be extended to poor women.¹²⁰ The churches' support was a powerful stroke for

¹¹⁸. Snell, p.117.

¹¹⁹. McLaren, "Chasing the Social Evil," p.137.

¹²⁰. Moral Legislation: A Statement Prepared for the Information of the Senate. (Society for the Protection of Women and Children), (Montreal: Gazette Printing Company, 1890). pp.37-41.

Watt; in 1891, Methodists and Presbyterians alone made up one third of the Canadian population.¹²¹

Although the government had shown itself to be slow in responding adequately to these concerns, the bureaucracy seems to have been more open. Watt's petitions to the Department of Justice concerning the Criminal Code were the only suggestions considered well made and relevant enough to include in the revisions of the Code. The expanding bureaucracy, therefore, may have provided a more open forum for social reform activity. Certainly, the Department had been looking for public input into the constitution of the Code. Few respondents, however, provided the kind of detailed input on criminal law that Watt did. The Society also asked for the age of consent to be raised to 21 years. However, this was rejected by the Department. Sir John Thompson defended the maintenance of a lower age limit by pointing to the intent of the bill to protect children rather than young women and the harsh punishment attached to the crime. An extended age limit, Thompson argued, would make it difficult to tell whether the perpetrator knew the age of his victim. To emphasize his point he related to the story of the conviction of a man for the defilement of a girl under 14 years of age who proved to be a "notorious prostitute".¹²²

¹²¹. Valverde, The Age of Light, p.177, note 36.

¹²². Parker, "Legal Regulation of Sexual Activity," pp.227-228.

In the end, the Criminal Code provisions made illegal the carnal knowledge of a girl under fourteen as well as illicit connection with (or seduction of) previously chaste girls between fourteen and sixteen, or women under the age of twenty-one who were engaged, wards, servants or passengers on ships.¹²³ The Code included all the provisions enacted earlier concerning aboriginal women and prostitution with the change that only aboriginal women who had not given up their aboriginal status were covered under the legislation.¹²⁴ It also covered a number of procuring offenses; such as, inveigling or enticing any girl of previously chaste character (or who were "not common prostitutes") into service in brothels and inducing a girl or woman into unlawful carnal connection by threat, fraud, intimidation or by drugging.¹²⁵ Procuring charges still required the corroboration of the victim's story and were punished by up to two years in prison with hard labour. Parents or guardians who procured girls under 16 into carnal knowledge, defilement or prostitution received harsher penalties of up to 14 years imprisonment -- depending on the age of the victim.¹²⁶ This provision probably comes from

¹²³. Canada, The Criminal Code, 1892, 55-56 Vict., c.29, s.181-184. McLaren, "Chasing the Social Evil," p.136.

¹²⁴. Canada, The Criminal Code, 1892, 55-56 Vict., c.29, s.190. See also Backhouse, "Prostitution Law," p.421.

¹²⁵. Canada, The Criminal Code, 1892, 55-56 Vict., c.29, s. 185.

¹²⁶. Canada, The Criminal Code, 1892, 55-56 Vict., c.29, s.186. McLaren, "Chasing the Social Evil," p.136.

pressure both by Watt and the Children's Aid Societies who were concerned over parents' contributions to indecency and unchastity.¹²⁷ At the same time, the vagrancy provisions governing prostitution remained in place; whereby prostitution remained a status offense, as did being a keeper or habitual frequenter of a bawdy house.¹²⁸

Indecent assault on a female was also an indictable offence -- including indecent assault with the consent of the female, if obtained by false representations "as to the nature and quality of the act".¹²⁹ The offense of rape retained the possibility of capital punishment in the Code, but the possibility of spousal rape, even in the case of a wife under the age of 14, continued to be excluded. In other cases, however, carnal knowledge of a girl under 14 years of age was an indictable offence liable to life imprisonment, even where the girl was believed to have been older than 14 years.¹³⁰

The Code made provisions on other aspects of women's sexuality. The Code expressly forbade the offer "to sell, advertise, publish an advertisement of or have for sale or disposal any medicine, drug or article intended or represented

¹²⁷. Parker, "The Legal Regulation of Sexual Activity", p.225.

¹²⁸. Canda, The Criminal Code, 1892, c29, s.207.

¹²⁹. Canada, The Criminal Code, 1892, c.29, s.259.

¹³⁰. Canada, The Criminal Code, 1892, 55-56 Vict., c29, s.266-269.

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as a means of preventing conception or causing abortion".¹³¹ It punished the procurer of an abortion with life imprisonment. Women who induced, or attempted to induce, their own miscarriage -- or allowed such attempts to be made upon them -- were liable to seven years' imprisonment.¹³²

It has been noted that the lower age limits in cases of statutory rape than cases of seduction in the Code, have to do with the question of previously chaste character. Since statutory rape law does not include that qualifier, legislators were anxious to maintain a lower age limit -- because the legislation was dealing with possibly "bad" girls, whereas the seduction law made it clear that these were "good" girls.¹³³ Indeed, the suggestion of raising the age limit on statutory rape to 16 -- with the qualifier "not being a prostitute" -- was met with the rejoinder from the Hon. Mr. Masson, M.P., "At that age you cannot prove it".¹³⁴ Obviously, conflicting visions of childhood -- especially in girls -- continued to exist.

Indeed, the double standard continued to play a role in the operation of the new laws. A greater number of convictions

¹³¹. Canada, The Criminal Code, 1892, 55-56 Vict., c.29, s. 179c.

¹³². Canada, The Criminal Ce, 1892, 55-56 Vict., c.29, s.272-274.

¹³³. Parker, "The Legal Regulation of Sexual Activity," p.228.

¹³⁴. Parker, p.228.

were made in bawdy house offenses; however, there was no great increase in charges of seduction, procuring or defilement -- which are largely male offenses. The courts and police seemed to be holding to their own pattern of enforcement and resisted the waste of labour-power on prostitution crackdowns. In general, however, the incidents of "exploitative" prostitution -- that police were more likely to crackdown on -- were the small rooming houses or houses of assignation, often run by former prostitutes. Thus, the immediate outcome of the legal changes was greater legal pressure on women involved in prostitution.¹³⁵

Conclusion

Throughout the 1870s and 1880s, then, a growing alternative image of women was coming into competition with older notions. The new image of women was closely linked the changing understanding of children. Such an image could be carried forward by the changing conditions of the country that resulted from industrialization, which called for new solutions to new problems. The protectionist attitude was one which challenged older images of women as fully capable of defending themselves while failing to take account of the patriarchal context in which women lived. It was an approach which made sense to women of the time who had organized on

¹³⁵. McLaren, "Chasing the Social Evil," pp.141-142.

behalf of their children and of young working women. In particular, it made sense within the constrained circumstances of women's organizing -- organizing which took place under the auspices of the church and without the benefit of labour women's input. While the debates in the House made the radicalism of the protective approach apparent, the approach also linked into structures of race, class and gender which further constrained prostitute women and young working-class women in particular. The focus on children, however, made it possible for this radical new idea to begin to gain some acceptance. At the same time it became imperative to characterize women as though they were children, thereby denying women any sense of agency or autonomy.

Chapter 6: The Social Reform Movement and White Slavery,
1893-1913

The 1890s saw considerable change in Canadian society. The population of Canada increased by 32 percent between 1890 and 1910, as immigration to the West and into the industrializing cities grew.¹³⁶ After a slight recession in mid-decade, the Canadian economy boomed in the late 1890s, providing a secure economic base for Canadian national development up until the end of World War I. This period of growth was one of class formation, regional distinction, and religious and ethnic strife. These developments gave birth to various social movements which attempted to address changing social conditions. Women's organizations from across the country began to organize on a national basis (in English Canada, at least), particularly in the form of the National Council of Women of Canada (NCWC). At the turn of the century more and more of these organizations took up the call of suffrage. Meanwhile, reform-based feminism gained additional strength as urban reform, social purity and the social gospel movements appeared. Labour and agrarian protest movements also gave added strength to the reform impetus. The change in the economy of Canada toward monopoly capital and western expansion led to the growth of these movements. Western suffragists were able to hitch their star to the agrarian movements, while

¹³⁶. S.Clark, J.P.Grayson and L. Grayson, eds., Prophecy and Protest: Social Movements in Twentieth Century Canada, Introduction, (Toronto: Gage Publishing, 1975), p.39.

labour's call for social improvements for workers bolstered middle-class reformers arguments for increased state responsibility in social affairs.¹³⁷ This was an important period, then, in state formation. The reform movement, and the women within that movement, played an important role in shaping the social orientation of the state. Although the federal government continued to be reluctant to fund major social undertakings, it was increasingly involved in regulatory activities following the preparatory work of the Royal Commissions of the previous decade. More enthusiastic involvement was found at the provincial level, particularly in Ontario.¹³⁸ These activities, especially those concerned with "women, children, the destitute and the deviant,"¹³⁹ set the tone for state activities in the post-war period.

Although the various organizations of reform often took different approaches and concentrated on different areas of concern, the question of prostitution was one most likely to

¹³⁷. Michael S. Cross and Gregory S. Kealey, The Consolidation of Capitalism, 1896-1929, Introduction, (Toronto: McClelland and Stewart, 1983) pp.9-16. John T. Saywell, "The 1890's," in J.M.S. Careless and R. Craig Brown, eds., Part One of The Canadians, 1867-1967, (Toronto: Macmillan, 1970), pp.108-136.

¹³⁸. See Alan Moscovitch and Glen Drover, "Social Expenditures and the Welfare State: The Canadian Experience in Historical Perspective," in Alan Moscovitch and Jim Albert, eds., The Benevolent State, (Toronto: Garamond Press, 1987), pp.18-22.

¹³⁹. Moscovitch and Drover, p.18.

unite all the components of the reform movement.¹⁴⁰ Indeed, this period was to witness the second -- and, in Canada, more powerful -- white slavery scare from 1909-1914.¹⁴¹ The state's response to this panic, and to women in general, was strongly influenced by the way that these groups coalesced around the issue of white slavery. These groups produced a discourse rooted in the family and morality. It was from this basis that social reformers sought to address the various social evils, with a particular emphasis on prostitution. This approach rejected both competitive liberal individualism and the socialist concept of classes. Instead, the approach adopted by social reformers drew on a more organic understanding of society in which families were the basis of the state. A strong state was one which was built on families and individuals which maintained a positive, moral commitment to their country.¹⁴²

Within this framework, prostitution was a threat to society as a whole. The project to reform prostitutes and eliminate prostitution was one linked more to the sexual morality of society than to the individual situations of the prostitutes themselves. Prostitution was the quintessential

¹⁴⁰. Mariana Valverde, The Age of Light, Soap and Water, (Toronto: McClelland and Stewart, 1991), p.18.

