

THE AFFECTIVE BASIS OF JUDGMENTS AND NARRATIVES SURROUNDING SEXUAL
COMMERCE IN WESTERN CANADA IN THE LATE-NINETEENTH AND EARLY-TWENTIETH
CENTURES

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Abstract

This dissertation undertakes an affective reading of late-nineteenth and early-twentieth century Canadian primary sources through which to analyze the affective basis of judgments and narratives surrounding sexual commerce. Situated in the interdisciplinary subfield of the history of emotions, this dissertation centres sexual commerce as a site of colonial worldmaking in what are currently the southern regions of the provinces of Manitoba, Saskatchewan, and Alberta, and traces emotional through-lines across fields in social space. Beginning with a self-reflexive prologue drawing from a method feminist theorist Clare Hemmings (2011) terms “situated horror,” this dissertation then turns to the Dominion of Canada’s post-1867 westward expansion, its legal mechanisms, and affective mobilizations. Across the empire, Britain tied legislative powers to feelings that reflected its goals, ideal social order, and habitus of its peoples. Like a mathematical equation, peace in the colonies would emerge through order and good government and law-abiding citizens would be its beneficiaries. That equation was integral to the shift from a fur trade economy to a settler colonial one oriented toward a British imperial and Canadian economic disposition. The corollary effect of the equation was the normalization of British and Canadian views on what constituted peace, their conceptions of capital, and the conceptual transplant of disorderly figures, such as the “rebel,” the “vagrant,” and the “prostitute” – or, broadly, people defined as “outlaws.”

Three main sites of colonial worldmaking are examined in this work: that of the journalistic field in chapter four, that of the political field in chapter five, and that of the juridical field in chapter six. By tracing emotion in oft-cited, and not-so-oft-cited, primary sources that discuss concerns about and responses to sexual commerce, the emotions underpinning narratives and judgments surrounding sexual commerce become evident. This method offers an emotions history of western Canadian colonial expansion, revealing how sex workers, histories of sex work, and feelings about sexual commerce were integral to Canadian worldmaking. Responses to sexual commerce were informed by the Dominion of Canada’s worldmaking mission, concerns over human unfreedom, and dynamic social positionings in emergent settler colonial society. British imperial and Canadian whiteness were produced through gendered-racialized processes of differentiation at the local, municipal, provincial, federal, and imperial levels. White men’s feelings of satisfaction dominated in this history, as they intensified their gendered monopoly on resources, space, and authority in a region that had been known as Indigenous peoples’ territories. This analysis of masculinized emotions contributes to the feminist theorization of colonialism and sexuality.

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Lastly, I would like to acknowledge my reader. Please read this dissertation with care. This research engages difficult histories and subject matters, including the effects of settler colonialism and the ascendance of whiteness on Indigenous peoples’ territories. There are mentions of the Dominion of Canada’s attempt to dispossess Indigenous peoples of their lands and rights through an array of tactics that remain ongoing. There are mentions of child abuse, gender-based and sexual violence, discrimination and violence against sex workers, various forms of racism, suicide, drug overdose, and other issues. Therefore, these histories are not safely in the past but animate and contextualize the present.

Resources:

- The Indian Residential Schools Crisis Line: 1-866-925-4419.
- National Inquiry into Missing and Murdered Indigenous Women and Girls Support Line: 1-844-413-6649
- Canadian Mental Health Association Crisis Line: 9-8-8

- Canadian Crisis Lines for those affected by Gender-Based Violence:
<https://www.canada.ca/en/women-gender-equality/gender-based-violence/crisis-lines.html>
- For sex workers in need of support or in crisis, see your local sex worker organization (such as [Butterfly](#), [Peers](#), [PACE](#), [Maggie's](#), [POWER](#), [Answers](#), [SWAP-Hamilton](#), [SWWAC](#))

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Chapter One

Situated Horror—a Prologue

Two weeks after I defended my master's thesis, I entered my PhD program. Haunted by a committee member's comments during my defence regarding sex workers' agency, or lack thereof, I intended to continue researching histories of sex work and historicizing sexual commerce in my doctoral research.¹ The erasure of sex workers' histories and contributions to the economy, culture, and society supports violence against sex workers and the implementation of poorly conceived policy. With more people turning to sex work to make a living and to survive their circumstances, the stakes are high. I wondered, though, if my efforts would all be for naught. What if, no matter the evidence, such histories are met with the widespread belief that sex workers have no agency and they need to be rescued?

When I read Clare Hemmings' *Why Stories Matter: The Political Grammar of Feminist Theory* in the first term of my program, I was struck by her arguments and proposals as she challenged my focus on agency.² In her investigation of western feminist storytelling and its emphasis of "progress, loss, and return" narratives, Hemmings challenges western feminists to recognize the ways we privilege a sense of empathy and western conceptions of agency in our understanding of proper feminist subjectivity.³ By doing so, we universalize our experience, our

¹ Throughout this dissertation, I use the term sexual commerce to refer to sexual interactions as exchanges (Davies, 87). According to Isabel Crowhurst, Niina Vuolajärvi, and Kathryn Hausebeck Korgan (2019), "sexual commerce manifests the complexity of sex, gender, and markets." It is situated, plural, diverse, and enduring. As Jacqueline M. Davies writes, "the meanings of sexual commerce in Canada are not naturally given facts" (85). Though Canada has treated sexual commerce as a matter of immorality or criminality, it "may be more productive to identify the regulation of sexual commerce as the issue requiring most attention and to attend to it as a justice issue" (Davis, 87). I have aimed to historicize Canada's regulation of sexual commerce throughout my career in graduate studies. See p. 12 of this prologue for a discussion on the emergence of sex work discourse. See footnote 10 in the following Introduction chapter for an explanation of my choice to use the term "sex work" in this dissertation.

² Clare Hemmings, *Why Stories Matter: The Political Grammar of Feminist Theory*, (Durham & London: Duke University Press, 2011).

³ In her chapter "Affective Subjects," Hemmings explores affective declarations, such as horror and disgust, in western feminist theorists' writings that engage with contested narratives. She writes that: "Contested narratives of proper feminist subjectivity are staged as refutations and resentments of other positions, subjects, and narratives" (191). In such narratives, declarations of horror and disgust are often held up as evidence that proper feminist subjectivity has been breached. But an investment in an absolute difference between feminist and non-feminist positions have long histories of harm and exclusion that demonstrate the ways western feminism is amenable to structures of racism, colonialism, and cis-hetero-patriarchy.

perspectives, and our histories. *Why Stories Matter* interrupted my focus on debate over sex workers' agency by offering a method Hemmings terms "situated horror" which explores the affective basis of discursive ruts in western feminism.⁴ Turning to affect interrupts western subjectivities and "indicates a different history" than narratives most often repeated in Western feminist storytelling.⁵ Hemmings asks, "Is there a way of seeing through another's eyes historiographically rather than empathetically?"⁶

Following my introduction to Hemmings, I remained curious about methods that engage with affect and emotions. I read Deborah Gould's emotions history of American HIV/AIDS activism and the formation of Act Up using a method that accounts for affect in primary sources and the history of emotions.⁷ Gould argues that Act Up's organizing foreclosed some feelings and emotions for the sake of other emotions. Building on Bourdieu's theory of habitus, which explains the dialectical and co-constitutive relationship between structure and practice, Gould develops what she terms "emotional habitus" to describe "a social grouping's collective and only partly conscious emotional dispositions."⁸ Habitus is fundamental to processes of domination and resistance. It is shaped by the social space one inhabits, one's present circumstances and other contexts such as their family upbringing, education, and ancestral histories. While Hemmings challenged my focus on agency, Gould introduced me to a method and to methodology that could be applied to investigate the affective basis of judgments and narratives surrounding sexual commerce.⁹

⁴ Hemmings calls this "a tactic of diffusion" that is not interested in settling disputes "but asks after the terms under which only certain arguments can occur and recur" (194). Diffusion has multiple applicable definitions here, but the one that most resonates for this work is "the action of spreading the light from a light source evenly so as to reduce glare and harsh shadows" (*Oxford Languages*).

⁵ Hemmings, *Why Stories Matter*, 225.

⁶ Hemmings, *Why Stories Matter*, 224. Hemmings suggests that feminist scholars engage with the relationships that anchor historiography and push at the limits of feminist subjectivity in a given context "to home in on the narrative gaps that one cannot rush to fill in" (196).

⁷ Deborah Gould, *Moving Politics: Emotions and Act Up's Fight Against AIDS* (Chicago and London: The University of Chicago Press, 2009).

⁸ Gould, *Moving Politics*, 32.

⁹ I discuss Gould's *Moving Politics* and situate it within the History of Emotions and its methods in chapter three.

In this chapter, I follow Hemmings lead by starting with a moment of affective rupture. By doing so, I aim to find the off-ramp out of these discursive ruts and “trace narrative otherwise” to learn “what horror forecloses.”¹⁰ I situate my horror within contested narratives and discursive ruts about sexual commerce and situate my knowledge and my subject-position, reflecting on my relationship to my research.¹¹ Pierre Bourdieu proposes a reflexive method that acknowledges the ethical and political dimensions of research. Critically reflexive research, which acknowledges that research is a social act, requires researchers to re-think and ask after what is pre-given, troubling what seems naturally occurring. Standpoint theory, which proposes that authority is rooted in individuals' personal knowledge and perspectives, is an important methodology in the History of Emotions. This practice offers some reference for my own habitus, which exists in Canadian settler colonial contexts, as well as the habitudes of others. In my attempt to “see through another’s eyes historiographically,” I search for examples of sex workers’ habitus. I also examine representations of sexual commerce in historiography. Turning to affect invites different kinds of inquiry that are not interested in universal truths or experiences nor in settling disputes. Rather, this method engages with process and asks after the terms under which certain arguments can occur and did recur.

Through an affective reading of late-nineteenth century and early-twentieth century Canadian primary sources on sexual commerce, this dissertation engages emotion as a productive force for colonial worldmaking and for resistance. While my previous graduate research investigated histories and social responses to the buying and selling of sex in

¹⁰ Hemmings, *Why Stories Matter*, 224.

¹¹ The concept of “situated knowledges” is proposed by Donna Haraway in her essay “Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective,” *Feminist Studies* 14, no. 3 (1988), to account for the relationships between epistemology, ontology, ethics, and politics and to counter what she calls the “god trick” (581). Haraway takes issue with western epistemological practices that puts forward a “view from above, from nowhere” which appears neutral, obscures the social position of knowledge producers, and has the effect of universalizing perspectives (589). She calls this the “god trick” and articulates its consequences, such as the denial and marginalization of subjectivity, voice, and presence. As a tool for knowledge production, situated knowledges avoids the “god trick” by employing critical self-reflexivity to clarify scholars’ subject position. It also requires a careful accounting of the power relations at play in knowledge production and the ways objects of study are not passive but active entities.

Saskatchewan from 1880 to 1920, this dissertation considers the affective textures of social and colonial responses. It is broader in scope than my previous graduate work and covers sources from Manitoba, Saskatchewan, and Alberta and examines the affective basis of narratives and judgments surrounding sexual commerce following the Dominion of Canada's westward expansion in the late-nineteenth century.¹² Three main sites of colonial worldmaking are examined in this work: that of the journalistic field in chapter four, that of the political field in chapter five, and that of the juridical field in chapter six. Narratives of the typical prostitute, of sexual exploitation, and of sexual danger are evident and demonstrated in the journalistic and political fields. Themes emerging from analysis of the emotional journey of judges' decisions are covered in chapter six. Gendered histories of racialization feature prominently in this dissertation, demonstrating how colonial powers from differing, yet interconnected, fields mobilized emotions for white ascendance in a region that had been previously understood as Indigenous peoples' territories.

1. Situated Knowledges: "With whose blood were my eyes crafted?"¹³

In August 2013, my master's thesis committee convened around a boardroom table as I defended my thesis. My findings were surprising. They contradicted entrenched ideas about Saskatchewan's sex trade. For example, histories of sex work in Saskatchewan are not strictly urban histories; mounted police records showed an equal number of arrests in rural and urban areas.¹⁴ Though there was widespread concern over human trafficking into the sex trades, there were few instances documented in the records. Following my successful defence as we were saying our goodbyes, a committee member asked me, "Do you think the women in your thesis

¹² While some histories of the western Canadian province of British Columbia are referenced here, judgments and narratives surrounding sexual commerce in British Columbia are not a main area of research in this dissertation due to the different legal histories of the province.

¹³ Quote from Donna Haraway's essay "Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective," *Feminist Studies* 14, no. 3 (1988): 585

¹⁴ Sarah E. York, "We Have Never Allowed Such A Thing Here...": Social Responses to Saskatchewan's Early Sex Trade, 1880 to 1920," Master's thesis, (University of Saskatchewan, 2013), 55.

who worked in Saskatchewan's sex trade had agency?" "Of course! And I hope my thesis showed that," I replied. "See, I don't think they had any agency at all," the member asserted. The comment confused me. I assessed that I failed somehow, given the discipline of History's emphasis on agency.

In my master's research, I found that Saskatchewan relied on the labour of sex workers in the late nineteenth and early twentieth centuries. Diverse sex workers often worked in labouring camps and moved from one settlement project, such as new towns or cities, to other projects such as mining camps. They were drawn to the area for much the same reason men were—economic opportunities. Some sex workers owned property and used it as a brothel, a tavern, boarding house, as well as their own home. Social responses to Saskatchewan's sex trade changed over time and differed from one place to the next. "Regardless of the ways social perspectives shifted around them," I wrote, "sex workers were agents in their own lives."¹⁵

Before I started my master's program, I conducted comparative research on histories of sex work in Saskatoon and New York City. I chose this research because I had recently learned that Saskatoon, where I lived, had once been known as a "haven for wandering prostitutes."¹⁶ While in New York City, I connected with sex work activists who organized against criminalization and fostered peer support and mutual aid networks. During my research I also learned that my family had connections to histories of sex work.¹⁷ I wondered how my community and my family had these histories while they were rarely acknowledged or discussed.

Upon my return from New York City I started a job as a community-based researcher at AIDS Saskatoon.¹⁸ I worked at the office and drop-in centre serving the agency's needs and

¹⁵ York, "We Have Never Allowed Such A Thing Here...", 80.

¹⁶ James Gray, *Red Lights on the Prairies* (Toronto: Macmillan, 1971), 99. The city of Saskatoon was famously founded as a temperance colony by Protestant Christians from Ontario who were disturbed by the effects of industrialization in their home province. Like many other locations in the north-west, Saskatoon's founders had a utopic Protestant Christian vision for the region. This well-known history makes Saskatoon's sex work history more striking.

¹⁷ York, "We Have Never Allowed Such A Thing Here...", 2.

¹⁸ AIDS Saskatoon is now known as Prairie Harm Reduction (PHR).

partnering with the people who access its services on a research project about their experiences parenting and caregiving in the context of HIV/AIDS and Hepatitis C.¹⁹ The organization subscribes to the principles and philosophies of harm reduction. Ideally, practitioners of harm reduction accept people where they are at, for better or worse. We affirm the agency and expertise emerging from lived experience. We also, ideally, amplify the voices of the most marginalized, effected, and neglected to address their needs and to determine public health policy.²⁰ As Collins et al. writes, harm reduction has been practiced since the earliest days of “substance use”.²¹ Sex workers, who have always been practitioners of harm reduction, were among those who accessed services at AIDS Saskatoon and who participated in our research about parenting and caregiving.²² Often, they did not present sex work as a particularly important piece of their identity. It was one of several things they did to make ends meet.

¹⁹ The Canadian Institutes for Health Research funded my role as a community-based researcher at the agency under a grant Dr. Pamela Downe won as principal investigator. The research is now published by the University of Toronto Press in Dr. Downe’s 2021 book *Collective Care: Indigenous Motherhood, Family, and HIV/AIDS*. Part of my work as a project CBR included a gallery show of a Photovoice Exhibit at the Saskatoon Community Youth Arts Programming Centre. The exhibit, titled “Through a Positive Lens: Picturing Parenthood in the Context of HIV/AIDS,” ran from May 24-28, 2011.

²⁰ The emancipatory potentials of harm reduction are complicated by its histories in British and Canadian contexts as well as its amenability to neoliberalism. Harm reduction as public health policy has a hundred-year history in Britain, starting with the Rolleston Report published in 1926. The report introduced the addiction-as-disease model to British policy and developed parameters around maintenance prescriptions. However, it was delivered mainly to middle-class clientele. As drug use increased among the working classes, more stringent abstinence-based policy became popular. In the Canadian context, as Collins et al. write in their chapter “Current Status, Historical Highlights, and Basic Principles of Harm Reduction,” in G. Alan Marlatt, Mary E. Larimer, and Katie Witkiewitz (eds.) *Harm Reduction: Pragmatic Strategies for Managing High-Risk Behaviors, Second Edition* (New York: Guilford Publications, 2012), Canada is considered “the leader in the wider adoption of harm reduction strategies in North America” (16). Canada’s adoption of harm reduction as public health policy in certain, largely urban, spaces shows that harm reduction history in Canada is not monolithic. It tends to be a mixture of institutional and grassroots histories. People in rural communities are underserved.

²¹ “Current Status, Historical Highlights, and Basic Principles of Harm Reduction,” 10.

²² Sex workers have always employed harm reduction practices, including: screening clients; safe(r) drug use with and without clients; avoiding unwanted pregnancy; abortion care; avoiding sexually transmitted infections; treating sexually transmitted infections and reducing their spread with safe(r) sex practices; maintaining hygienic standards for themselves and their clients as access to resources allow; refusing service to clients who do not follow provider-determined hygienic protocols; working together with other sex workers and community members for safety; developing relationships and strong bonds with other sex workers to combat the social isolation and whorephobia they experience due to the stigmatisation of their work; spotting for each other and noting details of clients in case something happens; sharing of bad date information and the making and distributing of bad date books; sharing the cost of housing, workspaces, and sometimes clothing and other items for work; seeking strategic alliances with some state

These work and research experiences inform my perspective on sexual commerce. As a feminist socio-legal historian engaged in scholarship and community activism around sex work, I have a strong grasp of the current research, policy frameworks, and histories that inform sexual commerce's past and present. I did not start out with this knowledge or perspective, however. When I began my undergraduate program, I held a prostitution abolitionist perspective informed by popular culture and misused data that pathologized sex workers and portrayed them as strictly victims who need to be rescued.²³ I recall my horror while reading Victor Malarek's *The Natashas: Inside the New Global Sex Trade*.²⁴ Years later, with a different perspective, horror struck me again as my committee member commented that the sex workers in my master's thesis had no agency.

2. Situated Horror: Discomfort as Knowledge

Neuroscientist Antonio Damasio writes that "We are about as effective at stopping an emotion as we are at preventing a sneeze."²⁵ The biological processes involved are complex collections of chemical and neural responses that take place across the body's landscape. These responses form patterns that can be recognized and categorized as emotions through socialization and a sense of self. As Alison Jaggar writes, "we absorb the standards and values of our society in the very process of learning the language of emotion, and those standards and

representatives; advocating for decriminalization frameworks and sharing educational resources with the general public about the ways current police practice and legal frameworks cause danger and harm; organizing for freedom of movement and ending border imperialism; amplifying the voices of the most marginalized groups within sex working communities; hiring security services and working with people who offer protection; and learning self-defence practices and carrying self-defence tools and weapons.

²³ Scholarship engaging the misuse of statistics and data to overinflate the numbers of estimated victims of sex trafficking and its effects includes Laura Maria Agustín, *Sex at the Margins: Migration, Labour Markets and the Rescue Industry* (London and New York: Zed Books, 2007). Kamala Kempadoo contributes analysis on the topic in *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights* (Boulder: Paradigm Publishers, 2005).

²⁴ Victor Malarek, *The Natashas: Inside the New Global Sex Trade* (London: Vision, 2004).

²⁵ Antonio Damasio, *The Feeling of what Happens: Body and Emotion in the Making of Consciousness* (New York: Harcourt Brace, 1999), 49.

values are built into the foundation of our emotional constitution."²⁶ Affect denotes the precultural, prelinguistic, first step in an emotional process. Language and gestures give form and meaning to bodily sensation, shaping it, delimiting it, and fixing it into emotion. Through this process emotion brings bodily sensation into the realm of cultural meanings and normativities, systems of signification that structure and influence feelings.

In 2005, while reading Malarek's "shocking" account of "the tragic lives of the women and girls ensnared in the most recent wave of the brutal [sex] trade" in the late twentieth century, I absorbed the horror Malarek conveyed and both his horror and mine constituted evidence that the global sex trade is "brutal."²⁷ In 2013, following significant work and research experiences, the horror I felt at the lack of recognition for sex workers' agency induced discomforting feelings and robbed me of a sense of satisfaction I expected to feel after my successful defense. These instances demonstrate that embodied horror is situated and not universal, even in the context of one person's experience. In the latter instance, I became motivated to continue my research on histories of sex work.

As Hemmings tells it, feelings of discomfort show us the boundaries of our own subjectivity. The presence of discomfort may offer an opportunity to recognize our social location and habitus in relation to others. Our habitus is "acquired—and this has a relation to the social—but it is also embodied, inculcated at the level of nonconscious, bodily knowledge."²⁸ While I may be unable to stop myself from feeling horror, I can notice when I am feeling it and foster curiosity about it. I can reflect on the potential information my feelings of horror contain. By doing so, I can challenge the use of horror as evidence in western feminist scholarship. I can question the affective basis of feminist horror stories. In her investigation of contested narratives in western

²⁶ Alison Jaggar, "Love and Knowledge: Emotion in Feminist Epistemology," in *Gender/Body/Knowledge: Feminist Reconstructions of Being and Knowing*, ed Alison Jaggar and Susan Bordo (New Brunswick, New Jersey: Rutgers University Press, 1989), 159.

²⁷ This quote is from the description of Victor Malarek's *The Natashas*.

²⁸ Gould, *Moving Politics*, 33.

feminist theory, Hemmings writes that “I have been particularly struck by the expression of ‘gut reactions’ that delimit arguments about recognition” and “the resurgence of bodily knowledge as the basis of judgment.”²⁹ In terms of embodiment, it is satisfying to feel horror and then to cast judgment based on that feeling.³⁰ Part of that satisfaction comes from our own subjectivity remaining intact and unchallenged. But if it is western feminists whose horror is institutionally acknowledged, what are the consequences?

My story demonstrates how my feelings of horror in relation to sexual commerce have changed over time. In both instances—when I read *The Natashas* and when I heard the comment regarding sex workers’ lack of agency—my feelings of horror were gut reactions. Kate Millet writes: “prostitution provokes gut-level feelings” because “it reveals so starkly fundamental and tacit assumptions about women’s relations in a patriarchal society. It reminds us that we are defined by our sexuality: i.e., wife, spinster, lesbian, whore; and it reminds us that most women are dependent on men ... in one way or another [to] secure our survival in exchange for the commodity that men want most from us.”³¹ Gut-level reactions about sexual commerce tell stories about women’s social position in a broad sense. However, as I demonstrate in this dissertation, gut reactions have a history.

3. Agency Trouble: Discursive Ruts and Contested Narratives

Reflecting on situated horror troubles western feminism’s emphasis on agency. In western feminist theory, agency is the primary condition required for recognition.³² In western culture, recognition is one of the conditions of democratic participation.³³ The figure of the prostitute and debates about the nature of sexual commerce have been integral to western feminism’s

²⁹ Hemmings, *Why Stories Matter*, 217.

³⁰ Hemmings, *Why Stories Matter*, 222.

³¹ Kate Millet, *The Prostitution Papers: A Candid Dialogue* (New York: Avon Books), 13.

³² Hemmings, *Why Stories Matter*, 205.

³³ Nancy Fraser, “Recognition Without Ethics,” *Theory, Culture and Society* 18 no. 2-3 (2001), 21-42. This insight provides further context surrounding Canadian law’s treatment of Indigenous women, girls, and 2SLGBTQIA people.

development. Across imperial contexts, British feminists leveraged their social position in relation to prostitutes to prove that English women were fit subjects of political enfranchisement. In her historical investigation of imperial culture and relations between British women and Indian women, Antoinette Burton argues that British Victorian feminists utilized the position of the sex worker in Britain and in colonial India in their campaign for voting rights.³⁴ In so doing, they deployed an image of Indian prostitutes and Indian women as backwards, helpless, and as in need of rescue. As Ratna Kapur writes, particular representations of Indigenous women as helpless victims feel “remarkably familiar to our imaginations, irrespective of their reality.”³⁵ Kapur adds that the “victim subject,” a transnational subject who is often mobilized in global women’s movements that organize in response to violence against women, has ushered Indigenous women and women in the global south into the status of “the more victimised subject; that is, the real or authentic victim subject.”³⁶

Western feminists have assumed shared experiences of objectification and lack of agency under patriarchy. These assumptions, which have been critiqued as ignoring power differentials among women, and the colonial context of the contemporary category “women,” create socio-temporal relations that often represent women living in the global south as experiencing the same harm women of the global north experienced in the past. By relating this way, imperialism and colonialism are naturalized and extended, and the harm women experience in the global north is ignored. Feminists of the global north are cast as heroines who agitate for the expansion of agentic opportunities for women of the global south without recognizing the ways women in the global north benefit from the oppression of women in the global south. Feminist scholars like Gayatri Spivak have challenged western feminist’s myopic views on agency by showing our failure

³⁴Antoinette Burton, *Burdens of History: British Feminist, Indian Women and Imperial Culture, 1865-1915* (Chapel Hill, NC: University of North Carolina Press, 1994).

³⁵ “The Tragedy of Victimisation Rhetoric: Resurrecting the ‘Native’ Subject in International/Postcolonial Feminist Legal Politics,” in *Erotic Justice* (Routledge – Cavendish, 2005), 94.