¹⁴¹. Valverde, p.92.

¹⁴². See Mariana Valverde, The Age of Light, pp.104-114. See also Veronica Strong-Boag, A Parliament of Women, (Ottawa: Museum of Man Mercury Series, 1976).

"social problem" which threatened national character. The reformers hoped that the national organization of groups, which in itself reflected a growing sense of national identity and pride, would make them more effective in constructing this newly emerging national character.

Mariana Valverde has noted the importance of "character" in the discourse of the time. National character was supposed to reflect what social reformers felt was a truly moral nation. Character was a reflection of sexual self-control and pioneering spirit. It was also considered to be more the property of Anglo-Saxon, Protestant Canadians than of other groups.¹⁴³ The building of character required more than the removal of environmental causes of degradation. It also required the inner transformation of citizens. According to Valverde, such transformation provided a kind of spontaneous social regulation.¹⁴⁴

Women were not necessarily at the forefront of the reform movement in making legislative change, although they were integral to the movement itself. Social reform brought together the evangelical Protestant churches, women's organizations, doctors and scientists, and community leaders with support from labour. The evangelical Protestant churches were a powerful component of the social reform movement. The churches backed a number of campaigns for legislative change

¹⁴³. Valverde, p.104.

¹⁴⁴. James Mavor quoted in Valverde, p.105.

in the field of prostitution and sexual morality. The birth of the social gospel in the 1890s involved a re-evaluation by the churches of their social role. The social gospel was designed to make the churches -- which had been on the decline as a social force -- more socially relevant. Thus, although the reform movement began as an almost secular movement as part of middle-class self-definition, the resurgence of the churches through the social gospel changed the composition of the movement. Indeed, the mediating positions between state and society often were held by men of the church, particularly through the Presbyterian and Methodist churches' Moral and Social Reform Councils. Valverde argues that Protestantism had also been a pillar of Canadian state formation -- beginning with Egerton Ryerson's educational reforms in the 1840s, which created a model of citizenry suffused with Protestantism and established close and friendly relations between the Protestant church and the state.¹⁴⁵ The Methodist church preferred to see the state gain control over areas such as education, rather than leave this control with their rival the Catholic church.¹⁴⁶

Women and Social Reform: The NCWC

The social reform movement was, however, integral to the

¹⁴⁵. Valverde, p.26.

¹⁴⁶. Valverde, p.26.

feminist project. Women's participation in reform activity played an important role both in shaping the orientation of the state and in establishing their own rights as citizens and participants in the public sphere. Equal rights feminism was, in a sense, a by-product of reform activity for the women's movement. The vote would only be another way of ensuring that the state implemented the reforms desired by women for the betterment of society. The reform project was also a legitimate response to women's sexual fears -- the focus on sexual morality and sexual control for both women and men meant that men's sexual behaviour would be reformed to pose less of a threat. Reform also provided a basis for cooperation between women's organizations in Montreal and the English-Canadian women's organizations.¹⁴⁷

The moral reform movement was the vehicle which allowed women to take their private moral role into the public sphere with the support of major male-dominated institutions such as the churches. Morality became an active -- rather than a passive -- project which allowed middle-class women to build public roles on this basis. Hence many women were able to work as reformers, educators and experts through the movement. This also required, however, that other women be the passive objects of reform, who were in need of the help of middle-

¹⁴⁷. Yolande Pinard "Les debuts du mouvement des femmes a Montreal, 1893-1902," in Marie Lavigne and Yolande Pinard, eds., Travailleuses et feministes: Les femmes dan la societe quebecoise, (Montreal: Boreal Express, 1983), p.194.

class women.¹⁴⁸ Such a positioning of middle-class women vis à vis working-class women came naturally out of the mother-daughter roles established very early in the women's movement. The middle-class reformer women were the mothers who shaped the moral well-being of their children: working-class women, young women, aboriginal women and immigrant women.

The relatively late appearance of an organized feminist movement in Canada, as compared to European countries, meant that organization began in a period in which the "evils" of competitive individualism in the form of rapid industrialization had already become apparent.¹⁴⁹ Thus, a liberal individualistic approach to women's rights was unlikely. Although suffrage societies had existed in the 1870s, they had petered out in the late 1800s and were revived in the early 1900s. The English-Canadian women's movement was not focussed on individual rights as much as it was on a more organic understanding of society which was based on the family unit.¹⁵⁰

Before the re-birth of the suffrage movement in the

¹⁴⁸. Valverde, The Age of Light, p.30.

¹⁴⁹. Attested to by the evangelical churches' embrace of the social gospel and rejection of liberal individualism.

¹⁵⁰. Suffragists who supported women's rights on an equal rights rather than a reform basis, however, did exist. Women's suffrage associations had been formed as early as the 1870s. Veronica Strong-Boag, "Setting the Stage," in Alison Prentice and Susan Mann Trofimenkoff, eds., The Neglected Majority: Essays in Canadian Women's History, Vol. 1, (Toronto: McClelland and Stewart, 1977), p.54.

1900s, however, associations like the NCWC were careful to distance themselves from the suffrage cause.¹⁵¹ The NCWC was carefully constituted to cross religious and French/English cleavages -- particularly by inaugurating the practice of "silent prayer" in its meetings to appease both Catholics and Protestants. This approach also led the NCWC to shy away from more controversial reforms, such as temperance, and to maintain political non-partisanship. However, the Council still looked to the federal state to implement those reforms it deemed necessary.¹⁵² Indeed, the Council's philosophy was one of "homes and Nation" and "the Family and the State".¹⁵³ According to the NCWC, the state was being weakened because of the effects of industrialization and urbanization on the family as materialistic male management encroached on women's sphere. In order to protect those values for which they stood women needed to extend their influence beyond the family into the public sphere .¹⁵⁴

The NCWC focussed most particularly, like its predecessors, on the family and the child. Indeed, in her opening speech at the first annual general meeting of the NCWC, its

¹⁵¹. Carol Lee Bacchi, Liberation Deferred?, (Toronto: University of Toronto Press, 1989), p.30.

¹⁵². Wendy Mitchinson, "Early Women's Organizations," in Allan Moscovitch and Jim Albert, eds., The Benevolent State, (Toronto: Garamond Press, 1987), p.86.

¹⁵³. Strong-Boag, "Setting the Stage," p.101.

¹⁵⁴. Strong-Boag, "Setting the Stage," pp.101-102.

founder and President, Lady Isobel Aberdeen, wife of the Governor General, remarked:

We are not all called upon to be mothers of little children, but every woman is called upon to 'mother' in some way or another; and it is impossible to be in this country, even for a little, while, and not be impressed with a sense of what a great work of 'mothering' is in a special sense committed to the women of Canada.¹⁵⁵

The maternal feminist approach was a handy weapon against detractors who criticized women for not making the home and family their first priority. The focus on the child also protected women from a head-on collision with men, particularly powerful men who were key to the success of the movement.¹⁵⁶ However, the focus on children also answered a glaring need in Canadian society of which women were fully aware. The NCWC was quick to criticize the seduction law, particularly with regard to children, for its use of "previously chaste character".

In 1896, Lady Aberdeen, the President of the NCWC, wrote to the Minister of Justice saying: "We are informed, although I am not in a position to vouch for the exact cases, that under this section, offenders have escaped punishment who have

¹⁵⁵. Lady Aberdeen in NCWC, Women Workers of Canada, (Ottawa: n.p., 1894) pp.10-13, reproduced in Ramsay Cook and Wendy Mitchinson, eds., The Proper Sphere: Woman's Place in Canadian Society. (Toronto: Oxford University Press, 1976), p.200.

¹⁵⁶. Veronica Strong-Boag, A Parliament of Women, (Ottawa: Museum of Man Mercury Series, 1976), pp.181-186.

seduced a girl who was known to have been assaulted as a little child, and therefore not held to be of 'previously chaste character'."¹⁵⁷ The unjustness of such an approach was clear to the women of the NCWC and testified to the importance to removing such restriction on the protection of women and children. The intensity of the resistance to raising the age of consent, however, meant that the women had an uphill battle ahead of them -- even where the protection of children, let alone women, was concerned.

Other members of the NCWC pointed out the obvious double standard in the legislation, which was designed, the head of the Montreal Local Council, Lady Julia Drummond, argued, to protect men rather than women. This was made the more unfair by the reality that most women faced in the unequal power relationship between men and women. Drummond felt that women would frequently be unable to prove "previously chaste character" because such assault was so common and because men could use friends to testify against them. In the 1896 Report of the Sub-Committee on Laws for the Protection of Women and Children, Mrs. Drummond pointed out:

[t]hat this qualification [of previously chaste character] does not to a great extent abrogate the ostensible protection afforded by our law to girls of 14 or 15 years must be apparent to all who seri-

¹⁵⁷. NCWC, Appendix to Women Workers of Canada, 1896, p.313. Constance Backhouse, Petticoats and Prejudice, (Toronto: The Women's Press, 1991), p.75.

ously consider the circumstances of any girl, and especially of a girl in the class of life in which such offences are most frequent, against whom, as a condonation or justification of his offence, the man may lay a charge of 'previously chaste character'.¹⁵⁸

Although Mrs. Drummond's arguments show an obvious class bias they also show recognition of the difficulties faced by young women in terms of sexual harassment and abuse. The deliberations of the sub-committee, however, show us that some women did have a closer experience of sexual abuse as one participant related:

I feel very strongly on this subject. Some years ago it was to me an unknown subject. I only learned of it through a dear friend of mine coming to me and telling me the story which had wrecked her life. We sometimes think that it is only the children of the poor who are in danger, but I assure you that every girl is in danger.¹⁵⁹

Obviously, women were coming to recognize how closely their own lives were touched by sexual abuse.

Accordingly, the NCWC lobbied to have the age of consent raised to eighteen.¹⁶⁰ Some members felt that it was better to raise the age to 21, the age at which women could will away property. Presumably, only at this age were women mature

¹⁵⁸. NCWC, Appendix to Women Workers of Canada, p.311.

¹⁵⁹. NCWC, Appendix, p.318.