³⁶ Kapur, “The Tragedy of Victimization Rhetoric, 94.

to see resistance in unfamiliar modes.³⁷ A re-evaluation of agency has been undertaken because of these challenges.

Hemmings notes that a focus on agency is limited. For example, the antifeminist argument that feminism has created a victim culture that “must be wholly jettisoned if women are to be strong, agented figures in the modern world” presents agency as if it is the opposite of inequality.³⁸ Further, agency is not the inverse of harm. That is, as Hemmings writes, “agency in itself does not tell us much about the political or ethical quality of practices.”³⁹ Additionally, “a hierarchical ordering of which practices count as agented means that the question of judgment is shifted rather than resolved.”⁴⁰ This is why Hemmings proposes western feminists move away from judging others’ experiences of agency and, instead, examine our own experiences of affective rupture and its history.

This method is useful in engaging with the topics of Canadian history and sexual commerce as discursive ruts surrounding these contested narratives continue to play out. From the 1970s onwards, sex work discourse emerged in response to stigma, harassment, violence, and the ‘prostitution is rape, misogyny and male power’ discourse. The latter discourse has strong links to western feminism’s assumption of women’s shared experience under patriarchy. The former presents sex work as valuable labour, as a legitimate means of survival, and as a form of expression. In the Canadian context, the latter discourse is deeply entrenched in popular culture and in law. Canadians perceive sex workers as experiencing significant suffering. Dr. Helga Hallgrimsdottir, Dr. Rachel Phillips, and Dr. Cecilia Benoit engaged with this generalization about sex workers’ experiences by analyzing a decade of sex-work-themed articles in a popular

³⁷ Gayatri Spivak, "Can the Subaltern Speak?" in *Marxism and the Interpretation of Culture* eds. Cary Nelson and Lawrence Grossberg (London: Macmillan, 1988).

³⁸ Hemmings, *Why Stories Matter*, 209.

³⁹ Hemmings, *Why Stories Matter*, 210.

⁴⁰ Hemmings, *Why Stories Matter*, 210.

Canadian newspaper. They found that the newspaper's depictions, which represented sex workers as trapped and victimized, did not reflect sex workers' views of themselves.⁴¹

These contested narratives about sexual commerce and their impacts on policy are evident in the National Inquiry into missing and murdered Indigenous women, girls, and 2SLGBTQQA people. The National Inquiry "heard a range of opinions regarding the relationships among sex work, sexual exploitation, and trafficking. Some women insisted that sex work, by its very nature, is exploitative and needs to be abolished."⁴² "At the same time, and as we heard from some sex workers and sex workers' advocates," the Report adds:

the more recent focus on the issue of trafficking has the tendency to conflate adult sex work with sex trafficking and to position all people who choose to engage in sex work as victims of sex trafficking. While not denying the seriousness of the issue of sexual exploitation and trafficking, those taking this position argue that failing to recognize the lived experiences and perspectives of those who choose to practise sex work compromises their ability to engage in sex work in a safe and rights-based way.⁴³

The final report names an "unwillingness and lack of effort" in addressing violence against Indigenous sex workers who are seen as "disposable or unworthy of attention."

Contemporary and early twentieth century debates surrounding sexual commerce are strikingly similar as are the critiques leveled against anti-trafficking and prostitution-abolitionist approaches.⁴⁴ Take, for example, David Feingold's assertion that "when it comes to statistics,

⁴¹ Helga Hallgrimsdottir, Rachel Phillips, R., Cecilia Benoit, C. "Fallen Women and Rescued Girls: Social Stigma and Media Narratives of the Sex Industry in Victoria, BC, from 1980 to 2005." *Canadian Review of Sociology Revue canadienne de sociologie*, 43 no. 3 (2006), 265-280.

⁴² National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls Volume 1a* (2019), 656.

⁴³ National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place*, 658; Despite differences of opinion, the common goal among those participating in the Inquiry, according to Robyn Bourgeois (Lubicon Cree), is "an end to this violence" and for "our girls and our women to be safe no matter what" (657).

⁴⁴ In response to sex work-abolitionist and anti-trafficking activists taking up Gayle Rubin's 1975 essay, "The Traffic in Women: Notes on the 'Political Economy' of Sex," in Rayna Reiter (ed.) *Toward an Anthropology of Women* (New York: Monthly View Press, 1975), Rubin responded by writing "The Trouble

trafficking of girls and women is one of several highly emotive issues which seem to overwhelm critical faculties” and “it has been both politically more expedient and emotionally more rewarding to focus on trafficking for sexual exploitation, rather than for labor exploitation.”⁴⁵ One hundred years before Feingold’s assertions were published, Emma Goldman drew links between “superficial investigations” into “white slavery,” emotions, such as horror, and job creation for the political and law-making classes and for law enforcement.⁴⁶

In “The Traffic in Women,” Goldman argues that the sensationalism surrounding white slavery narratives served to distract from the real suffering of prostitutes and other workers in the industrial system. The narratives also served national interests because they ignored that it is “American conditions” that usher women into prostitution. Goldman warns that “it would be one-sided and extremely superficial to maintain that the economic factor is the only cause of prostitution.” The fact is, women are reared as “a sex commodity” but they are expected to remain in “absolute ignorance” of sex. Boys are encouraged to develop their sexual satisfaction while girls are not. This produces a gendered social order that ushers boys into affective states of satisfaction, particularly sexual satisfaction: “We have long ago taken it as a self-evident fact that the boy may follow the call of the wild; that is to say, that the boy may, as soon as his sex nature asserts itself, satisfy that nature; but our moralists are scandalized at the very thought that the

with Trafficking: Afterthoughts on 'The Traffic in Women'," *Deviations: A Gayle Rubin Reader* (Durham & London: Duke University Press, 2011). Rubin bemoans the “revived movement against ‘trafficking’ in the closing decades of the twentieth century” (66). “The constant conflation of trafficking and prostitution is neither accidental nor new,” Rubin notes (67). “In fact,” Rubin adds, “contemporary confusions derive from the discourse about trafficking that emerged in the late nineteenth and early-twentieth centuries. [...] The ghosts of trafficking past haunt the politics of trafficking present, and in all likelihood will hound the policies of trafficking future” (67).

⁴⁵ “Trafficking in Numbers” in eds Peter Andreas and Kelly M. Greenhill *Sex, Drugs, and Body Counts: The Politics of Numbers in Global Crime and Conflict* (Ithica: Cornell University Press, 2010), 47, 62.

⁴⁶ “The Traffic in Women,” *Anarchism and Other Essays* (New York & London: Mother Earth Publishing Association, 1910). As Gayle Rubin points out in “The Trouble with Trafficking”, desires to control sexual commerce resulted in the passing of the Mann Act which transformed the Federal Bureau of Investigation from a “modest agency” to a “nationally recognized institution” (74). “This was sexual surveillance of women on a grand scale and must have involved a considerable infrastructure of personnel and information storage,” writes Rubin. “It may have been an early template for the elaborate systems used in later decades by the FBI to spy on politicians and homosexuals.”

nature of a girl should assert itself.”⁴⁷ Yet, “human nature asserts itself regardless of all laws.” It is unfair that girls are “condemned for all eternity” for partaking in the same behaviour that is normalized for boys. Echoing Marx, who saw prostitution as the expression of the wage-labourer’s general condition in capitalism, and Engels, who found that prostitution and marriage were the same except that the one involved ‘piecework’ and the other permanent slavery, Goldman argued that, “to the moralist, prostitution does not consist so much in the fact that the woman sells her body, but rather that she sells it out of wedlock.”⁴⁸

4. Outlaw Habitus: “Seeing through another’s eyes historiographically”

The expectation that women and girls will marry and perform valuable sexual and reproductive labour for men for free is challenged by sex work labour history. In the context of western European history, some claim that sex workers were integrated into European medieval society to the extent that they constituted a veritable professional guild. However, approaches to sexual commerce varied from one location to the next. In France, Pierre Sabatier, a nineteenth century jurist and historian of *femme publique*, argued that «*Les filles publiques formerent une corporation qui avait ses reglements, ses coutumes ou privileges*»⁴⁹ Bronislaw Geremek suggests

⁴⁷ In James Gray’s interviews with Canadian prairie-based male informants, he learned that buying sex and visiting brothels were common social activities in the late nineteenth and early twentieth centuries. He writes, that “men visited brothels with the same casualness with which they went into a bar or poolroom, or even to church. It was not something done secretly, or with any semblance of a guilty feeling. It was done both singly and collectively as a matter of offhand choice over gambling or drinking.” James Gray, *Red Lights on the Prairies*, 9.

⁴⁸ Karl Marx [1857] 1986 ‘Economic Manuscripts of 1857-58’ in K. Marx and F. Engels, *Collected Works*, New York: International Publishers, 202. Friedrich Engels 1884 *The Origins of the Family, Private Property, and the State* (Project Gutenberg). In the section “Wifely Duty” in her chapter “Fuck You, Pay Me,” ed. adrienne maree brown, *Pleasure Activism: The Politics of Feeling Good*, Chanelle Gallant echoes Goldman’s assertion about marriage.

For centuries, the marriage vow has functioned as an irrevocable, blanket sexual consent – by women, for men. So why aren’t we talking about how one in ten women will be raped by their husbands? Another 13 percent of women say they’ve had sex because they were ‘bullied or humiliated’ into it by their current husbands. About a third of married women have complied with their husbands’ demands for sex because it was expected after he spent money on her, even though the sexual act was unwanted. The majority of married women report they experience coercion to have sex with their current husband. Marriage remains the site of the most widespread rape and sexual exploitation in our society. (181)

⁴⁹ *Histoire de la legislation sur les femmes publiques* [Paris, 1828], 89.

that there was some type of guild organization among prostitutes in Paris during the late medieval period.⁵⁰ Those working in the urban red-light district had more freedom of mobility than those in smaller centres who were confined to municipal brothels. Women brothel keepers were the standard in France whereas men were often brothel keepers in Germany. In western Canadian history, there are instances of men acting as brothel keepers but the majority of those in police records are women.

In medieval western Europe, keepers of municipal brothels held significant power. Those working in municipal brothels were sometimes there to pay off their or their family's debts. In some municipal brothels, workers were not allowed to support a procurer or have a favourite customer.⁵¹ Lauren Marie Martiere writes that during the late medieval period a lack of legal definition for prostitution placed all women's sexual reputations into question; it was deemed necessary to place women under male authority.⁵²

Londoners used the burgeoning English common law system to enact, enforce, and convict those working within sexual commerce. They attempted to promulgate a vision of London as a bulwark for morality and urbanization through their laws and punishments. Male authority came in the form of laws, punishments, and economic regulations. Initially, London levied fines against those involved in sexual commerce, but the economic punishment was largely perceived

⁵⁰ *The Margins of Society in Medieval Paris* (Cambridge: Cambridge University Press, 1987). In "The Regulation of Brothels in Later Medieval England," *Signs* 14 no. 2 (1989), Ruth Mazo Karras notes that, "There are several examples from France of prostitutes from official brothels taking collective action to protest the replacement of a female brothel keeper by a man or to stamp out clandestine prostitutes not connected with the brothel. The prostitutes themselves did not have any formal collective organization, but the official brothel did bring prostitutes together." (405).

⁵¹ However, it was not just workers in brothels whose relationships were managed. In 1381, Ordinance 6 of the butcher's guild of Paris forbade its members to marry prostitutes without obtaining approval from guild officers. See Leah Lydia Otis, *Prostitution in Medieval Society: The History of an Urban Institution in Languedoc* (Chicago: University of Chicago Press, 1985), Endnote 93. According to Suzanne Meade, Geremek found that other men did not face the same restrictions Parisian butchers faced. In such relationships, men were bonded by affection to or even married to prostitutes. See "Medieval Prostitution in Secular Law: The Sex Trade in Medieval London, Paris and Toulouse," Master's Thesis, (McMaster University, 2001), 19.

⁵² "'Ill-Liver of Her Body:' A Legal Examination of Prostitution in Late Medieval Greater London," Master's Thesis (Clemson University, 2016).

as a licensing fee. In the latter half of the fourteenth-century, fines were combined with physical punishment. London's approach differs from the Bishop of Winchester's regulative municipal brothel system in Southwark. Therefore, those working on the north side of the Thames had different socio-legal encounters than those on the south.⁵³ While the law's gendered order reflects a binary, London's medieval legal records show that the binary was false.⁵⁴

In modern contexts, like the 1880s, the Illinois Women's Alliance drew from a labour relations understanding of prostitution while campaigning against policing practices.⁵⁵ Though the Industrial Workers of the World (IWW) put forward the popular belief that women selling sex was a consequence of the inadequacy of men's wages, the IWW also campaigned for prostitutes' rights and supported them in collective action. Lucy Parsons, a founder of the IWW, argued for prostitutes' inclusion as part of its "one big union" strategy to "smash the boss class."⁵⁶ Instances of sex workers organizing in the early twentieth century emerge "under exceptional social and political circumstances" such as in Russia in 1917 and Spain in 1936.⁵⁷ Anti-prostitute sentiments were also mobilized against women's labour movements, such as during the 1909 shirtwaist factory strike when management of the Triangle Shirtwaist Factory hired sex workers to picket parallel strikers.⁵⁸ In doing so, management tapped into popular early twentieth century sentiments that linked working women to prostitutes.

⁵³ Lauren Marie Martiere, "Ill-Liver of Her Body," 55.

⁵⁴ See Isaac Bershad, "Sexual Deviancy and Deviant Sexuality in Medieval England," *Primary Source V 1* (2014). John Rykener, a sex worker who went by the name Eleanor and had sex with monks, scholars, nuns, and married women, was apprehended in 1395 and is found in the A. H. Thomas' *Calendar of Select Pleas and Memoranda of the City of London 1381-1412*. As Bershad writes, "Nearly all of Rykener's encounters with men involved payment" but encounters "with women did not" (12). Rykener also had experience as a wife to a man and was "established as a woman" in court. Rykener confused the court and, as a result, was released.

⁵⁵ Meredith Tax, *The Rising of the Women: Feminist Solidarity and Class Conflict, 1880-1919* (New York: Monthly Review Press, 1980), 21, 66, 69.

⁵⁶ Gregor Gall, *Sex Worker Unionization: Global Developments, Challenges and Possibilities* (Hampshire: Palgrave Macmillan, 2016), 19.

⁵⁷ A. Lopes, "Unions" in Melissa Ditmore (ed.) *Encyclopedia of Prostitution and Sex Work, Volume 2* (Greenwood Press, Westport, CT), 510-11.

⁵⁸ David Von Drehle. *Triangle: The Fire That Changed America* (New York, Grove Press, 2003), 49-50.

Popular social histories of sexual commerce in western Canada, like that of James Gray, represent it as characteristic of the so-called wild west and as imbricated in settler colonial culture. Yet, as Constance Backhouse notes, Gray treated the topics of sexual commerce and Indigenous communities differently than non-Indigenous communities. In *Red Lights on the Prairies* Gray makes the racist statement that Indigenous men sold “the services of their wives and daughters for pennies with which to buy booze.”⁵⁹ Backhouse comments that “Gray’s eagerness to point to the responsibility of Indian fathers and husbands is noteworthy, but stands out against a general dearth of recrimination against the husbands and fathers of white prostitutes.”⁶⁰ In other histories, Indigenous women’s involvement in sexual commerce is treated as wholly different than non-Indigenous women’s sex work. Stan Horrall’s history of the mounted police’s response to prostitution in western Canada does not engage with histories involving Indigenous women, noting that “the prostitution of Indian women, which the Mounted Police regarded in quite a different light, is not examined here.”⁶¹

The legal enforcement of lifelong Christian heterosexual monogamous marriage and what some scholars have termed the “settler sexuality system” were integral to the Dominion’s westward expansion into the north-west.⁶² Historian Sarah Carter writes that “marriage was part of the national agenda in Canada—the marriage ‘fortress’ was established to guard the [Canadian] way of life.”⁶³ According to Pierre Bourdieu, the modern nation-state’s creation

⁵⁹ *Red Lights on the Prairies*, 27.

⁶⁰ Quoted from footnote 102 of her article “Nineteenth-Century Canadian Prostitution Law: Reflection of a Discriminatory Society,” *Social History* 18.36 (1985).

⁶¹ Quoted from footnote 5 of chapter “The (Royal) North-West Mounted Police and Prostitution on the Canadian Prairies,” in Gregory P. Marchildon (ed.) *History of the Prairie West Series: Immigration and Settlement, 1870-1939* (Regina: CPRC Press, 2009).

⁶² Scott Lauria Morgensen, *Spaces Between Us: Queer Settler Colonialism and Indigenous Decolonization* (University of Minnesota Press, 2011b); Sarah Carter, *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: University of Alberta Press, 2008); Kim Tallbear and Angela Willey, “Critical Relationality: Queer, Indigenous, and Multispecies Belonging Beyond Settler Sex & Nature,” *Imaginations* (Edmonton, Alberta) 10, no. 1 (2019): 5–15. <https://doi.org/10.17742/IMAGE.CR.10.1.1>; Kim Tallbear, “Chapter 1: Making Love and Relations beyond Settler Sex and Family,” in Scott Rayter and Laine Halpern Zisman, eds, *Queerly Canadian: An Introductory Reader in Sexuality Studies. Second edition* (Toronto; Women’s Press, 2022).

⁶³ *The Importance of Being Monogamous*, 21.

depends on two simultaneous processes: (1) the accumulation of capital and (2) the formalization and universalization of rules, such as those governing marriage and sexual commerce.⁶⁴ The dominant classes need only to “let the system they dominate take its own course in order to exercise their domination.”⁶⁵ The dominant classes see themselves, and their habitudes, reflected in the status quo. Habitus is “the habitual, patterned ways of understanding, judging, and acting which arise from our particular position as members of one or several social ‘fields,’ and from our particular trajectory in the social structure (e.g., whether our group is emerging or declining; whether our own position within it is becoming stronger or weaker).”⁶⁶ Those on the margins do not share the same habitudes as the dominant classes and their experiences maintaining the status quo are more work and more costly. To understand the affective experiences of those on the margins, feminist theorist Alison Jaggar’s concept of “outlaw emotions” and anthropologists Philippe Bourgois and Jeffrey Schonberg explanation of “outlaw habitus” are useful.

Jaggar writes that “people who experience ‘outlaw’ emotions are often subordinated individuals who pay a disproportionately high price for maintaining the status quo.”⁶⁷ In ethnographic research of San Francisco’s Edgewater homeless community, which was made up of “the disappearing industrial working class” and “low-wage service workers” who were “too marginal to obtain stable employment” as the dot-com and biotech sectors emerged in the area, Bourgois and Schonberg detail the “outlaw habitus” that supported community members’ survival.⁶⁸ As Bourgois and Schonberg write, “outlaw habitus offered them a sense of self-respect through asserting control of public space.”⁶⁹ Tina, a Black, disabled member of the Edgewater

⁶⁴ Francisco Villacorta Baños, “The Field of Fields. The State According to Pierre Bourdieu,” *Culture & History Digital Journal*, 6 no. 1 (June 2017).

⁶⁵ Bourdieu, *Outline of a Theory of Practice*, 190.

⁶⁶ Richard Terdiman, *Pierre Bourdieu: Key Concepts* (Stocksfield England: Acumen Publishing, 2008), 811.

⁶⁷ Alison Jaggar, “Love and Knowledge,” 165.

⁶⁸ Philippe Bourgois and Jeffrey Schonberg. *Righteous Dopefiend*, University of California Press, 2009. ProQuest Ebook Central, <https://ebookcentral.proquest.com/lib/york/detail.action?docID=804874>.

⁶⁹ Bourgois and Schonberg, *Righteous Dopefiend*, 201.

social network, demonstrated a continuum of romantic love and sex work in “outlaw partnerships” on the street and within the Edgewater community.⁷⁰

Tina’s habitus “logically intertwined sex, affection, and income.”⁷¹ Her “mode of interacting with men openly merged affection with money.”⁷² She grew up surrounded by sex workers and she learned the practical value of sex at a young age. “Sex for remuneration became Tina’s means to fulfill immediate practical survival needs and to seek minimal stability.”⁷³ In her chapter “Fuck You, Pay Me” Chanelle Gallant argues that the “pleasure of getting paid for [sex]” comes from “[...] the pleasure of surviving, thriving, and having food on the table and an apartment that’s all your own.”⁷⁴ The simple pleasures people in the fading middle- and upper-classes take for granted are celebrated among the street-involved, the poor, and the working classes. Marek Kohn’s history of twentieth century drug culture finds that women in the West End of London belonged to a “casual economy” in which sex work was one of several ways they made a living.⁷⁵ According to Kohn, Doreen Taylor, a young white woman who quit her day job to sell sex and to partner with a Black Jazz drummer who sold cocaine, “rejected respectability for sensuality.”⁷⁶ Tina was also enthusiastic in her pursuit of pleasure and romantic partnership.⁷⁷ She took pride in her survival and her pursuit of pleasure kept her going.

5. Conclusion

The horror I felt in response to my committee member’s assertion about sex worker’s lack of agency indicates the boundary of my subjectivity. My sense of failure at conveying sex worker’s agency is informed by my mission to engage with a history that has been “erased from public

⁷⁰ Bourgois and Schonberg, *Righteous Dopefiend*, 39.

⁷¹ Bourgois and Schonberg, *Righteous Dopefiend*, 74.

⁷² Bourgois and Schonberg, *Righteous Dopefiend*, 73.

⁷³ Bourgois and Schonberg, *Righteous Dopefiend*, 81.

⁷⁴ “Fuck You, Pay Me,” 178.

⁷⁵ “Dope Girls 1918-1995, and Other Stories,” *History Workshop Journal*, no. 42 (1996).

⁷⁶ Kohn, “Dope Girls,” 178.

⁷⁷ Bourgois and Schonberg, *Righteous Dopefiend*, 68.

memory” and to recover it.⁷⁸ Perhaps Hemmings would file my thesis under the “loss” and “return” narratives she charted in her investigation of western feminist storytelling. In the conclusion of my thesis, I discussed sex work history memorialization efforts in Butte, Montana where the International Sex Workers Foundation for Arts, Culture and Education (ISWFACE) purchased the Dumas Brothel. “This is a place that we must make our own once again!” ISWFACE president Norma Jean Almodovar stated.⁷⁹ I reflected on the erasure of sex workers’ histories in Saskatoon’s pioneer cemetery where a plaque names Grace Fletcher, a moral reformer who came to Saskatoon in its early years and made a successful business collecting buffalo bones and shipping them out to be made into fertilizer, calls Fletcher “Saskatoon’s first businesswoman.” “As histories of Saskatchewan’s sex trade reveal, however, it is likely that Fletcher was not Saskatoon’s first businesswoman and more likely that an unnamed sex worker was. But that sex worker’s history has been lost and forgotten,” I wrote.⁸⁰ When I was confronted by the assertion that sex workers have no agency, I judged it to be another erasure.

Feminist historiographers have insisted that the story one tells about the past is always motivated by the position one occupies or wishes to occupy in the present.⁸¹ “Fullness of representation of the past can never be reached, a corrective approach will always be likely to erase the conditions of its own construction, particularly if it purports to give us the final word.”⁸² The imagined satisfaction of a dissertation that corrects incorrect views and judgments about sexual commerce is, perhaps, another rescue fantasy—one that casts me as a heroine. However, reflecting on my feelings of horror and turning to affect troubles the idea of heroism and invites

⁷⁸ York, “‘We Have Never Allowed Such A Thing Here...’,91

⁷⁹ Christina E. Dando, “Whore-Friendly People’: Heritage Tourism, the Media and the Place of Sex Work in Butte, Montana,” *Gender, Place & Culture* 16.5, (2009): 587.

⁸⁰ York, “‘We Have Never Allowed Such A Thing Here...’,91

⁸¹ Antoinette Burton, “Thinking Beyond the Boundaries: Empire, Feminism and the Domain of History,” *Social History* 26 no. 1 (2001). Elizabeth Grosz, “Feminist Futures?,” *Tulsa Studies in Women’s Literature* 2 no. 1 (2002). Eve Kosofsky Sedgwick, *Epistemology of the Closet* (London: Harvester Wheatsheaf, 1991). Gayatri Chakravorty Spivak, *A Critique of Postcolonial Reason: Toward a History of the Vanishing Present* (Cambridge, Mass.: Harvard University Press, 1999). Jennifer Terry, “Theorizing Deviant Historiography,” *Differences* 3 no. 2 (1991).

⁸² Hemmings, *Why Stories Matter*, 13-14.

inquiry that is not interested in settling disputes but engaging with process and asking after the terms under which only certain arguments can occur and recur. And, like my previous research, my findings from this method have been surprising. When I started my doctoral research on the affective basis of judgments and narratives surrounding sexual commerce in western Canada in the late nineteenth and early twentieth centuries, I expected to review primary sources and develop emotions histories, organizing chapters into themes like disgust, horror, and desire. However, I found that these themes are not discrete but represent the affective texture and structure of western Canadian settler colonialism.