¹⁶⁰. NCWC, Appendix to Women Workers of Canada, p.313, pp.317-318.

enough to consent to sexual activity. Some members remarked that age of consent legislation of any kind was shameful because it merely marked the age at which a woman could consent "to her own ruin". Dr. Emily Stowe Gullen remarked "...there is no justice in holding a girl of fourteen responsible for her act. Our young sister has then no knowledge to warn her of all that it means by consent."¹⁶¹ Such an approach marked the maternalist orientation of the NCWC. However, it also testified to a truly feminist concern for sexual safety. The same sub-committee noted the need for women "of experience and discretion" to be present in courts in which women were brought to trial, a work which had been carried out by the WCTU for some time.¹⁶² Such a recommendation marks a true sense of gender solidarity. Indeed, the NCWC also criticized parliamentarians' frequent recourse to fear of "false accusations" by women as an excuse for limiting the legislation. Despite dismissal of their complaints by the government, the NCWC continued to agitate for the dropping of the chastity clause, and the extension of the seduction protection to domestic servants.¹⁶³ The NCWC women were obviously well aware of the sexual exploitation faced by children and working women. In 1900, the government made some concessions towards the NCWC by changing several

¹⁶¹. NCWC, Appendix, p.323.

¹⁶². NCWC, Appendix, p.317.

¹⁶³. Backhouse, Petticoats, pp.76-77.

sections of the Criminal Code so that proof of previous loss of character in the woman was the onus of the male.¹⁶⁴

The NCWC was aware, therefore, of the operation of the double moral standard, and like the WCTU called for the male offender in sexual immorality to be castigated as much as the female.¹⁶⁵ Each year, the NCWC put forward demands for a raise in the age of consent and the imprisonment of frequenters of brothels. The NCWC also opposed the establishment of red light districts in various cities and some NCWC groups attempted to reform prostitutes; but they were defeated by the realities of prostitutes' own difficulties, particularly their need to feed their children. Instead, therefore, the NCWCers relied on programs for sex-education, healthy recreation and punitive legislation.¹⁶⁶

The NCWC's approach, however, also smacked of protectionism and condescension towards other races/ethnicities and classes, betraying its upper-class roots. Its maternalism led it to mourn the possibilities of "race suicide" unless more domestic servants became available. Immigrants should be, according to the NCWC, "of the better type" so that they could become good servants. Eventually, however, their call for the screening of immigrants (particularly to exclude Asians) was

¹⁶⁴. James Snell, "'The White Life for Two': The Defence of Marriage and Sexual Morality in Canada, 1890-1914," Social History, 16.31 (May 1983), p.121.

¹⁶⁵. Strong-Boag, A Parliament of Women, p.186.

¹⁶⁶. Strong-Boag, A Parliament of Women, p.273.

overcome by their desperate need for more servants.¹⁶⁷

Their efforts towards the working class were similarly high-handed. The NCWC made attempts to make the domestic service more appealing by establishing clubs and Honourable Orders, but their efforts were spurned by working-class women. The Council had no connection with the efforts of working-class women to take action for themselves. The Bell strike of 1907 and the Eaton's strike of 1912 were not even mentioned in NCWC minutes.¹⁶⁸ However, their championship of women's special qualities in dealing with children in particular, opened up numerous job opportunities for working women. The Council supported the appointment of female judges for juvenile courts after the enactment of the Juvenile Delinquents' Act in 1906 with NCWC support. They also recommended the appointment of female prison matrons and factory inspectors in the 1890s.¹⁶⁹ And, in 1913, they supported the shortening of work hours for both men and women, circumventing the debate over protective legislation for women.¹⁷⁰

The importance of this new organization lay, most particularly, in its pan-Canadian character. It became an important voice of Canadian women on a national level and was, there-

¹⁶⁷. Strong-Boag, A Parliament of Women, pp.190, 248.

¹⁶⁸. Strong-Boag, A Parliament of Women, pp.236-257.

¹⁶⁹. Strong-Boag, A Parliament of Women, pp.188-189.

¹⁷⁰. Strong-Boag, A Parliament of Women, p.230.

fore, influential in shaping the opinions of the period. The Council was well aware of the importance of this role, as one leader expressed it "...the changing and molding of public opinion is ... the greatest thing the Council has done. It is before all else a federation of ideas or ideals, and an educative force".¹⁷¹ Such national organization allowed women to exercise a greater influence over the construction of more comprehensive solutions to the nation's ills, than the purely local organizations and activities of the past. Without the vote or the right to run for office, however, allies remained extremely important for the NCWC and here the social reform movement was central.

The Churches: Social Gospel and Socialism

The evangelical churches were a key part of the alliance for social reform. Having been involved in temperance issues in the 1870s and 1880s, in the 1890s the Protestant churches redoubled their efforts in this vein. However, their approach to questions of social importance were gradually changing. Where the response of the churches to the Printers' strike in the early 1870s had been along the lines of scoffing at

¹⁷¹. Lady Julia Drummond, President of the Montreal Local Council of Women, quoted in Strong-Boag, "Setting the Stage", p.103. See also, Yolande Pinard, "Les debuts du mouvement des femmes a Montreal, 1893-1902," in Travailleuses et feministes: Les femmes dans la societe quebecoise, (Montreal: Boreal Express, 1983), p.185.

efforts to reform humanity through laws and reaffirming the principles of individualism, in the 1890s the churches became proponents of the need for environmental changes to produce individual reform. The change in approach is linked to the growing evangelism of Protestant religion in the 19th century when faced with the social problems of industrialization and urbanization which led to the birth of the social gospel. The churches were able to link their programme of evangelization to the evolutionary concepts of Darwinism, and to socialism itself.¹⁷²

This rejection of pure individualism by the church allowed for the development of alliances between labour and the church. Labour unions and church groups worked together to secure the Lord's Day Act of 1907 and then formed the Moral and Social Reform Council of Canada, one of the most powerful reform organizations of the early 1900s.¹⁷³ The link between the churches and socialism strengthened throughout the period leading up to the First World War. Union and socialist supporters could be found among the advocates of the church.¹⁷⁴ The leaders of both the Lord's Day Alliance and the Moral and Social Reform Council, however, were leading church,

¹⁷². Richard Allen, "The Social Gospel and the Reform Tradition in Canada, 1890-1928", in Samuel Clark, J. Paul Grayson and Linda Grayson, eds. Prophecy and Protest, pp.46-50.

¹⁷³. Allen, p.50.

¹⁷⁴. Allen, p.51.

rather than union, men. One in particular, the Rev. J.A. Shearer was a leader in both organizations. Shearer was the main purity activist with the Presbyterian church, heading the Presbyterian committee for moral and social reform. Shearer's views ran to the more conservative side of social reform -- he believed the proper place for prostitutes was in prison "unless they showed a disposition to lead better lives".¹⁷⁵ He was blatantly racist in his understanding of prostitution, arguing that "most of the dens of vice are owned by Chinese and Japanese. No doubt many of the girl inmates are owned by them also". He also believed that aboriginal people sold aboriginal women to white men.¹⁷⁶

This sort of racism, particularly against the Chinese and Japanese, linked up very strongly with the language of the unions of the time. They were faced with the increasing employment of Asian immigrants at wages which undercut union negotiations.¹⁷⁷ The implication is that the alliance between the churches and socialist/labour organizations may have been dominated by the Christian emphasis on personal reform and morality rather than the socialist concern with economic exploitation.

¹⁷⁵. Shearer quoted in Valverde, The Age of Light, p.56.

¹⁷⁶. Valverde, The Age of Light, p.57.

¹⁷⁷. See Marie Campbell, "Sexism in British Columbia Trade Unions, 1900-1920," in Barbara Latham and Cathy Kess, eds., In Her Own Right, (Victoria: Camosun College, 1980), pp.167-186.

Women and Labour

Indeed, the strength of the middle-class reformers' analysis of prostitution became apparent in the socialist acceptance of the existence of the white slave trade. According to Janice Newton, although socialists continued to see prostitution as the result of capitalist exploitation it was not just the exploitation of women but of men as well. The low wages paid to men made them unable to bring home a family wage to support a wife and children. This, in turn, forced women out to work where their low wages often led them to go into prostitution. Men's low wages also forced them to seek the services of prostitutes because they were unable to marry. (It was assumed that married men did not use prostitutes.) Working men's sexual desire was seen as natural and uncontrollable. There was little sense in this analysis that working women were being sexually exploited by working men or that male sexuality should be controlled, as the reformers were arguing. Socialists were quick to point to the sexual immorality of the capitalist class, especially in its abuse of domestic workers.¹⁷⁸ Further, the adoption of the white slave approach by some socialists denied the element of choice for which

¹⁷⁸. Janice Newton, "The Prostitution Controversy and the Early Canadian Left," in Linda Kealey and Joan Sangster, Beyond the Vote: Canadian Women and Politics, (Toronto: University of Toronto Press, 1989), p.227.

earlier socialist analysis had allowed.¹⁷⁹ The maternalist orientation of the women's movement did not challenge the unions on this basis but supported it.

Some socialist women, on the other hand, had a different analysis of prostitution which never found great support among the male leadership of the movement. They emphasized the role of sexual exploitation and the domination of women by men. The women were more critical of men who frequented prostitutes. Mary Cotton Wisdom, an editor of Cotton's Weekly, a socialist newspaper, likened such men to "reptiles and beasts" and pointed out that prostitutes were brought before the courts "...to be judged by a man, imprisoned by a man ... [f]or committing a sin for which man is responsible".¹⁸⁰ Cotton called for stricter punishment of men involved in prostitution and for women's suffrage in order to gain "the right to control the conditions under which we live".¹⁸¹ Other women, writing in to the socialist publications, expressed their concerns about the possibility of themselves or their children being contaminated by venereal diseases brought home by philandering husbands. Still others argued against the presumption of male sexual rights in marriage, likening women's sexual exploitation in marriage to that in prostitu-

¹⁷⁹. Newton, p.228.

¹⁸⁰. Quoted in Newton, p.228.

¹⁸¹. Quoted in Newton, p.228.

tion.¹⁸²

Helena Gutteridge a prominent union organizer in British Columbia also saw the link between low pay and prostitution and its resolution in women's suffrage. "If women will concentrate their energies on getting the vote they will then be able to...lessen the supply of women to the vice trust [prostitution], by passing a minimum wage act that all women may get a living wage."¹⁸³ The threat of prostitution to working women unable to receive a living wage was also instrumental for Gutteridge and women's labour organizations in Vancouver in gaining the support of Vancouver city council for their efforts against the employment of Asians.¹⁸⁴ However, Gutteridge did find her efforts inside the male dominated labour unions to be frustrated by the male unionists resistance to exclusively female campaigns or measures which targeted only women.¹⁸⁵

Attempts were made to organize working women separately from the male unions -- through the Working Women's Protective Association formed in 1893, for example. However, women's organizing faced numerous difficulties and the Association

¹⁸². Newton, pp.229-230.