Chapter Two

Introduction: "Peace, Order, and good Government"

When Canadians consider what defines Canadian values and culture, they often point to section 91 of the 1867 Constitution Act where the words “Peace, Order and good Government” are found. They may also point to the complimentary idea that Canada is a peace-keeping nation. The cherished myth holds that Canada prioritizes peace in its domestic and its foreign policies.¹ However, one can find the same phrase “Peace, Order and good Government” in New Zealand’s constitution as well as Australia’s, South Africa’s, and in the *Government of Ireland Act* of 1920 because it has been used by British imperial authorities since 1689 as a way “to express the grant of full and general authority” to colonial legislatures.² As Donald Creighton observes, the phrase “Peace, Order and good Government” was customary to grant “the entire measure of jurisdiction which was deemed compatible with imperial control.”³ Therefore, as Stephen Eggleston argues, the “architects of Canada’s confederation” were not the origin of the language. Rather, the general usage of “Peace, Order, and good Government” was “merely an Imperial custom.”⁴

Across the empire, Britain tied legislative powers to feelings that reflected its goals, ideal social order, and habitus of its peoples.⁵ Like a mathematical equation, peace in the colonies would emerge through order and good government and law-abiding citizens would be its

¹ Michael Ignatieff, “Peace, Order and Good Government: A Foreign Policy Agenda for Canada,” 2004 O.D. Skelton Lecture, Ottawa, Ontario, 12 March 2004, retrieved from: <http://aix1.uottawa.ca/~rparis/Ignatieff.html>.

² W. F. O’Conner, Senate Report on the British North America Act (Ottawa: Kings Printer, 1939) Annex 1, 53. The language followed the Revolution of 1688 and coincided with the 1689 *Bill of Rights* which established the British Empire’s constitutional monarchy. It also reflected emergent views of personal liberty as reflected in John Locke’s *Two Treatises of Government* in which Locke postulated that “the business of Government” is to provide for a state of “Peace and Tranquility” (Book I, Paragraph 106).

³ Donald Creighton, *British North America at Confederation*, Appendix 2 (Ottawa: King’s Printer, 1939).

⁴ Stephen Eggleston, “The Myth and Mystery of POGG,” *Journal of Canadian Studies*, 31.4 (1996-97).

⁵ As I discuss in the prologue, I draw from Pierre Bourdieu’s concept of habitus – a dispositional theory of action that offers a way of understanding agency and structure in social space. The concept was designed to transcend the opposition between objectivism and subjectivism, which is helpful in emotions research. Habitus is a mediating construct that considers the ways in which people internalize sociosymbolic structures to form dispositions and patterns of thinking, feeling, and acting that guide creative responses to the constraints and solicitations of their extant milieu. For a short and clear explanation of the concept, see Loïc Wacquant’s article “A Concise Genealogy and Anatomy of Habitus” in *The Sociological Review* 64, no. 1 (2016).

beneficiaries. That equation was integral to the Dominion of Canada's westward expansion and the shift from a fur trade economy to a settler colonial one oriented toward a British imperial and Canadian economic disposition.⁶ The corollary effect of the equation was the normalization of British and Canadian views on what constituted peace, their conceptions of capital, and the transplant of disorderly figures, such as the "rebel," the "vagrant," and the "prostitute" – or, broadly, people defined as "outlaws."⁷

In this dissertation, I historicize the emotionology of this equation by centring sexual commerce as a site of colonial worldmaking and resistance in what are currently the provinces of Manitoba, Saskatchewan, and Alberta.⁸ I do so by tracing emotion in oft-cited, and not-so-oft-cited primary sources that discuss concerns about and responses to sexual commerce. Drawing

⁶ Settler colonialism has been described in multiple ways. According to historian Lorenzo Veracini, in "Settler Colonialism": Career of a Concept," *The Journal of Imperial and Commonwealth History* 41, no. 2 (2013), it is a "type of hyper-colonialism" (318). In *Colonization: A Global History* (London: Routledge, 1997), Marc Ferro defined settler independence as "the most advanced stage of white colonial expansion" (211). And Arghiri Emmanuel argued settler colonialism should be understood as an "uncomfortable 'third element' in the noble formulas of the people's struggle against financial imperialism" (as quoted in Veracini, "Settler Colonialism," 319). In the Marxist tradition, settler colonialism is "fundamentally characterised by an inherent ambivalence, an ambivalence that required settler colonial phenomena be considered simultaneously part of and distinct from colonialism at large" (Veracini, 320). Settler colonialism requires a certain view of capital, including what Pierre Bourdieu has termed "cultural capital," "social capital," and "symbolic capital". The concept of settler colonialism emerged in Algeria in the 1960s, but Veracini writes that "Canadian and United States historiographies were late in adopting settler colonialism as a category of analysis" (324). Ethnohistory, anthropology, Indigenous studies, and history are important disciplinary sites in the conceptual category's development.

⁷ I would like to be mindful here of Ann Laura Stoler's intervention in *Race and the Education of Desire: Foucault's History of Sexuality and the Colonial Order of Things* (Durham: Duke University Press, 1995) regarding imperial and colonial relations. While British views were normalized in the north-west, their views were also transformed and impacted by relations in the colonies. Regarding sexuality, Stoler argues that European sexualities were formed in, not just transplanted in, the colonies.

⁸ As I discuss in chapter three, emotionology denotes the "collective emotional standards of a society" (Peter N. Stearns and Carol Z. Stearns, "Emotionology: Clarifying the History of Emotions and Emotional Standards," *The American Historical Review*, 90, no. 4 [Oct., 1985], 813-836.) Sexual commerce refers to the activities of selling, trading, and buying sex, sexual labour, and sexual services in a broad sense. In applying a Bordieusian framework for this dissertation, sexual commerce includes strategic sex in social space to access different types of capital. Sexual commerce is largely informal, often feminized, and criminalized in certain contexts. As Nicola Smith writes in the chapter "The Global Political Economy of Sex Work," in Stearns and Tepe-Belfrage (Eds.) *The Handbook on Gender in World Politics* (Cheltenham, UK: Edward Elgar, 2016), sexual markets are integrated into structures and hierarchies of global capitalism. As a result, sexual commerce adapts to the changes and demands of global markets across time. Although, sexual commerce predates modern global capitalism. The rights of prostitutes were established in the Code of Hammurabi, including their inheritance rights, and the rights of their offspring. As Isaac Mendelsohn writes in *Slavery in the Ancient Near East* (New York: Oxford University Press, 1949), "The professional prostitute was a free-born independent woman and the law protected her economic position" (132).

from these sources, I locate narratives and trace emotions in the journalistic field, the political field, and the juridical field. This method offers an emotions history of sexual commerce in Canada. As I show, responses to sexual commerce were informed by the Dominion's worldmaking mission, concerns over human unfreedom, and dynamic social positionings in emergent settler colonial society.⁹ I show how sex workers, histories of sex work, and feelings about sexual commerce are integral to Canadian worldmaking.¹⁰ I argue that white men's feelings of satisfaction dominated in this history, as they increasingly held a monopoly on resources, space, and authority in a region that had been known as Indigenous peoples' territories.

1. On Regionalism: What is the "North-West"?

Much has been said about Canadian regionalism and its influence in shaping identity, experience, and social location. The relationship between Canadians, the lands they inhabit, and

⁹ As I discuss in footnote 10 below regarding the definition and history of the term "sex work," prostitution and other types of sex work have been understood as a type of unfreedom that reflects gendered relations of power and women's oppression. As this dissertation shows, these understandings have deep roots in Canada. In *Sex Work Unionization: Global Developments, Challenges and Possibilities* (London: Palgrave MacMillan, 2016), Gregor Gall distinguishes between slavery and sex work, writing that "it is not economic compulsion (for food, shelter) in the main that makes slaves work: it is coercion and ownership" (10). Whereas "sex workers, prostitutes in particular, sell their labour to provide sexual services and they do so under conditions of mainly free labour." Gall defines free labour as "a situation where the worker is free to sell his or her labour or to starve (assuming there is no safety net of a welfare state)."

¹⁰ I use the term "sex work" in this dissertation. My decision to use the term "sex work" is informed by my training in the fields of feminist studies, labour history, gender history, and histories of sexuality. From the 1970s onwards, sex work discourse emerged in response to stigma, harassment, violence, and the 'prostitution is rape, misogyny and male power' discourse. As Gregor Gall writes in *Sex Work Unionization*, one of sex work discourse's assumptions is that "sex workers, as workers, manufacture identities and strategies in order to exercise control over effort, remuneration, safety and the like in the same way other workers as workers do" (9). Further, Gall writes that "sex work under capitalism creates the objective need for sex workers to advance and defend their interests (economic, political) through collective organization and action." Like other workers, sex workers who pool their resources together in a solidaristic fashion can leverage up the economic value of the terms and conditions of their work. As Melinda Chateaufort shows in *Sex Workers Unite: A History of the Movement from Stonewall to SlutWalk* (Boston: Beacon Press, 2013), sex workers' movements share common lineages with lesbian, gay, bisexual, transgender, intersex, queer histories. Carol Leigh, who coined the term "sex work," writes that the term came to her during a Women Against Violence in Pornography and Media conference in San Francisco. She proposed "sex work" as an alternative to the language used at the conference which called commercial sex the "Sex Use Industry." In Jill Nagle's (ed.) *Whores and Other Feminists* (New York & London: Routledge, 1997), Leigh notes her reaction to the language: "The words stuck out and embarrassed me. How could I sit amid other women as a political equal when I was being objectified like that, described only as something used, obscuring my role as actor and agent in the transaction" (230). She suggested "sex work industry" instead because it centred the work rather than the client.

their experience of those lands are psychological. During his career, W. L. Morton came to realize that Canadian meaning-making around land is a blending of physical and mental landscapes.¹¹ He argued that Canadians have a “Northern character,” that Canadians shaped the north, and that the north shaped Canadians. “The development of the North,” Morton suggested, “has its own characteristics, different in quality, scale and sociology from the historic development, agricultural and industrial, of southern regions.”¹² Part of what makes the north-west distinct, as Morton established, are the three phases he identified in its Canadian history, which are the colonial phase, the agrarian phase, and the utopian phase. Further, the region experienced confederation in stages. During confederation, the north-west, or the North-Western Territory, was literally the territory northwest of Rupert’s Land – the mass of land that is drained by the Hudson Bay.¹³ While the province of Manitoba was established in 1870, it was extended to its present western boundaries in 1881 and its eastern and northern boundaries were set in 1912. The north-west became the “west” when the Canada Pacific Railway company decided to build west from Winnipeg across the southern prairies, rather than regions further north. The western Canadian provinces of Saskatchewan and Alberta were established in 1905.

Prior to westward expansion, British imperial perspectives of the north-west held that the region was a largely inhospitable wilderness and Indigenous peoples’ territories. Views shifted with the westward expansion movement.¹⁴ Major Robert Carmichael-Smyth’s 1849 railway

¹¹ Douglas R. Francis, “Regionalism, W.L. Morton and the Writing of Western Canadian History, 1870-1885 [Western Mindscape],” *The American Review of Canadian Studies* 31, 4 (Winter 2001), 569.

¹² Quoted in Douglas A. West, “The Limits of Northern Identity: An Assessment of W. L. Morton’s Northern Vision,” *The Northern Review*, 14 (Summer 1995), 96.

¹³ What is currently called the Northwest Territories is a portion of the old North-Western Territory. The area has been divided four times since Canadian confederation. Nunavut is a territory which was also once part of the North-Western Territory and the Northwest Territories. Nunavut became its own territory in 1999.

¹⁴ In terms of shifting perspectives on the north-west, Doug Owrain points to the years 1846 to 1850 as the period when expansionist rhetoric began in his book *The Promise of Eden: The Canadian Expansionist Movement and the Idea of the West* (Toronto: University of Toronto Press, 1992). Owrain writes that “expatriates of the North West and British visionaries” were the first to express what was the beginning of expansionist rhetoric (36). “Given the direction of institutional and commercial ties in this period it is not surprising that the centre of the debate was London” (37).

proposal, *A Letter*, explores “points of view” on the benefits of the westward expansion.¹⁵ He argued that the development of “healthy and legitimate employment” in the region would uplift British workers “now in a state of destitution.” Recognizing that Britain had issues with the distribution of its resources, the Major wrote that sending the empire’s “extra-productive power [...] in the direction of our colonies” would assist “any general system in the penal code” as fewer poor would commit crimes of necessity. “Individual” and “government interest” would benefit, “thus connecting and attaching” settlers in the colonies “to the mother country – increasing their wealth, their power and our own.” From a “moral and religious point of view,” Canada’s expansion would afford “greater and quicker facilities for the spread and education and the Gospel of Christ.”¹⁶ It would also be an “instrument for the increase of commerce,” “directing men’s minds, with the bright beams of hope from their own individual and immediate distress, as well as from the general excitement and democratic feeling and spirit of contention[.]” Finally, from a “political” perspective, Dominion from the Atlantic to the Pacific would promote world peace and create “a great high road to most of our colonial possessions” avoiding any “interference with other nations or of war.” With these points in mind, Carmichael-Smyth concluded that expansion “is a grand and a noble undertaking” that “must be accomplished by Great Britain and her colonies.”¹⁷

¹⁵ Robert Carmichael-Smyth, *The employment of the people and the capital of Great Britain in her own colonies at the same time assisting emigration and penal arrangements by undertaking a great national work ... all this fully explained in a letter from Major Robert Carmichael-Smyth to his friend the author of "The clockmaker": containing thoughts on the subject of a British colonial railway communication between the Atlantic and the Pacific*, (England: W.P. Metchim, 1849). “Employment,” legal, “individual interest” and “government interest,” “moral and religious,” “commerce,” and “political” make up the seven “points of view” Carmichael-Smyth considers.