¹⁸³. Gutteridge quoted in Susan Wade, "Helena Gutteridge: Votes for Women and Trade Unions," in Latham and Kess, eds., In Her Own Right, p.196.

¹⁸⁴. Wade, p.196.

¹⁸⁵. See Campbell, "Sexism in British Columbia Trade Unions," pp.167-184.

soon floundered.¹⁸⁶ In the absence of strong female unions, the male-led unions and business leaders were more likely to listen to the voices of middle-class reforming women (albeit through the men's own interpretation). It has been suggested that the unions, in fact, were seeking links with the powerful reform movement in order to overcome their political isolation.¹⁸⁷ The perspectives and solutions presented on the problems of working women were often those of middle-class reformers. Reformers usually recommended protective measures, such as the appointment of female factory inspectors rather than an increase in wages.¹⁸⁸ Labour clearly accepted the

¹⁸⁶. Wayne Roberts has pointed out that it was not outdated notions of "femininity" which kept working women from organization; rather, it was the restrictions of the conditions under which they worked. Although concentrated within a few industries women were often divided among numerous establishments so that very few contained a critical mass of female workers. Women workers were also hampered by high turn-over rates as women married and moved out which compounded the already narrow band of experience and background on which the women could draw. Most women were young farm women who had come to the cities from the rural areas to find work. Without the support of the male trade unionists or the middle-class feminists (with the exception of some suffrage associations) working women had little chance of achieving organizational strength. See Wayne Roberts, Honest Womanhood: Feminism, Femininity and Class Consciousness Among Toronto Working Women: 1893 to 1914, (Toronto: New Hogtown Press, 1976), pp.1-11.

¹⁸⁷. Alice Klein and Wayne Roberts, "Besieged Innocence: The 'Problem' and Problems of Working Women -- Toronto, 1896-1914," in Janice Acton, et. al., eds., Women at Work, Ontario, 1850-1930, (Toronto: The Women's Press, 1974), p.219.

¹⁸⁸. The Vancouver Trades and Labour Council turned to middle-class women's groups, such as the Local Council of Women, for suggestions on legislation respecting working conditions of female shop and office workers. The Local Council along with Board of Trade members and union leaders

protective stance towards women workers which fit nicely with the restrictiveness of the craft consciousness of large parts of the labour movement. Indeed, the Trades and Labour Congress advocated the "abolition of child labour by children under 14 years of age, and of female labour in all branches of industrial life, such as mines, work-shops, factories, etc."¹⁸⁹ The unions also opposed the establishment of a minimum wage for women on the grounds that giving men a decent living wage would make a minimum wage for women unnecessary.¹⁹⁰

Middle-class women also exerted influence on leading businessmen and politicians through their social contacts, as well as their political activity. Thus, they were able to establish consensus between business and labour through their own interpretation of how working women's issues should be dealt with. Nationally, the NCWC -- which characterized itself as the "national mother" -- espoused protective measures for working women. The NCWC campaigned for "seats for shopgirls" in the belief that long periods of standing would harm their

sat on a committee to make recommendations. The Local Council recommended that white working women not be allowed to work in the same places as Asiatic workers because it would endanger the morals of white women, and that a minimum wage be set for women which, although was \$10 below that recognized as reasonable by union leaders, was accepted by all the parties involved. The Council felt that the appointment of female inspectors was more important as a protective measure than a minimum wage. Campbell, "Sexism in British Columbia Trade Unions," pp.174-175.

¹⁸⁹. Klein and Roberts, "Besieged Innocence," p.220.

¹⁹⁰. Klein and Roberts, p.221.

reproductive organs. It also fought for the introduction of female factory inspectors to ensure that working conditions for women workers were satisfactory. Like the Royal Commission of the 1880s, the NCWC was particularly concerned to ensure that factories maintained separate lavatories for women and men.¹⁹¹

The WCTU and YWCA also continued, in the late 1800s and early 1900s, to advocate protective measures. The WCTU was concerned that prostitution was brought about by working girls who lacked character because of "parental inefficiency, attending theatres that pander to the passions, seeking pleasure at the dance halls and even going to Chinese restaurants; too much liberty at night on the streets; insufficient wages; inordinate love of fine clothing and desire for the easy life".¹⁹² Wages are obviously far down on the list. The YWCA shared similar thinking on the causes on prostitution and felt that the younger generation was greedy in its refusal to accept low wages while being properly trained.¹⁹³ Roberts notes working women's resistance to middle-class women's attempts to restrict them -- using dress as a way of signifying their own femininity and self-respect, and resisting having their children cared for elsewhere.¹⁹⁴

¹⁹¹. Klein and Roberts, pp.214-216.

¹⁹². Klein and Roberts, p.217.

¹⁹³. Klein and Roberts, pp.217-218.

¹⁹⁴. Roberts, Honest Womanhood, pp.52-53.

The Social Purity Movement and the White Slavery Scare: 1909-1913

The building of a new Canadian for "Canada's Century", as the 1900s were deemed by Laurier, involved the shaping of sexual character. Church committees on moral reform lobbied actively for changes to the Criminal Code concerning sexual morality. In 1904 the Presbyterian Church -- backed by numerous groups including the WCTU and the YWCA -- called for the inclusion of "adultery and lewd cohabitation" as punishable offenses in the Criminal Code.¹⁹⁵ As well, the Methodist church was a major force behind efforts in the 1890s through to the 1920s to ban obscene literature, drugs, prostitution and procuring.¹⁹⁶ The concern about sexual morality in Canada as part of the nation-building project was accentuated by the white slavery panic of 1909 to 1914.

The white slavery panic of 1909 to 1914 was partially a product of a similar scare in Britain at the time which was forcing that country to revise its Criminal Code provisions. The Americans were also acutely affected by the white slavery issue. American reformers held a Convention on the White Slave Trade in 1895 and by 1910 the government had introduced the Mann Act, which restricted travel by single women. The fact that Canadian organizations for social reform were now in full swing meant that the issue had a better conduit in Canadian

¹⁹⁵. Snell, "The 'White Life for Two'," p.119.

¹⁹⁶. Valverde, The Age of Light, p.54.

society than during the previous scare of 1886.

Evidence of rampant prostitution, especially in cities like Toronto, Winnipeg and Vancouver, had become more prevalent in the 1890s. C.S. Clark, author of the 1890s study of Toronto, Toronto the Good, declared "the whole city is an immense house of ill-fame".¹⁹⁷ By 1905, the WCTU was hearing evidence of a white slave traffic "among the debased population of Southern Europe" which convinced the WCTU to lobby for an increase in the age of consent.¹⁹⁸

White slavery imagery was the outcome of a discourse around women, children and sexuality which saw the above as fundamentally innocent and the victims of outside forces -- particularly men of other races/ethnicities. Presumably such men, and occasionally women, were luring young women from the countryside (or at their arrival point in Canada), into prostitution with false promises of employment, favours or even through drugging.¹⁹⁹ Such an image failed entirely to examine young women's choices about migration, employment and sexuality. It assumed, instead, that young women were incapable of these choices because they were fundamentally

¹⁹⁷. Valverde, p.82.

¹⁹⁸. Bacchi, Liberation Deferred, p.52.

¹⁹⁹. The NCWC believed that procurers frequented small towns in Canada and lured young women to the cities with false promises of employment as domestic servants only to install them into a brothel upon arrival. See Lori Rotenberg, "The Wayward Worker: Toronto's Prostitute at the Turn of the Century," in Janice Acton, et. al., eds., Women at Work, p.42.

ignorant and/or innocent and required protection and education. The response of women's groups and the social reform movement were precisely along these lines. Women's groups such as the WCTU were more likely to stress the need for education which at least suggested that women were capable of learning to fend for themselves. Others, however, such as the NCWC, led by the church-based groups, assumed that legal protective measures were the best response. Such measures eventually lead the state into a protective position vis à vis women in general.

The WCTU and the NCWC formed committees to deal with social purity and the white slave traffic and they cooperated closely with the Moral and Social Reform Council to organize against vice. The Council was formed in 1909 by a coalition of labour and church groups that included the moral committees of the Presbyterian and Methodists churches and the Trades and Labour Council, and was under the control of Rev. Shearer. Shearer, as noted above, took a law and order approach to prostitution. He also linked it explicitly with marriage and family commitment by criticizing men "who -- untrue to the solemn marriage vows taken upon him -- continually resorted to a den of vice, regardless of his sacred duties owed his wife or children".²⁰⁰ Shearer's concern over the maintenance of the marriage institution reflected middle-class women's concerns over philandering husbands. Their position in society and

²⁰⁰. Quoted in Snell, "The 'White Life for Two'," p.120.

their economic livelihood rested on their maintenance of their marriages. These women also had to be concerned over the threat of the spread of venereal disease from a husband who frequented prostitutes.²⁰¹

Reformers also generally agreed that a women could be led into prostitution through the desertion or incapacity of husbands to support their wives and children.²⁰² This was part of a sustained campaign by many of the reform organizations -- including Watt's Society for the Protection of Women and Children, the Moral and Social Reform Council, the NCWC and the various charity associations and church committees -- to make legal provisions to force husbands to provide support for their families.²⁰³ To ensure that the new provisions were implemented, J.J.Kelso argued, "As the amendment to the Code was granted at the urgent request of many officials and social workers, its enforcement should not be neglected. The preservation of the home is the foundation principles of all social

²⁰¹. Doctors in the 1890s in Canada had already established that a main source of venereal disease was prostitution and that married wives were often the "innocent victims" of these diseases through their husbands. Jay Cassel argues that it was on this basis that there was a great deal of the concern over V.D. at the turn of the century. See Jay Cassel, The Secret Plague: Venereal Disease in Canada: 1838-1939, (Toronto: University of Toronto Press, 1987), p.20.

²⁰². Rotenberg, "The Wayward Worker," p.42.

²⁰³. See Snell, "'The White Life for Two'," pp.122-123. The pressure by these various groups resulted in changes to the Criminal Code in 1913 which expanded the definition of non-support and recognized common-law husbands as responsible for family support. Snell, p.123.

endeavour".²⁰⁴ Thus one of the principle goals of the reform movement was the maintenance of the family unit, a goal that blended with the feminists' focus on issues of family and children. This was in many ways beneficial for these women as the above changes indicate. The reformers even managed to obtain Criminal Code amendments in 1909 which proscribed wife-beating and continued to agitate for enforced wife-support by marriage deserters.²⁰⁵

Women's Organizations and Prostitution

The women's organizations tended to respond to prostitution differently than the male-led purity organizations. In large part, however, they reflected the definition of the problem as put forth by these organizations. Both the NCWC and the WCTU pointed to the hypocrisy of punishing only the women involved in the trade.²⁰⁶ Both used the term "traffic in women" as opposed to "white slavery" because of involvement of women of colour as well. A large number of women also believed that the majority of prostitutes were feeble-minded.²⁰⁷ Indeed the issue of "feeble-minded" persons was obviously an important one both for women and for the state. One of the few

²⁰⁴. Quoted in Snell, p.123.

²⁰⁵. Snell, pp.122-124.

²⁰⁶. Valverde, The Age of Light, p.94.

²⁰⁷. Valverde, p.94.

feminists to obtain a position in the expanding state bureaucracy, Dr. Helen MacMurchy, was Superintendent of the Feeble-Minded for Ontario.²⁰⁸ In part, the connection of feeble-mindedness was explained by prostitution's being the easiest work such women could find. Others, however, felt it was the prostitution itself that led to eventual mental deterioration.²⁰⁹ The NCWC did recognize that family difficulties could lead a girl to leave home while she was still young and unskilled. However, this was most likely understood as the result of bad parenting, and was not seen as an inherent problem within the family structure.

The women's groups posed various correctives to prostitution. The WCTU focussed on education, particularly sex education, as the correct way to prevent prostitution. The women's missionary groups (along with the Salvation Army) focussed on the rescue of prostitutes. The NCWC took more of a law and order approach. The YWCA was also involved in efforts to rescue girls from the traps of the white slave traders. In Edmonton in 1911, 37 girls were turned over to the Children's Aid Society after being arrested for prostitution.²¹⁰ Women's groups in Vancouver were also concerned over the participation of Asian women in the prostitution business. Indeed, because of the restrictions of Chinese immigration and

²⁰⁸. Valverde, p.108.

²⁰⁹. Lori Rotenburg, "The Wayward Worker," p.45.

²¹⁰. Valverde, The Age of Light, p.85.

the over-representation of men in the community, a practice of selling young women out of China into brothels in B.C. grew up. The Women's Missionary Society of Vancouver responded by setting up a rescue home for Chinese prostitutes. It soon found, however, that its rescue efforts were frustrated by the lack of cooperation by the prostitutes themselves and the home soon became a centre for many Asian women and children in need of shelter.²¹¹

The reform movement at the turn of the century put a great deal of emphasis on sex education in response to this innocence. The WCTU was among the strongest advocates of such education for youth. The importance it attached to education for children is reflected in the motto of its Moral Education Department "Save the Children and you mold the nation".²¹² Realizing the dangers of innocence, the WCTU advocated "proper" education in sexual matters would lead to a healthy, normal life. The WCTU's program concerning moral and sexual matters, therefore, contained a mix of both prohibitive censorship and active education.

In a 1898 address, Jessie C. Smith of the Nova Scotia WCTU remarked "Ignorance is not purity, nor ever can be, --

²¹¹. Karen van Dieren, "The Response of the WMS to the Immigration of Asian Women, 1888-1942" in Barbara K. Latham and Roberta J. Pazdro, eds., Not Just Pin Money, (Victoria: Camosun College, 1984), p.84.

²¹². Valverde, The Age of Light, p.60. The other two mottoes were "A white life for two" and "Every child has the right to be well-born".

nor is it a friend of purity, nor helpful to the cause."²¹³ Women who were seduced or assaulted were pictured as "ignorant" victims. Smith related the story of thirteen young girls "ruined" by their music teacher, intimating that the girls' ignorance of "what they should have known" was to blame for their ruin. At the same time, however, she bemoaned the fate of a "young girl innocent, sweet, religious" seduced by her lover through drugging.²¹⁴ Young women were simultaneously presented as innocent victims and as ignorant, and, therefore, requiring (along with young men) the instruction of mothers. Should mothers fail in keeping their daughters chaste, however, they also stood to fail their sons in this regard, according to Smith. She argued that "[a] girl ruined early becomes a seduction, a ruin to the young men", thus drawing on an old image of women as seductress.²¹⁵ Obviously Smith's rhetoric was designed to press home the need for sex education. It also drew, however, on the malleable discourse of social purity which pictured women both as innocents and as

²¹³. Jessie C. Smith "Social Purity," WCTU, (Nova Scotia: 1898), reproduced in Ramsay Cook and Wendy Mitchinson, eds., The Proper Sphere: Woman's Place in Canadian Society, (Toronto: Oxford University Press, 1978) p.231.

²¹⁴. Smith, pp.233-234.

²¹⁵. Smith, p.234. This image also intimated that once fallen, women remained fallen. At the same time, however, Smith in agreement with the Purity Alliance, professed belief in the work of "rescue of the fallen" and ended her speech with the story of Jesus and the woman of Samaria in whom Jesus saw "great spiritual nature which [neither] time nor sin can destroy". Smith, p.325.

educators.

In 1905, the WCTU hired sex-educator Arthur W. Beall as its purity agent for schoolchildren. Beall, however, was heavily influenced by the male-oriented sex hygiene school of Sylvanus Stall. Stall's sexology depicted male semen as the vital and life-giving force and he showed great concern that such vital energy not be lost through masturbation.²¹⁶ The WCTU eventually had Beall transferred to the Ontario Department of Education in 1911. The WCTU's Purity Superintendent recommended more woman-oriented sex education through the work of Dr. Alice Stockholm, who, although believing women were less desirous of sexual activity than men, emphasized the importance of foreplay for women and recommended that women have the final say over when to engage in sex.²¹⁷

The NCWC, like the WCTU, also stressed the need for sex education because they felt that girls' ignorance and naivete in these matters could also allow them to fall prey to white slavers. The NCWC felt it important that men be held to the same standard of sexual morality as women. In a 1907 address to the NCWC, a Mrs. Spofford drew on both the discourses of race and religion as she defended women's moral standards.

²¹⁶. See Michael Bliss, "'Pure Books on Avoided Subjects': Pre-Freudian Sexual ideas in Canada," Papers of the Canadian Historical Association, (1970), pp.89-108, for an account of sex-education in Canada in this period.

²¹⁷. Valverde, The Age of Light, pp.68-70.

We do know that God most emphatically declares, and His laws prove to us, that chastity and purity are essential to the highest well-being of the race. And we also know that in the past there has, and to-day there does exist, a moral ethical code decreed by man and assented to by woman, which declares unchastity a "necessity," the result being a national evil so widespread, so pernicious, so deadly in effect, that to-day the race is groaning under a burden of disability, moral and physical, a comprehensive knowledge even of which causes us humiliation and sadness unspeakable.²¹⁸

Thus, a feminist concern with the double moral standard and its effects on women's lives is linked to discourses of racial purity and morality.

Women's interest in social and sexual purity could be explained on one level, then, as a weapon against male sexual demands both on women and children. Unlike the more passive Victorian purity ideal, however, social purity offered an active program for women to take some degree of control over their own sexual lives and those of young people and children. The "white life for two" also allowed women to exert some control over their husbands' sexual behaviour through its criticism of men resorting to prostitution "untrue to the solemn marriage vows taken upon him [and] regardless of his sacred duties owed his wife or children" according to Shearer.²¹⁹ On another level, the social purity focus linked

²¹⁸. Mrs. Spofford, 'Address', Yearbook, NCWC (Ottawa: 1907), pp.85-91, reproduced in Cook and Mitchinson, eds., The Proper Sphere, p.236.

²¹⁹. Snell, "'The White Life for Two'," p.120.

women into a powerful coalition of forces with considerable social influence -- including churches, unions, charity organizations, scientists and doctors. Doctors, in particular, occupied positions of both moral and scientific prestige that allowed them to bridge the gap between the religious sentiment of the church-based reformers and scientific basis of urban reform that appealed to a much wider audience of businessmen and civil servants.²²⁰

Only a few women, such as Flora MacDonald Denison, pointed out that economic exploitation was a factor in women turning to prostitution.²²¹ Denison, a leading member of the more radical wing of the women's movement, condemned the NCWC's harsh measures recommended in its "women's platform" of 1912 which included flogging of male procurers. Denison disapproved of the use of violence and strove to point out that procurers were not the problem: rather it was the whole social system which sustained prostitution.²²² Denison's disagreement with the NCWC marked a growing rift between the 'radicals' and 'conservatives' within the NCWC. Radicals pushed for the Council to support suffrage until it was finally accepted in 1910. It was the more conservative faction, however, that continued to hold a definite majority.

²²⁰. Valverde, The Age of Light, p.47.

²²¹. Valverde, p.94.

²²². Deborah Gorham, "Flora MacDonald Denison: Canadian Feminist," in Linda Kealey, ed., A Not Unreasonable Claim, (Toronto: The Women's Press, 1979), pp.60-61.

The autonomous, feminist and often socialist position of radicals like Denison failed to find support within the growing political discourse around maternalism and social purity. Groups like the Theosophists and progressive thinker organizations enjoyed some popularity in the period before the war, however the content of the dominant approach had already been established by this time.²²³

True to its law and order approach, the NCWC joined church organizations in 1912 to form the National Committee for the Suppression of the White Slave Traffic (a subcommittee of the Moral Reform Council also headed by Rev. Shearer). The white slavery issue was thus put effectively under the control of the church, particularly its more conservative advocate, the Rev. Shearer.²²⁴ The white slavery campaign illustrates how much the issue of prostitution was becoming less one of concern about the prostitutes themselves than about the sexual morality of the rest of society. Its championship by the moral councils of the churches lead to a great deal of emphasis on the innocence and purity of women in a more passive sense than the feminists were trying to portray. The Methodist Board of Temperance and Social Reform, for instance, vowed that the clergy would not cease its struggle against the white slave trade "[until] we can restore the victim to her home, and to

²²³. See Gorham, "Denison" for a discussion of Denison's involvement with these various groups.