¹⁶ Like many other areas of the empire, missionaries’ presence in the north-west preceded westward expansion by decades. The Church Missionary Society, an Anglican society, was in the area from the 1820s. It was followed by Wesleyan Methodists in 1840, Roman Catholics in 1845, and Presbyterians in 1866. As Doug Owrarn writes in *Promise of Eden*, nineteenth century missionaries were integral to fostering the early British views of the region as a desolate, pagan wasteland (23-24). The presence of Christian missions contributed to the view that the primary purpose of the European presence in the region was on the missionary frontier (Owrarn, 29, 50). However, as expansionist ideas became popular, the spread of the Christian gospel was rolled into the broader vision and supposed benefits of the Dominion’s expansion. Owrarn writes that “The sense of religious mission was an integral part of the more general desire to establish a moral and stable society in the best traditions of the British Empire (148).”

¹⁷ The Major’s proposal, and his assertion that the British government would benefit from westward expansion, brings to mind Anne McClintock’s *Imperial Leather: Race, Gender and Sexuality in the Colonial*

Once they started talking about a railroad and a settled population, the “preconception of the North West as a permanent wilderness was challenged,” Doug Owrarn writes.¹⁸ “The question of soil and climate, so often ignored in the past, became topics for discussion and evaluation.” Charles Mair put forth an image of the area as a fertile garden, full of potential, and well suited for agricultural pursuits. “There is, in truth, a prospective poetry in the soil here – the poetry of comfort and independence,” Mair versified.¹⁹ In his memoir, published in 1855, fur trader Alexander Ross wrote that in the North-West “you can enjoy the pleasure of religion to better advantage, see your God to more perfection, and be a better Christian, than were your lot cast in the midst of the temptations of the busy world.”²⁰ Expansionists developed affective expectations for the north-west and imagined it as a “homeland” for Protestant Anglo-Canadians; though, as Jean Teillet writes in *The North-West is Our Mother*, the region was already a homeland for diverse Indigenous and non-Indigenous peoples who had been central to the economy in the area for centuries.²¹ Men of moderate means, particularly British tenant farmers and farm labourers, were perceived as ideal settlers because they “seemed most likely to find satisfaction and contentment in the modest life of the independent farmer.”²² But, as one farmer’s wife in the north-west noted, “a man cannot farm alone very well.”²³ “The wife is an important factor in commencing a homestead,”

Contest (Routledge, 1995), in which she draws from psychoanalysis and political economy to demonstrate that “fantasies of unlimited power” fueled imperialist projects (26). Such fantasies laid the affective foundations for modern nation-states, as considered by Michel Foucault’s theorization of biopolitics and biopower. See the section “A ‘Governing Race’” for more on biopower.

¹⁸ *Promise of Eden*, 34.

¹⁹ *Globe*, 20 January, 1869.

²⁰ Alexander Ross’s son James Ross was an important figure in westward expansion and in the Anglo-European development of the Red River Settlement.

²¹ Owrarn, *Promise of Eden*, 48. Owrarn notes that the westward expansion movement was a largely Anglo-Protestant mission; he writes, “In essence, these English-speaking, largely Protestant, enthusiasts sought to shape the West according to their own cultural values and aspirations” (5). Jean Teillet, *The North-West Is Our Mother: The Story of Louis Riel’s People, the Métis Nation, First Edition* (Toronto: Patrick Crean Editions, 2019).

²² Owrarn, *Promise of Eden*, 137.

²³ Mrs. A. G. McDonald, Canadian Pacific Railway Company (CPRC), *What Women Say of the Canadian North-West: A Simple Statement of the Experiences of Women Settled in All Parts of Manitoba and the North-West Territories*, (London: H. Blacklock & Co., printers, 1886), <http://peel.library.ualberta.ca/bibliography/1602.html>, 5.

another farmer's wife affirmed.²⁴ The north-west was far from a womanless space. Prior to westward expansion, Indigenous-European intermarriage *à la façon du pays* was common and Indigenous peoples maintained their own laws and legal systems.²⁵ The First Nations and the Métis did not relinquish their jurisdiction over law to Canada.²⁶

By the middle of the nineteenth century, Red River was developing “[...] a distinct Manitoban mix of European and Aboriginal legal cultures.”²⁷ Expansionists reimagined the region as an empty, agricultural Eden. They had a range of investments in the area and its future. The Toronto business community was eager for a profitable western market. The Crown wanted to secure the region before the United States had the chance. And political leaders, though initially reluctant, came on board for the railway. The railroad was represented as “the direct traffic line of the whole world” and the British Empire’s western route to Asia and the Pacific.²⁸ Bill Waiser writes that “Canada’s administration of its new western frontier/empire in the second half of the [nineteenth] century was based on the desire for order and stability – a desire to implant the best features of British civilization on the plains. This vision could only be realized, though, if the defining values and principles of the new society were imposed from outside.”²⁹ Those backing the Canadian plan believed it would be a quick, smooth process. As it turned out, they were incorrect. Canada’s westward expansion has not been quick nor smooth. The Métis and First Nations resisted Canada’s expansion and asserted their rights to their lands.³⁰

²⁴ Mrs. James Stirton, CPRC, *What Women Say*, 5.

²⁵ See Sylvia Van Kirk, *Many Tender Ties: Women in Fur Trade Society, 1670-1870* (Norman, Oklahoma: University of Oklahoma Press, 1983).

²⁶ Harold R. Johnson, *Peace and Good Order: The Case for Indigenous Justice in Canada* (Toronto: McClelland & Stewart, 2019), 124.

²⁷ Gerald Friesen quoted in Aimée Craft, “Breathing Life Into the Stone Fort Treaty,” (master’s thesis, University of Victoria, 2011), 53.

²⁸ Owsen, *Promise of Eden*, 33.

²⁹ Bill Waiser, “Teaching the West and Confederation: A Saskatchewan Perspective,” *The Canadian Historical Review* 98 4 (December, 2017), 751.

³⁰ In response to the Dominion’s incursion, the Métis formed the National Committee of the Métis and built a barricade to prevent Canada’s freshly appointed lieutenant-governor of the North-West Territories, William McDougall, and his party from entering the Red River settlement, marking the beginning of the Red River Resistance. Their provisional government drafted a *Bill of Rights* and negotiated with the Dominion government. See Alexander Begg, *The Creation of Manitoba: A History of the Red River Troubles*

2. A Legal and Cultural History of the “North-West”

The first step for the Dominion’s westward expansion was for Canadians “to convince themselves that the act of expansion had some foundation in law.”³¹ Prior to westward expansion, the Hudson’s Bay Company drew from British law to govern its employees and relations with Indigenous peoples. The economy depended on Indigenous peoples’ labours, particularly Indigenous women who were essential. Sylvia Van Kirk famously writes that: “Both the attitudes of the Indians and the needs of the traders dictated an important social and economic role for the native woman that militated against her being simply an object of sexual exploitation.”³² Van Kirk’s findings counter popular Victorian Canadian representations of Indigenous women and girls and show the changes they experienced with the ascendance of whiteness and colonial law in their territories.

Joseph Cauchon, a lawyer, journalist, and politician, offered the argument that, following the battle of the Plains of Abraham and the subsequent cession of New France, Canada was heir to the Territories. His claim was based on the clause of the Hudson’s Bay Company charter that excluded from its grant the territory of any Christian prince or state.³³ Shortly after Britain’s Parliament conferred legislative authority to its colonies Nova Scotia, New Brunswick, and Canada through the *Constitution Act* of 1867, the Dominion purchased Rupert’s Land from the Hudson Bay Company in 1869 without consulting Indigenous peoples and other westerners who

(Toronto: A. H. Hovey, 1871) for the Métis *Bill of Rights* or *List of Rights*. The Métis demanded that treaties between the Dominion and Indigenous communities of the Territories be concluded as soon as possible. According to John L. Tobias in “Canada’s Subjugation of the Plains Cree, 1879-1885,” *Canadian Historical Review*, LXIV 4 (1983):

[...] it was pressure from the Plains Cree in the period 1872-5 that compelled the government of Canada to continue the process with the Indians of the Qu’Appelle and Saskatchewan districts. The Plains Cree had interfered with the geological survey and prevented the construction of telegraph lines through their territory to emphasize that Canada had to deal with the Cree for Cree lands (521).

³¹ Ooram, *Promise of Eden*, 50.

³² *Many Tender Ties: Women in Fur-Trade Society, 1670-1870*

³³ Christianity provided a framework for European colonization, associating world peace with the spread of the gospel. Ooram calls this the “ubiquitous doctrine of progress” which tied Christian theology to imperial expansion (*Promise of Eden*, 132).

lived there. Then, in 1873, the government enacted legislation to enable the Governor-in-Council to make laws for the “Peace, Order, and good Government” of the North-West Territories. That same year the Parliament passed an act to establish a mounted police force for the North-West Territories.³⁴

Louis Knafla names two eras of early colonial legal history in the north-west. The first era, the Victorian West, occurred between the 1840s through the 1890s. Knafla writes that “the early years of this era represented the changing topography of law and governance” which included the creation of British Crown colonies in the Palliser Triangle.³⁵ During this period, the *Indian Act* was passed in Parliament and the Department of Indian Affairs (DIA) conceived of its “peasant farming policy” which relied on the racist view that First Nations needed to undergo a supervised evolutionary process by utilizing peasant farming practices on reservations without access to the newest technologies. In *Clearing the Plains*, James Daschuk writes that “the DIA instituted its now infamous ‘peasant farming policy’ to accommodate white farms by limiting market competition from reserves and to minimize the cost of maintaining the reserve population.”³⁶ Canada’s nineteenth century policies attempted to assimilate Indigenous peoples via education, labour, the reservation system, and the legal enforcement of lifelong Christian heterosexual monogamous marriage—which enforced a gender binary and its associated roles.

In her investigation of the 1863 Red River case of Reverend Griffith Owen Corbett, Erika Koenig-Sheridan shows how the figure of the prostitute was mobilized in the Victorian West to demonstrate British-oriented, middle-class Victorian moral sentiments and, thus, connect the

³⁴ In conversation with John A. Macdonald, Manitoba’s Member of Parliament, Joseph Royal, described North-West Mounted Police (NWMP) as having a “double mission, first, for the civilisation of the Indians, and on the other hand for the protection of emigrants going into these territories to settle.” Macdonald agreed with Royal’s assertion. See Canada, *House of Commons Debates*, 21 April 1880 (Joseph Royal, Conservative).

³⁵ Louis Knafla, ed., “Introduction,” *Law & Justice in a New Land: Essays in Western Canadian Legal History*, (Toronto: Carswell, 1985), 34.

³⁶ (Regina: University of Regina Press, 2013), 168.

colony to the motherland while differentiating between English and Indigenous women and girls.³⁷ Corbett's lawyer James Ross and his brother-in-law, journalist William Coldwell, were in league to mobilize the figure of the prostitute for the benefit of Corbett's defence and to increase *The Nor-Wester* newspaper's readership. Ross, part-owner and editor of the newspaper, as well as the reverend's defence attorney, reworked notes taken by Coldwell to write what Ross termed "The Trial of the Century." Over three months, the newspaper grew its readership by tapping into Victorian fixations on prostitutes.

Corbett's lawyers recognized the power of invoking the narrative of the "typical prostitute," which is a narrative I discuss more in chapter four. Koenig-Sheridan writes, "Labeled the 'great social evil,' the 'problem' of prostitution permeated every sector of British society and generated masses of printed material penned by purity campaigners, politicians, philanthropists, novelists, and journalists."³⁸ By the 1860s, 'the prostitute' was imprinted on middle-class consciousness as a cultural archetype of moral depravity and physical contagion.³⁹

³⁷ Koenig-Sheridan, "'Gentlemen, This is no Ordinary Trial': Sexual Narratives in the Trial of the Reverend Griffith Owen Corbett, Red River, 1863" in Jennifer Brown and Elizabeth Vibert's (eds) *Reading Beyond Words: Context for Native History, 2nd Edition* (Toronto: University of Toronto Press, 2003), 367.

³⁸ In *Prostitution and Victorian Society: Women, Class, and the State* (Cambridge: Cambridge University Press, 1980) Judith R. Walkowitz writes that "the study of prostitution first attracted [European] men of the religious world or doctors and laymen influenced by evangelical doctrine" in the 1840s and it was following that, during the religious revival of the 1850s, that prostitution became the "great social evil" (33). Walkowitz notes that these men "presented themselves as brave explorers into the social abyss, but they were clearly uneasy about the 'unspeakable' evils that were about to unfold" (33).