²²⁴. Valverde, The Age of Light, p.95.

a life of honour, purity and helpfulness".²²⁵

The Social Response to White Slavery

The operation of this discourse around white slavery is well illustrated in the speech given by Lucy Brookig, Superintendent of Toronto Haven, in 1911. Brookig told numerous stories of innocent, young women tricked into prostitution or seduced. The numerous associations between such things as disease, immigration, feeble-mindedness, drunkenness, illegitimacy and infanticide shed light on the messages of the white-slavery discourse. Brookig's victims come to ruin by various methods, innocence and simple-mindedness being chief among them (or, in the case of immigrants the freedom "that goes to their heads" -- intimating a need for greater supervision.²²⁶ Although men are usually the villains, women who procure and entice young women are also present, and seen as somehow more vile than the men who often, in all their evilness, took pity on innocent victims. The moral of the stories was that young women needed protection. Brookig ended her monologue with the plea: "How long before our legislature rouses to the duty of protecting these poor weak ones from the

²²⁵. Valverde, p.172, note 46.

²²⁶. Lucy W. Brookig, "Conditions in Toronto", in Canada's War on the White Slave Trade, (London: n.p., 1911), pp.364-380. Reproduced in Cook and Mitchinson, The Proper Sphere, p.245.

horrors to which they are exposed in this Christian Canada, and of protecting the country from the horrible danger of such an increase?"²²⁷

The basic cause for the flourishing of the white slave trade, according to both the women's organizations and the churches, was the naiveté of young women. This presupposed that young women needed protection and education by older women and, increasingly, by men. Young women coming into the city either from overseas or the rural countryside were seen as easy prey for white slavers. The NCWC recommended Travelers' Aid Societies to meet young women at train stations and docks upon arrival. Ironically, by 1914, the government was recommending that young women be skeptical of the aid offered by strangers in these places because even those appearing to be working for protective societies could also be white slavers. One pamphlet read:

Do not loiter in public places, and remember that there are women as well as men in strange cities, or travelling by train, who are watching for chances to decoy the innocent. They have many traps set, such as pretending to be in a faint, or wishing to be taken home; claiming to know you, or to represent some society for the protection of strangers, etc.²²⁸

Instead, the pamphlet guided young women to men in uniform and

²²⁷. Brookig, in Cook and Mitchinson, p.249.

²²⁸. Quoted in Valverde, pp.97-98.

state officials.²²⁹ The result was a delegitimization of women's efforts to protect other women. The protective role could only properly be carried out by the male state.

The State's Response: Legislation of 1913

Various reform groups across the country lobbied their local police and governments to enforce prostitution laws more strictly.²³⁰ Local governments and police sometimes proved difficult to convince of the need for stronger measures, as these bodies often felt that toleration and segregation were the more effective measures.²³¹ The federal government, however, responded to the agitation over prostitution with stricter bawdy house provisions in 1907 and procuring provisions in 1909. Even government members, such as MacKenzie King, at that time Minister of Labour, had become involved in the social purity issue. King was a member of the Presbyterian

²²⁹. Valverde, p.98.

²³⁰. In Vancouver local residents and the Vancouver Moral Reform Association continually pressured police to crackdown on the trade. The Police Commissioners attempted to relocate the trade to Chinatown, fully realizing that legal crackdowns were futile. They did, however, conduct periodic raids to appease the public. When this was not enough the police cracked down on prostitution in the restricted districts. This, however, only led to the further dispersal and higher visibility of prostitutes. Deborah Nilsen, "The 'Social Evil': Prostitution in Vancouver, 1900-1920," in Barbara Latham and Cathy Kess, eds., In Her Own Right, pp.208-215.

²³¹. There was greater toleration of prostitution by police in the prairies. See Valverde, The Age of Light, p.57.

Board of Moral and Social Reform and it was his revelations on the drug trade in Vancouver (encouraged by Rev. Chown, the Superintendent of the church) that led to speedy passage of restrictive legislation.²³² King also produced a book highly reflective of social gospel thought in 1919, Industry and Humanity.²³³ The growing openness of the state can be seen in the statement of an official of the Department of Justice: "These outside gentlemen do not realize that in no place is the heart more wrung with the sufferings of innocent wives & children... than in this Department."²³⁴

The new federal Conservative government responded to the growing pressure in 1913 with the introduction of legislation which set the basis of prostitution law until well into the 20th century. The Criminal Code Amendment Act significantly increased the punishment for procuring offenses, by adding whipping as a discretionary penalty and by allowing for arrest without a warrant in cases of procuring.²³⁵ The revisions also dropped the age limitation of 21 years for victims. Prostitutes and women of "known immoral character" were also no longer excluded from the procuring offence.²³⁶ New

²³². McLaren, "Chasing the Social Evil," pp.149, 164, note 154.

²³³. Valverde, The Age of Light, p.24.

²³⁴. Quoted in Snell, "'The White Life for Two'," p.123.

²³⁵. See Canada, House of Commons, Debates, June 2, 1913, p.11512.

²³⁶. Snell, p.120.

offenses of concealment in a bawdy house, spiriting new arrivals to Canada to bawdy houses and exercising control, direction or influence over a female for purposes of prostitution were added. Provisions were also made for the punishment of those "living off the avails of prostitution", of being "found in" a common bawdy house, and of "keeping" a common bawdy house, where a keeper could be one who appeared to be the master or mistress of a house or a landlord who failed to eject a convicted tenant.²³⁷ The Minister of Justice explained only that the changes were designed to deal more effectively with white slavery.²³⁸

The 1913 legislation reflects an understanding of prostitution as mainly the result of procuring and pimping. In this understanding women within prostitution are left devoid of any subjectivity. They have not made an active choice (albeit within limited circumstances) to enter prostitution, but they have been tricked or procured. The active agent is the procurer. Thus, it is the procurer who is punished as a response to prostitution. The legislation, therefore, avoided dealing with any of the underlying problems of prostitution, particularly the economic situation of working-class women. This approach, however, did address concerns of middle-class

²³⁷. McLaren, "Chasing the Social Evil," p.149. A proposed expansion of the seduction clause to include domestic servants was struck out by the Senate, again because of fears of blackmail. See, Canada, Senate Debates, June 5, 1913, p.1004. and Canada, House of Commons, Debates, June 6, 1913, p.12138.

²³⁸. McLaren, p.150.

reformers about the dangers faced by immigrant women, and young, working women in the urban areas. It even reflected a "feminist" orientation, because the blame for the downfall of these women was effectively placed on the shoulders of the (mainly male) procurers. The women in this scenario, however, were seen as innocent victims. The state was then placed in the position of protector of women. At the same time, prostitutes still faced severe penalties for their activities. Changes to the Criminal Code in 1915 made being an inmate of a bawdy house an indictable offense.²³⁹

The implications of such a protective approach became apparent in later legislation. Amendments to the Code in 1918 made it an offence for a person to engage in "sexual immorality ... or an other form of vice" in the home of a child that would cause a child "to be in danger of becoming immoral, dissolute or criminal, or the morals of such child to be injuriously affected."²⁴⁰ Charges could only be brought, however, by "some recognized society for the protection of children" or officer of a juvenile court.²⁴¹

Indeed, the pressures of the social purity community did come to bear fruit. After 1911 the conviction rates for prostitution-related offenses began to show a marked increase.

²³⁹. McLaren, "Chasing the Social Evil," p.164, note 162.

²⁴⁰. Parker, "The Legal Regulation of Sexual Activity," p.252.

²⁴¹. Parker, p.252.

Convictions for abduction, seduction and procuring rose substantially between 1911 and 1917. More dramatic increases were seen in conviction rates for keeping, frequenting or being an inmate of a bawdy house, jumping from 1741 between 1901 and 1910 to 3868 between 1911 and 1917.²⁴² However, once again, the desire to punish men as much as women went by the wayside. Charges against women remained much more frequent than those against men. The result of the crackdowns was a greater dispersal of the trade in the cities and a greater reliance on pimps by prostitutes -- both changes meant a more dangerous and exploitative position for prostitutes.²⁴³

Other changes in the Criminal Code in 1913 also show that women received marked benefits through their social purity agitation. Provisions regarding male responsibility for family support were improved. The definition of non-support was expanded by the addition of failure to provide the necessities of life as sufficient grounds for conviction. Co-habitation and any recognition by the male of the children as his own were considered prima facie evidence of his responsibility towards the woman and children. Summary conviction for non-support was also made possible.²⁴⁴

Conclusion

²⁴². McLaren, "Chasing the Social Evil," p.150.

²⁴³. McLaren, p.151.

²⁴⁴. Snell, "'The White Life for Two'," p.123.

The white-slavery panic had obviously been effective in achieving legislative goals. The power of the white-slavery discourse, Valverde argues, lay in its flexibility in representing both everything that threatened young women in the new urban environment and everything that was threatening about such women. In this way the white-slavery discourse attracted both feminists and anti-feminists, socialists and conservatives to its cause by their being able to stress whichever images and aspects best suited their needs.²⁴⁵ For the women's movement the white slavery scare helped them to gain support for their concern about young women. However, the terms of the discourse were not entirely in their control. Thus, their sometimes more progressive approach to prostitution was lost in the drive to punish moral offenders more harshly. However, social purity allowed women the opportunity to begin to change male sexual behaviour. Considering the strength of the opposition to women's critique of the legal system's treatment of both women and children, such a powerful ally as the social purity movement was extremely helpful. It was within this milieu, however, that the more regressive tendencies of the maternalist innocent victim approach became apparent. Social purity fed into the establishment of Anglo-Saxon and middle-class domination. The championship of the cause by the churches through the social gospel usurped the voices of the working-class -- so that there was little support for an

²⁴⁵. Valverde, The Age of Light, p.95.

alternative discourse. Gradually the power of the churches was being taken over by the scientific and professional community. As social purity made greater headway more and more positions were opening up within the state for professionals in social reform. Indeed, many middle-class women gained employment in the state through these roles. They took with them, however, the racial/ethnic and class orientation of the social purity movement and institutionalized them within the state. The state itself, however, was becoming more open to social purity and passed legislation which reflected its goals.

Chapter 7: Conclusion

In this thesis I trace the change from an autonomous to a protective approach in Canadian prostitution legislation between 1867 and 1913. In order to do this, I relate this change to the process of political organizing by women in conjunction with the Protestant evangelical churches, unions and social reform organizations. There were many actors involved in changing this approach because of the multifaceted character of prostitution. Prostitution was both a lived reality of sex and work and a social construct which informed the lives of all women. Therefore, I relate the changes in prostitution legislation to the lived experience of women in 19th and early 20th century Canada. To society as a whole, prostitution represented concerns about health, morality, poverty, labour, law and order -- to name a few. It was an issue not only of gender but of race and class. Thus I demonstrate how women's own concerns about sexuality and safety were translated into this broader framework. All of these aspects were woven together by the actors concerned with prostitution to produce a protective approach.

Whereas some studies have looked at the first-wave feminist movement as inherently racist and classist (and, to some extent, sexist), in this study I seek to understand how much of this racism and classism was inherent in women's position and how much was a product of the process of politi-

cal organization. That is, how and why women were able to draw on other discourses -- such as those around race and class -- in building a politics of gender. Thus, I look at how women's lived experience was translated in such a way as to make sense both to them and to the society around them. A maternalist framework, which reflected the lived reality of many women, was translated into a protectionist approach through the focus on the child. In the absence of strong alternative approaches, articulated by other races or classes, this focus on the child linked into other protectionist discourses which reflected racist/ethnocentric, classist and sexist biases -- emphasizing these aspects already found in women's organizing.

In concrete terms, this means examining the political opportunities presented to the women's organizations and the strategies taken by them in seeking to influence society's understanding of prostitution and, by extension, of women and sexuality. These opportunities consist of the discourses, allies and political spaces/organizing patterns available to women. Women had first to contend with a legal discourse which presented women either as victims or as sexually promiscuous and conniving. These opportunities were also shaped by the relative absence (or weakness) of certain discourses and allies. In Canada, there was a relative absence of a class-based discourse because of the weakness of labour. The weak position of labour women, in particular, made it difficult to build gender alliances across class lines. Middle-class women,

however, were able to link into the more powerful alliances with and discourses of religion and social reform through middle-class women's ethnic and class position and their appeal to these groups through a child-based/maternal approach. The process of forming an approach to prostitution is a dialectical one. The feminists' understanding of prostitution both shaped, and was shaped by, the social discourses around it -- as expressed by various political actors. In this way I seek to present a more actor-driven, open-ended and contextualized analysis of history.

The activity of women (and other middle-class reformers), and the approach to prostitution that they championed, led to a more protective stance by the state towards women. For prostitutes this meant increased state interference in their lives and a disruption of the strategies of survival which they had built. As greater pressure was put on brothels and brothel-owners, prostitutes were forced into the streets where they were more exposed to danger and more reliant on pimps. At the same time, they remained vulnerable to strict anti-prostitution laws. Indeed, it was against them -- and not procurers or frequenters -- that these laws were most frequently applied. Seduction laws brought mainly increased supervision of young women's sexual activities.²⁴⁶ Concern

²⁴⁶. See Karen Dubinsky, "'Maidenly Girl's' or 'Designing Women'? The Crime of Seduction in Turn-of-the-Century Ontario," in France Iacovetta and Mariana Valverde, eds., Gender Conflicts, (Toronto: University of Toronto Press, 1992), pp.27-66.

with trafficking, pimping and procuring brought increased persecution of racial minorities and working-class men and women. Many of these provisions remained in place well into the 20th century. The "living off the avails of prostitution" offence created in 1913 even today complicates the lives of many prostitutes, because it now serves to restrict prostitute women from living with family, friends, lovers or children.

Thus, women agitating for increased protection from sexual danger for women had linked into and reinforced a number of pernicious social structures. However, this was not necessarily their main goal. Rather, women were trying to address some very real needs and fears. Immigrant women did face increased sexual danger, as did young girls coming into the cities from rural areas and working-class women going into the factories. Children were being abused. Asian and aboriginal women did face sexual exploitation. Indeed, most women experienced some form of sexual fear. The first-wave feminists had recognized and acted upon this. The manner of their response, however, reflected a failure to recognize that other women had designed their own coping and survival mechanisms which were very important for them to maintain.

The way that Anglo-Saxon, middle-class women responded to the perceived need of women in general was shaped both by their own experience and by the political opportunity structure they faced. It was this opportunity structure, and the strategy women used to take advantage of it, which determined

how women's experience was translated into the political framework that was reflected in the law. Women often recognized the role of work, or the lack thereof, in leading to prostitution. Without the support of a discourse or allies which underscored women's need and right to work, however, this role was interpreted in light of available frameworks. This interpretation suggested that it was the sexual and moral danger at the work-place which led to prostitution.

Organizational practices, for example, silenced the voices of those who experienced this exploitation most directly. Women's hierarchical and benevolent organizing, and the unions' exclusion of female voices, robbed the women's movement of allies who understood this exploitation from the inside. Even a more class-conscious discourse failed to develop, because of the constellation of political forces and economic conditions in Canada at the time in which the unions were generally weak. Unlike Britain and France, a liberal, individualist approach was not apparent from the beginning of women's organizing in Canada. Canada's social reform movements came at a time when competitive individualism was already considered problematic as the strains of industrialization proved the need for more social responses. The temperance, social gospel and women's movements shared a more organic vision of society. Although there were pockets of radical socialist activity, they never gained the support of the mainstream movement. The Canadian case, therefore, presents a

situation in which the reform movement was an integral part of the mainstream of society rather than a radical fringe. As part of this mainstream, perhaps first-wave feminists in Canada gained more social power than in other countries. That social power, however, was quickly translated into state power as women moved into social welfare professions and the state took on a paternal role.

The Canadian movement remained pro-statist for this same reason. It considered the state an instrument of social goals rather than a force to be opposed. Without a noticeable attempt by the state to regulate prostitution, there was no impetus to criticise the state in this regard. While American reformers had difficulty establishing national standards in the face of a highly divided state, Canadian reformers could turn to the central federal state as a uniting force and a "force for good" against the corrupt municipal governments.

In order to understand the construction of the protective approach and women's contribution to it, it is important to understand the context in which this approach was built. Therefore, I look at women's lived experience and the constraints women faced, particularly in male dominated legal and state discourse. Firstly, then, women's understanding of prostitution and the protectionist response reflected their own lived experience and concerns. The approach to prostitution made sense to the actors involved in formulating it. Feminists' responses to prostitution reflected their own fears

of sexual abuse, pregnancy and venereal disease, and their desire for control over their own bodies. Thus, in part, their response reflected the legal situation in which women found themselves. The limitations on women's possibilities for sexual expression (such as birth control, abortion and age of consent legislation) shaped how women understood their sexuality. These limitations were balanced against women's sexual fears, such as rape, and the adequacy of the protection of women under the law. If women in general felt threatened, unprotected and limited in their sexual possibilities, they were unlikely to see the prostitute as freely choosing her occupation. And, indeed, few women went through life without knowing sexual fear, including the prostitute. Life in the brothel may have given some women relief from the drudgery of working-class life, but it was a life fraught with danger and exploitation as well. The prostitute, therefore, was a symbol of women's sexual exploitation at the hands of men with which many women could, on one level, identify.

Neither prostitutes nor non-prostitute women had much recourse in law to protection from (or compensation for) sexual wrongs. Although Canadian law at the time of Confederation took a seemingly liberal and individualistic approach to women's sexuality, this approach only served to put the responsibility for women's chastity on women without recognizing women's less than equal position. The benefits for women in such a situation were limited. Another, less powerful,

legal tradition allowed for some recognition of women's plight. A kind of legal paternalism allowed the courts to see women as victims of (male) society. As much as legal discourse reflects ways of thinking which can be found in the society around it, there was some space in Canadian society for a discourse of women as victims which offered women at least protection -- if not equality.

The laws surrounding women's sexuality, therefore, presented both constraints and opportunities to women. Legal restrictions restrained women's behaviour in a very concrete way while legal and state discourse around women and sexuality -- which emphasized women's wily and sexual character, or their status as victims -- shaped the broader social framework which women had to work with in order to have broader social appeal. The promiscuous and wily image of women had obvious disadvantages for women, but it was particularly disturbing when it came to children. Thus women capitalized on a more appropriate image of children (and women) as victims.

It was not necessary, however, that women capitalize on this particular image. And, indeed, women did not approach the fight for greater power from an entirely powerless position. Women's response to prostitution reflected their own positions of relative power and drew on their own experience. Women used their position as moral icons to turn the double standard on its head and to force men to conform to women's morality. As well, much of the discourse around women's mission to women

was based on an ideal of mother-daughter relationships. This reflected women's lived experience as mothers. Their mothering role gave women a relative sense of power within family relationships, since they could -- to an extent -- control and influence the lives of their children. An increased emphasis on women's roles as mothers came with changes in Canada's political economy. Both of these roles, as mothers and moral icons, had the benefit of being supported by the church and male society at large. Both appeared unthreatening to positions of male power. Focussing on children conveniently avoided a more direct confrontation between women and men. Yet, it provided an almost unassailable position of strength for women. On the other hand, motherhood was caught within very traditional and circumscribed parameters of morality, race and class. Only "good" mothers could take full advantage of the glorification of motherhood. Maternal feminism also trapped women in a traditional role which not all wished to see as primary in their lives. However, motherhood did reflect one aspect of reality for a large number of women.

These experiences of power as mothers and moral icons, then, were not the universal experiences of all Canadian women. They were clearly shaped by positions of race and class. Women's moral position in society was true mainly for white women. This position had been constructed out of white women's morality and "civilizing influence" in opposition to aboriginal women. Women's mothering and sexual experiences

were shaped by their class positions. Working-class women were more apt to share (to a degree) parenting duties with male mates or extended family. They were also more likely to be instrumentalist in their approach to sexuality because of the constant exposure to male sexual attention and harassment in the work-place. Who is speaking from what particular experience, therefore, is important in analyzing the race/ethnic, class and gender parameters of the discourse produced by the actors. In this sense, in order to understand the approach to prostitution taken by the women's movement, it is important to see what other actors were involved and what discourses they carried. Thus it becomes apparent how the race/ethnic, class and gender politics of the women's movement's understanding of prostitution were changed or sustained by other political actors and their political discourses.

Women's lived experience had to be translated into the larger social framework, in order to make sense to these allies and society as a whole. In Canada, a key mechanism for translating this experience was the image of the child. The emphasis on women's roles as mothers and moral educators gave women a link into this larger discourse. As mothers, women could draw upon the changing role of children in Canadian society and the increasing concern with their education and protection. The image of the "child" could be extended by women to include other groups who needed middle-class women's protection and education, thereby justifying increased

involvement by middle-class women in the public sphere. Reflective of their experience of young women leaving the country for the cities, reforming women approached these new young workers as daughters away from their families and in need of older women's protection and guidance. Thus, women active in the feminist movement approached prostitutes as motherless-daughters who had gone astray and who required both protection and instruction from middle class women. Thus, the image of the child was used to support their actions.