³⁹ Koenig-Sheridan, "'Gentlemen, This is no Ordinary Trial,'" 367; According to Walkowitz, middle-class Victorians were "fascinated and disgusted" by prostitutes, who they saw as a symbol of social dislocation in the industrial era (*Prostitution and Victorian Society*, 32). Familial and gendered relations shifted following industrialization and girls and young women increasingly sought employment outside of their homes in towns and cities. They were often from poor and working-class backgrounds and, therefore, were "expected to survive on their own resources," to "support themselves," "contribute to the family income," and to "not burden their family for support" (Walkowitz, 16). In their responses to Evangelical men's queries about their fathers, prostitutes often claimed to be orphans to elicit sympathy and to "close off one's past to unwelcome middle-class scrutiny" (Walkowitz, 16). Yet, when facing legal prosecution, they depended on "a series of female relatives" such as "aunts, mothers, and married sisters who resided in town or in the neighbouring countryside" (Walkowitz, 207). These networks of women would "appear and testify" on the sex worker's behalf "often at great personal sacrifice" (Walkowitz, 207). In histories of sex work, solidarities among sex workers and also their families and communities are a prominent theme, particularly in spaces such as courts.

As Judith Walkowitz establishes, it was during the 1840s and 1850s that Evangelical British men began to study and produce knowledge about prostitution and prostitutes.⁴⁰ Evangelical writers who represented prostitution as “the great social evil” wished to strengthen “the patriarchal family because they sought to reimpose the moral and social authority of the father over extramarital relations, at a time when the social and material bases of paternalism had been eroded.” That is also the period in which westward expansionism became increasingly popular within Anglo-Protestant communities.

In her investigation of prostitution in the British Empire, Philippa Levine writes that “The British saw prostitution wherever they looked.”⁴¹ They named many relationships outside of heterosexual, monogamous, Christian marriage “prostitution” and rarely acknowledged the ways the empire shaped and relied on the labour of sex workers.⁴² Ann Laura Stoler and Frederick Cooper note that sex in the colonies was a source of pleasure and anxiety among Europeans. In *Tensions of Empire: Colonial Cultures in a Bourgeois World*, Stoler and Cooper write that:

While the colonies were marketed by colonial elites as a domain where colonizing men could indulge their sexual fantasies, those same elites were intent to mark the boundaries of a colonizing population, to prevent those men from ‘going native’, to curb a proliferating mixed-race population that compromised their claims to superiority and thus the legitimacy

⁴⁰ Walkowitz, *Prostitution and Victorian Society*, 33.

⁴¹ Philippa Levine, “‘A Multitude of Unchaste Women’: Prostitution in the British Empire,” *Indiana University Press*, 15 4 (Winter, 2004), 159.

⁴² Trading in sex and strategic sex were not new phenomenon brought by British colonists and settlers, however. As Lanna Moon Perrin reflects in the *Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*:

I hear a lot about prostitution being a colonial thing, and it’s a disease or it’s a thing that colonization brought onto us. And, you know, perhaps in the ways that it was perceived to us, it could be looked at like that, but I’d like to consider pre-colonization for a minute and what our sexuality as Indigenous women and how that might have looked, especially in leadership, you know? And, you know, you can’t tell me that pre-colonization, Indigenous women didn’t use their sexuality to advance themselves, their families, their communities, and their Nations (656-657).

As historian Jean Barman argues in “Taming Aboriginal Sexuality: Gender, Power, and Race in British Columbia, 1850-1900,” *BC Studies* 115 6 (Autumn/Winter, 1997/1998) the sexualization of Indigenous women and the ascendance of colonial patriarchy on their homelands create barriers to fulsome understandings of the past and of their agency.

of white rule. In colonial societies as in Europe, 'racial survival' was often seen to be precariously predicated on a strict adherence to cultural—specifically gendered—prescriptions.⁴³

The British imperial view of civilization imagined “women’s true position in the family,” labouring in the home under the supervision of male relatives.⁴⁴ During the 1886 Trafficking Panic Justice George Wheelock Burbidge suggested that Indigenous women’s mobility be reduced so that they “remained with the band to which they belong.”⁴⁵ The British also represented prostitution as a routine part and “living evidence of native disorder” that justified their “civilizing mission.”⁴⁶ Doug Owsram writes that the “civilizing mission to the Indian resolved the moral difficulty inherent in the removal of the native from his land.”⁴⁷ This mission continued well into the twentieth century and, as Sarah Carter establishes in *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915*, the mission shaped relations and experiences in the north-west.⁴⁸

⁴³ *Tensions of Empire* (University of California Press, 1997), 5.

⁴⁴ This explanation of “civilization” in relation to monogamous, indissoluble marriage can be found in the certified copy of a report of a committee of the Honourable the Privy Council approved by His Excellency the Governor General in Council on the 31 October 1887, file 32345, vol. 3762, RG 10, Library and Archives Canada (LAC).

⁴⁵ Letter, George Burbidge to L. Vankoughnet, 5 October 1886, file 32345, vol. 3762, RG 10, LAC. As F. Laurie Baron writes in “The Indian Pass System in the Canadian West, 1882-1935,” *Prairie Forum*, Vol. 13, No. 1 (Spring, 1988), the Dominion developed an illegal pass system that required Indigenous peoples to remain on their reserves unless they had a pass signed by an Indian Agent or farm instructor and specifying the purpose and duration of their absence from reserve. Government leadership believed the pass system would curb the number of Indigenous women and girls in settler towns.

⁴⁶ Levine, “A Multitude of Unchaste Women,” 159, 160.

⁴⁷ *The Promise of Eden: The Canadian Expansionist Movement and the Idea of the West* (Toronto: University of Toronto Press, 1992), 132.

⁴⁸ See Sarah Carter’s chapter “The 1886 ‘Traffic in Indian Girls’ Panic and the Foundation of the Federal Approach to Aboriginal Marriage and Divorce,” in *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: University of Alberta Press, 2008), 147-190. In her chapter “First Nations Women of Prairie Canada in the Early Reserve Years, the 1870s to the 1920s: A Preliminary Inquiry,” in *Women of the First Nations: Power, Wisdom, and Strength*, ed. Marie Smallface Marule, Brenda Manyfingers, and Cheryl Deering (Winnipeg: University of Manitoba Press, 1996), Sarah Carter also shows that Indigenous women’s mobility, which was necessary to support their families, became a source of anxiety for white authorities who believed women’s proper place was within domestic and private space. In her investigation of Euro-Canadian settler women’s accounts of their interactions with Indigenous peoples during the early years of agricultural settlement in the prairie west, Kathryn McPherson writes that stories about interactions between settler women and Indigenous men in domestic space “underscored the sexual respectability of white settler women” whereas stories of Indigenous women

The Edwardian West is the second era of colonial legal history Louis Knafla names. It spans between the 1900s through the 1930s when Anglo-Canadian nativism was challenged by the Dominion's immigration policy.⁴⁹ By 1891, Scandinavian, Austro-Hungarian, French, German, Danish, Romanian, Icelandic, and Jewish immigrants made up 6 per cent of the population. And by the end of the 1890s, one in five people in the north-west were non-British immigrants. While many European immigrants were eventually invited into the fold and privileges of colonial whiteness, Black and Asian immigrants were not. The Canadian government took a hardline approach against Chinese immigrants, instating first a fifty dollars head tax in 1885, then one hundred dollars in 1900, and finally a five hundred dollars tax in 1903. Perhaps the harshest measure came against Black immigrants when Sifton's successor, Frank Oliver, spearheaded a government order in 1911 banning Black immigration for one year. Approved by Prime Minister Laurier and signed into law by the governor general, the law stated that the "Negro race ... is deemed unsuitable to the climate and requirements of Canada."⁵⁰

In the Edwardian West, Indigenous peoples' freedoms and their economic participation were further curtailed. A system of segregation was employed as federal and municipal police forces and government agencies attempted to manage disorderly figures. In some places, sex workers were segregated within settler communities.⁵¹ Indigenous peoples and non-Indigenous settlers were often kept apart, with an emphasis of keeping Indigenous peoples out of settler towns. Canada's DIA attempted to curtail Indigenous peoples movement with an illegal pass

visiting Euro-Canadian households for trade or socializing fell outside of what was considered proper feminized domesticity. See "Home Tales: Gender, Domesticity, and Colonialism in the Prairie West, 1870-1900," *Finding A Way To The Heart: Feminist Writings on Aboriginal and Women's History in Canada*, (Winnipeg: University of Manitoba Press, 2012), 233. Concerns over Indigenous women's mobility and their sexuality informed the development of the pass system briefly discussed in footnote 43.

⁴⁹ Bill Waiser, "Teaching the West and Confederation," 755.

⁵⁰ R. B. Shepard, *Deemed Unsuited* (Toronto: Umbrella Press, 1996), 100.

⁵¹ The segregation of sex workers in places like Saskatoon, Saskatchewan mirrored that of other British colonies. As James Gray writes in *Red Lights on the Prairies* (Toronto: Macmillan, 1971), Saskatoon's red-light district on the west side of the city was made up of tents with well-tread paths linking them. The tents were organized by "race," with white women working in one, Asian women in another, and Black women in another (103). Phillipa Levine notes that such ways of organizing space could be found across the British colonies ("A Multitude of Unchaste Women,"160).

system.⁵² The economy, which was more exclusively beneficial to white men than ever before, turned to the exploitation of natural resources and agricultural innovations. Settler colonial worldmaking was in full swing and social space was transformed as settlers established towns and developed cities where middle-class professions in business, education, medicine, religion, journalism, government, and law flourished.

Police mobilized anti-prostitute laws to remove people viewed by the state as undesirable.⁵³ For example, in Saskatoon in 1912, five Black women were arrested when they visited the city to take in the fair.⁵⁴ The police believed the women had unjustly taken shelter from proper boarders and that the women intended to sell sex out of the rooms. The women were charged with being “common prostitutes and street walkers,” though they maintained they were not. When they appealed to the magistrate, he warned them that “If you don’t get out of the city the police will get you.” Men who were perceived by Anglo-Canadian nativists as undesirable were characterized as sex traffickers. Suffragist Nellie McClung’s *Painted Fires* is one example of such a characterization. McClung crafted a fictional Helmi, a Swedish immigrant, who is almost trafficked by a Chinese restaurant owner before she settles down into a life of domesticity with a white husband.⁵⁵ As this dissertation demonstrates, anti-trafficking and anti-prostitute laws were

⁵² See F. Laurie Barron’s chapter “The Indian Pass System in the Canadian West, 1882 – 1935,” *Prairie Forum* 13 no.1 (1988).

⁵³ The term “undesirables” is laden with affective meaning. “Undesirable,” according to *The Canadian Oxford Dictionary* (2 ed.), is an adjective and a noun naming or describing something or someone as “not desirable; objectionable, or unpleasant.” “Desire” refers to “an unsatisfied longing or craving” and/or a “sexual appetite.” Settlers clearly desired access to paid sex given that sex workers traveled to the north-west and set up profitable businesses to meet demand. However, there was a discrepancy between desires for paid sex and the vision of the church and state which reserved white women’s bodies, labour, and sexualities for private, unpaid use and for the bearing and rearing of white children. The legal concept of a vagrant permitted police and lower courts widespread powers to control the presence and movement of those they did not desire in their communities, such as sex workers and racialized peoples, especially Black, Indigenous, and Asian peoples. It also provided a loophole for police instructed to move Indigenous peoples from settler communities even as Treaties between the Crown and First Nations and Métis guaranteed freedom of movement throughout the north-west.

⁵⁴ *Saskatoon Star*, 6 August 1912.

⁵⁵ Nellie McClung, *Painted Fires* (Toronto: Thomas Allen, 1925).

powerful tools for colonial worldmakers who sought to prevent racial and ethnic mixing in a region that held diverse populations.

3. A “Governing Race”

Law has been described as the cutting edge of colonialism.⁵⁶ This dissertation is concerned, in part, with the “historical knowledge” that “unmasks the violence that simmers under the law.”⁵⁷ It is also an attempt to denaturalize settler colonialism by theorising its constitution as biopower and by troubling western law.⁵⁸ Michel Foucault defines biopower as a political technology that “brought life and its mechanisms into the realm of explicit calculations and made knowledge/power an agent of transformation of human life.”⁵⁹ Biopower and biopolitics are historical contemporaries of the turn to governing the “population.” Colonial law and its enforcement are the primary tools the Dominion deployed to expand its territories. Prior to the westward expansion Indigenous peoples maintained their own laws and legal systems.⁶⁰ The Dominion used force, including sexual violence and capital punishment, to assert its laws and its vision of sovereignty in the north-west.⁶¹

⁵⁶ Sally Engle Merry, “Review: Law and Colonialism,” *Law & Society Review* Vol. 25, No. 4 (1991), 890.

⁵⁷ Eduardo Mendieta, “‘To make live and to let die’ – Foucault on Racism,” Meeting of the Foucault Circle (Chicago: APA Central Division Meeting, 2002), 5.

⁵⁸ Scott Lauria Morgensen, “The Biopolitics of Settler Colonialism: Right Here, Right Now,” *Settler Colonial Studies* 1 1 (2011a), 53.