The child-based approach cleverly critiqued the male system -- which posed prostitutes as inherently evil -- with its own language by, drawing on the imagery of men as bad and (certain) women as good. Prostitutes -- or, more appropriately, potential prostitutes -- could be drawn into the category of good women by painting them as innocent victims of male lust. At the same time, in the face of repeated failures in attempting to reform prostitutes themselves, the focus on the child also turned the women's movement's attention to a more preventative approach. The extension of the image of the child to other groups of women, however, depended on the operationalization of the discourses of race and class. These discourses were used by groups such as reform organizations and the churches (as well as the women's movement) and reflected their positions in class, race and gender relations. Women's capitalization on the importance of environmental influences on children linked closely into arguments around

racial degeneration as their emphasis on biological motherhood seemed to support eugenicist notions. However, there were no powerful class-based or race-based groups which could defend different analyses. For middle-class women, their emphasis on motherhood allowed them to link up to discourses on the preservation of the Anglo-Saxon race and the formation of middle-class and Canadian identities. While this position gave additional power to middle-class women, it posed a contradictory position for prostitutes and "potential prostitutes" (those seen as most likely to "fall into" prostitution, such as young working women and women of racial or ethnic minorities). The characterization of these women as innocents, and/or children, in some ways allowed for a more sympathetic understanding of their position by outsiders. However, it also dismissed any subjectivity or choice on the part of the women themselves.

Women's organizing carried both forward and backward linkages to structures of race, class and gender relations: backward, through their positions in the family, the church and the middle-class; forward, through the strategies used to lobby for a new role. Benevolence work placed women in a hierarchical position toward aboriginal women, women of colour, immigrant women and poor women. That pattern of organizing persisted into later women's organizations such as the YWCA, which gave little or no voice to the women receiving their services. Women's involvement in the temperance movement

linked them into a discourse which was mainly middle-class and pro-statist. Women's approach to prostitution, therefore, reflected these influences. Seduction legislation was proposed to protect women from falling into prostitution. Girls and young women were trained in domestic service to provide for a secure future. Sex education was provided to keep young women's innocence from becoming their undoing. Such an approach posed women as innocent children and victims who required protection and education, whether from older, middle-class women or from the state.

This sort of vision was not entirely the creation of women, however. It had always had a place in popular discourse, as seen in the earlier legal practices, and male reformers were as quick to pick it up as women. Both working-class and middle-class men found a "white knight" role in protecting women which did not challenge their male power and yet allowed them to act on concerns they also had on the rapidly changing society and its threats to women. Men drew on their role as fathers, to an extent, as women did on their role as mothers. The focus on the child proved an effective link. Witness the male-run organizations pressing for social change which focused on the child, including J.J. Kelso's campaign and the Society for the Protection of Women and Children. Reforming men were the leading forces behind seduction legislation and changes to the Criminal Code which set the tone of legislation toward women for years to come.

The framework upon which this legislation drew, however, had been shaped by women as well as men. These new laws posed young women and children as victims of male procurers and seducers. Unless, however, these victims met the demands of childhood status -- sexual innocence -- they were precluded from protection. Women, therefore, were not all-powerful in having an entirely new vision of women accepted into the legislation. The (male-dominated) government insisted that this new vision be construed in such a way so as not to challenge the double moral standard. Thus, women's demands were filtered through the voices of men.

In the later stage of legislative change, the 1890s through 1910s, women's voices were heard much more directly. Although women still lacked voting power, their national organization in English Canada -- through the NCWC -- gave them much broader political appeal. The NCWC's strength, however, rested both in its elite position (as the organization of wives and relatives of powerful men) and its central position within the social reform movement. For women, the focus on social reform offered many advantages aside from an increasingly public and powerful role. Sex education, for instance, did in some ways serve to redress the power balance in sexual relations. Women became more educated on the mysteries of sexuality, and men were enjoined to control their sexual behaviour and to protect the institution of marriage. As part of a pan-(English)Canadian movement for reform, women

were more likely to have some real influence on the re-shaping of the English-Canadian character.

Social reform neatly linked church, labour, temperance, feminist, and even some business and government organizations. The reform project provided answers to the troubling difficulties of a society undergoing profound transformations, effectively stifling alternative discourses with less backing. Although socialist women attempted to provide an alternative discourse, they were powerless within the union movement. Male unionists drew on the protective language of the social reform movement to legitimize the family wage. The unions worked together with middle-class women to advocate more protective measures for working-class women. As well, the unions, the social gospel and reform movements and the feminist movement all drew on eugenicist arguments to legitimize their positions. The result was a discourse around women, sexuality and prostitution which reflected the positions of Anglo-Saxon, middle-class reformers --a discourse which blossomed with the white-slavery scare of 1909. The images of white slavery illustrate the pernicious side to these activities. White slavery discourse drew on racist/ethnocentric and classist images and saw women as helpless victims. It illustrates how completely the debate over prostitution had become less one about prostitutes themselves, than about the sexual morality of the rest of society. Ironically this reinforced the prostitute's position as a "fallen woman" with no possibility

of reform. Women's attempts to provide a sub-text of slightly more balanced views on the causes of, and cures for, prostitution were lost in the sea of the white-slavery scare.

In a sense, the social reform project was part and parcel of the definition of the growing middle-class. It served to marginalize and persecute (at worst) or assimilate (at best) peoples of other races and cultures. It also served to instill middle-class values in working-class culture (although not without the cooperation of the working-class; indeed, members of the working-class often incorporated middle-class morality within their own survival strategies). The point here is, however, that the suppression of other races/ethnicities and classes was not the sole intent and aim of either the women's movement or most of the other social groups. Rather, each was pursuing particular goals of their own, such as women's quest for freedom from sexual fear. In doing so, however, they drew on structures of relations of race/ethnicity, class and gender through both practices and meanings. The victimist approach constructed (or, at least, revived) by women linked into these other discourses and practices around race and class.

On the surface it may appear as though the various movements did nothing but reinforce these structures. It is important also to note, however, that changes in the state's approach like this offer new opportunities for resistance and subversion as well as oppression. As noted above, women's campaign for protective legislation did, in fact, answer to

some of the difficulties faced by women (as well as children). While there may then have been losses in some areas, there were gains in others. Certainly, for example, the more protective attitude taken towards children today seems to be a great improvement over one which sees children as sexually precocious -- although even today such an attitude persists. To assume that the only result of first-wave activity was to reinforce structures, also assumes that the oppressed are indeed only victims and not actors. Further study on how prostitutes and working-class women were able to make use of the changes in the law would shed an interesting light on this process.

The state's response to this new approach was, in many senses, positive. From the beginning, unlike in Britain and France, the Canadian reform movement had viewed the (federal) state as an ally in achieving its goals (while local government and state apparatus had often proved corrupt). The state itself, at both provincial and federal levels, was becoming gradually involved in the social reform project. It had moved from establishing public schools to funding social reform agencies in their work toward incorporating professionalised aspects of social reform. Indeed, as the middle-class -- especially middle-class women -- expanded into the civil service, their jobs were often defined by social reform goals. In part, this served to segregate women into professions which

were socially useful but not politically powerful.²⁴⁷ The professionalization of aspects of reform also had the contradictory effect of providing jobs and increased social power to some women on the basis of their instructing and "mothering" other women, whose lives became increasingly dependent on, and interfered in by, the state.²⁴⁸

Indeed, the expanding bureaucracy proved to be fairly open to the ideas of the social reformers. The protectionist approach is clearly present in the legislation produced between the 1880s and 1910s. It is interesting to note that the state was first open to protective legislation for working women and children. More social intervention was slower to come. The state was not immediately and necessarily open to the protective move. This was a gradual development, as the state moved from being involved primarily in industrial development and international relations toward becoming a welfare state. This process followed the path of the develop-

²⁴⁷. See Wayne Roberts, "'Rocking the Cradle for the World': The New Woman and Maternal Feminism, Toronto 1877-1914," in Linda Kealey, ed., A Not Unreasonable Claim, pp.15-46.

²⁴⁸. See Mariana Valverde, The Age of Light, p.30. This process is paralleled in the development of (social) science. The professionalization and scientification of social reform poses interesting questions for today as well. As these social reform positions became more professionalised, the "ones being helped" were put in the position of the "ones being researched". The voices which had been denied in earlier organizing continued to be denied in this new arena. The link between benevolence, social reform and, eventually, social science was the continuing denial of voice.

ing social discourse -- first focussing on children and education and then on working children and women. The state's involvement in social reform was also an uneven development, considering the different positions of different parts of the state. Indeed, different branches of the state reacted to the protectionist move with greater or lesser degrees of enthusiasm. The police and courts showed the most resistance, with the ironic result that the reformers' efforts were never really fully implemented. Much of the groundwork for the state's welfare role was laid by social reform organizations, including women's organizations.

Women, indeed, may have seen dependence on the state as preferable to direct dependence on men. Such protectionism by the state, however, increased state power vis à vis all women. Although women (in some senses) may have gained some advantages, the net result was a transferral of protective power from the male-dominated family to the male-dominated state. Women were still left in a relatively weak position. Indeed, the difficulties of reliance on the state become apparent as the state interpreted women's demands to its own purpose. The Criminal Code Amendment Act of 1913, and following legislation, gave numerous powers to the state over the lives of working-class and racial minority families -- in particular, in the name of protection of women and children. Ironically, at the same time, prostitutes continued to face harsh sanctions for their trade. The double-moral standard remained in

place.

In all, then, in this thesis I give an overview of a process in which actors make change even within the constrained circumstances of structures. Although the general structure of gender dominance had remained in place, the lives of women had changed considerably -- for better or worse. The new protective approach framed in the legislation concerning prostitution and the activities which were presumed to lead to prostitution, reflected some of the real concerns of women of the time. These concerns were not unfounded in reality, but the way in which they were approached was shaped by the available discourses, allies and organizational practices. This political opportunity structure, in turn, carried linkages to structures of relations of race, class and gender. The protective legislation that was produced in the early 20th century reflected the dominance of the protectionist approach and its linkages to race, class and gender relations.

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