⁵⁹ *History of Sexuality: An Introduction Volume 1* (New York: Random House, 1990), 143.

⁶⁰ The late Harold R. Johnson (Montreal Lake Cree Nation) wrote that “the fundamental differences between how First Nations would maintain peace and good order and how Canada has administered it is that First Nations would apply principles of redemption, whereas Canada relies upon deterrence” (*Peace and Good Order*, 127). Joan Sangster writes in her chapter “Native Women, Sexuality, and the Law,” in Mary-Ellen Kelm and Lorna Townsend (eds), *In the Days of our Grandmothers: A Reader in Aboriginal Women’s History in Canada* (Toronto: University of Toronto Press, 2006), that Indigenous law, which is process-oriented rather than concentrated on rules and rights, emphasizes mediation, reconciliation, and payment of compensation in conflict. The primary aims of Indigenous law are communal peace and individual autonomy (306).

⁶¹ As Canadian Geographic’s *Indigenous peoples Atlas of Canada* documents, Ottawa sent an expeditionary force commanded by Colonel Garnet Woseley to “pacify” the Métis:

When this force of more than 1,000 Canadian troops arrived in Manitoba, they began a reign of terror against Métis citizens. Métis women were raped and some Métis men such as Elzéar Goulet were murdered. As a result of such an intolerable climate of violence and fear, more than half of the Métis in the new province of Manitoba left for the North-West Territories or the Dakota territory. Canadian Geographic, “Red River Resistance,” *Indigenous peoples Atlas of Canada*, <https://indigenouspeoplesatlasofcanada.ca/article/red-river-resistance/>. The Dominion used capital

Historically, there is a marked difference in relations between Canada and Indigenous peoples following the signing of treaties and the 1885 north-west resistance uprisings. For a significant contingent of the fledgling colonial justice system in the north-west, the uprisings represented an opportunity to assert the Dominion's authority over the lands through practices of incarceration and through public capital punishment. On 27 November 1885, one week after Louis Riel's hanging, six Cree and two Nakota (Assiniboine) warriors were hanged by the Crown—the largest mass hanging in Canadian history. Prime Minister John A. Macdonald wanted the hanging to be a soul-crushing spectacle for Indigenous witnesses. He said that the “executions ought to convince the Red Man that the White Man governs.”⁶²

The British empire's success depended on the European invention of racial categories and hierarchies. As Marilyn Lake writes, European colonialism and imperialism transformed “men of distinct European nationalities—whether American, British, French, Dutch, or German [...] into a new kind of transnational figure [...] the ‘White man’.”⁶³ On a large scale, white men “routinely invoked their supposedly innate honor, courage, restraint, reason, and superior intellect to justify their role in imperial conquest and colonial government.” This is the context of the view that the British were a “governing race.”⁶⁴ The belief influenced their feelings about participating in the expansion into Indigenous peoples' territories. As O'ram writes:

In the expansionist mind [...] [a] sense of sympathy [for Indigenous peoples] in no way contradicted the right of European civilization to supplant the native. The certainty that their own civilization was superior and the ubiquitous doctrine of progress made them

punishment to assert legal supremacy over Indigenous peoples following the spring 1885 resistance uprising. On 27 November 1885, the young colonial justice system conducted the largest mass hanging in Canadian history after a trial in which those charged were not given the benefit of a defence nor clear translation. The hangings of eight warriors occurred one week following Métis leader Louis Riel's hanging.

⁶² Blair Stonechild and Bill Waiser, *Loyal Till Death: Indians and the North-West Rebellion* (Calgary: Fifth House, 1997), 221.

⁶³ Marilyn Lake, “The ‘White Man,’ Race, and Imperial War During the Long Nineteenth Century” In *The Oxford Handbook of Gender, War, and the Western World Since 1600* (Oxford University Press, 2020), 333.

⁶⁴ Andrew Thompson Quoted in Ashley Jackson, *The British Empire: A Very Short Introduction* (Oxford University Press, 2013), 15.

accept without question the idea that it was 'necessary that the Indian hunting-ground should in large measure be given up to the plough and the sickle of the white man.'⁶⁵

Any sense of concern for Indigenous peoples did not get in the way of what O'ram terms a period of "excessive optimism." The British in the colonies justified colonialism through "their deep and abiding sense of paternalism, the belief that they were genuinely helping people who needed it."⁶⁶ Many Britishers were not opposed to the Empire's expansion "as long as it could be represented as a system uncorrupting at home and contributing to world peace and improvement."⁶⁷ The policies that promoted the genocide of Indigenous peoples occurred simultaneously with western Canadian idealism and optimism.

Biopower has emerged from the fusion of "the medieval notion of legislative and divinely sanctioned power of the sovereign with the Judaic-Christian notion of pastoral power."⁶⁸ According to Eduardo Mendieta, it is through this fusion, and the fashioning of race and sexuality as "pivots," that the population is governed, and state power is fostered and reproduced. "Analogously to how sexuality became the locus of the production of control, insofar as it was the pivot of interaction between individuals and their surrounding social environments," Mendieta argues, "race also became the pivot around which the biopower state came to exert its claims, so as to be able to produce certain power effects."⁶⁹ The political rationality of biopower, deployed over a population, supports aligned actions among social agents, such as "doctors, nurses, and policemen," to tend to and manage "brothels and red-light districts."⁷⁰

In his theorization of necropolitics and necropower, Achille Mbembe expands on Michel Foucault's concepts of biopolitics and biopower.⁷¹ Mbembe explains the relationships between

⁶⁵ *Promise of Eden*, 132

⁶⁶ Jackson, *The British Empire*, 43.

⁶⁷ Jackson, *The British Empire*, 55.

⁶⁸ Eduardo Mendieta, "To make live and to let die," 5.

⁶⁹ "To make live and to let die," 6.

⁷⁰ "To make live and to let die," 7.

⁷¹ Achille Mbembe, *Necropolitics*, translated by Steve Corcoran (Durham: Duke University Press, 2019).

colonial claims of sovereignty on Indigenous peoples' lands and the affective conditions of relations in settler colonial contexts, writing that "colonies are zones in which war and disorder, internal and external figures of the political, stand side by side or alternate with each other. As such, the colonies are the location *par excellence* where the controls and guarantees of judicial order can be suspended – the zone where the violence of the state of exception is deemed to operate in the service of 'civilization.'"72 Settler colonial states exercise their control over morality and deploy their power through exercising sovereignty. In addition to controlling morality, sovereignty involves the right to kill. Mbembe adds that, "In modern philosophical thought and European political practice and imaginary, the colony represents the site where sovereignty consists fundamentally in the exercise of a power outside the law and where 'peace' is more likely to take on the face of a 'war without end.'"73 In the Canadian context, "peace" as "war without end" is reflected in Canada's approach to relations with Indigenous peoples. Further, the pivot points of race and sexuality have been mechanized to shape social space and fields of power to support settler colonial worldmaking and to usher white Anglo-Canadian men into a dominant position.

4. Settler Colonialism, Law, and Social Space

Social space is where interactions, transactions, and events occur and where fields interact.⁷⁴ The nation-state orders social space by fostering "unconscious harmony between objective structures and mental structures."⁷⁵ Social reality is, in part, "the product of a collective work of cognitive construction that operates in the ordinary encounters of everyday life" and in fields of cultural production.⁷⁶ Through its processes of universalization, the state enables the sharing of similar positions and dispositions, and linguistic and symbolic codes, because it

⁷² *Necropolitics*, 24.

⁷³ *Necropolitics*, 23.

⁷⁴ Cheryl Hardy, "Social Space" in *Pierre Bourdieu: Key Concepts, Second Edition*, ed. Michael Grenfell (Durham: Acumen, 2008), 229-249.

⁷⁵ Pierre Bourdieu, *Sur l'État. Cours au Collège de France (1989-1992)*, eds. Patrick Champagne, Remi Lenoir, Franck Poupeau, Marie-Christine Rivière (Paris: Raisons d'Agir/Seuil, 2012), 239.

⁷⁶ Loïc Wacquant, "Pointers on Pierre Bourdieu and Democratic Politics," *Constellations Volume 11* No. 1 (2004), 6.

“constitutes the all-encompassing viewpoint of all viewpoints that are confronted within the individual fields of the social world.”⁷⁷ It is the field of fields or “what enables each of the fields of the social world, and the mechanisms of power established within the institutions, in the justifying and performative discourses of authority, to be connected and understand each other.”⁷⁸ The State’s creation depends on two simultaneous processes: the accumulation of capital and the formalization and universalization of rules, such as those governing marriage and sexual commerce.

Capital represents what is symbolically valued. Pierre Bourdieu argues there are four main forms of capital which, when accounted for, help us to understand shifting and emergent social locations across fields in social space. The four are: economic capital (money and assets); cultural capital (forms of knowledge, taste, aesthetic and cultural preferences; language, narrative and voice); social capital (affiliations and networks; family, religious and cultural heritage) and symbolic capital (things which stand for all other forms of capital and can be exchanged in other fields such as one’s credentials).⁷⁹ While cultural capital accounts for differences amongst people of unequal cultural patrimonies, social capital accounts for differences linked to resources that are brought together through networks of relations. And symbolic capital explains the logic of the economy of honour, good faith, and works of art.

Bourdieu calls for the historicization of government to make evident “the illusion of naturalness” and “the amnesia of genesis” that characterize modern western democracies and nation-states.⁸⁰ He offers a theory and model of modern nation-state formations that consider the influence of the dynastic state, marriage as a practice for conferring capitals among households, and the socio-legal histories that shape western political fields and the accumulation of paternal

⁷⁷ Villacorta Baños, “The Field of Fields,” 2.

⁷⁸ Villacorta Baños, “The Field of Fields,” 2.

⁷⁹ Rob Moore, “Capital” in *Pierre Bourdieu: Key Concepts, Second Edition*, ed. Michael Grenfell (Durham: Acumen, 2008), 98-113.

⁸⁰ “The Mystery of the Ministry: From Particular Wills to the General Will,” *Constellations* 11 no. 1 (2004), p. 41.

power. According to Bourdieu, the logic and values of the modern nation-state can be traced to the dynastic state that preceded the seventeenth century. In the era of the dynastic state, succession occurred via two means: war and marriage. Paternal power, which granted protection and maintenance to subjects and kin, accumulated through war and marriage and rested on personal and affective relations such as love and fealty. Paradoxically, dynastic kinship structures necessitated “the development of forms of authority independent of kinship,” including the tripartite division of power among the king, his brothers, and his ministers.⁸¹ It is the king’s ministers who slowly lengthened the chain of authority to carve out a bureaucratic field that is characteristic of modern nation-states.

The lengthening of the dynastic state’s chain of authority and agency relied upon the following historical developments: the development of common law and Roman law; the increased distribution of “power over the seals” among ministers, jurists, clerks, parliamentarians, and academic experts to perform rigor and to express the royal will; the creation of educational institutions; and the notion of a public whose order and resources should be managed.⁸² These historical developments influenced a shift in affective experience as the king was “dissolved into the impersonal network of a long chain” of hierarchically organized individuals.⁸³ These individuals hold “a rational bureaucratic habitus” and legitimize the modern nation-state by introducing “rigor into the exercise of power,” implementing legal and scholastic modes of thinking, and re-imagining kingship as magistrature.⁸⁴

An example of the lengthening of the chain can be found in the legal history of the British colonies. As John McLaren writes in his work about British colonial judges on trial in the nineteenth century, the process of judicial appointments in the British system changed over time. Before the

⁸¹ Pierre Bourdieu, “From the King’s House to the Reason of State: A Model of the Genesis of the Bureaucratic Field,” *Constellations* 11, no. 1 (2004), p. 22.

⁸² “From the King’s House to the Reason of State,” p. 29; p. 32; p. 33.

⁸³ “From the King’s House to the Reason of State,” p. 32.

⁸⁴ “From the King’s House to the Reason of State,” p. 30.

seventeenth century, judges in the royal courts acted as the servants of the monarch. They were subject to the monarch's distaste or whims. Following the Act of Settlement of 1701, judges were appointed by their ruler "during good behaviour" but the Act also gave formal recognition to judicial independence.⁸⁵ Early Canadian judicial systems adhered to the Baconian model, which held that judges remain loyal servants of the monarch who was "constitutionally at the apex of legal power and authority in the land, whose word was literally law, and to whom they owed allegiance through both the ruler's appointment of them and their oaths of office."⁸⁶ Loyalty to the monarch became even more important following the American Revolution. In the nineteenth century, the Baconian model continued, but loyalist judges wielded significant political power and often acted as political leaders.⁸⁷ Views on race influenced what judicial independence could be permitted. Some colonial justice systems, like that of Canada and Australia, experienced slowly increasing judicial independence and legislative power. Other colonial judiciaries, like that of the West Indies, were tightly controlled as the majority were made of "subject races" and not "freeborn Englishmen."⁸⁸

Though the king no longer holds the same degree of dynastic power, and state-related affects have shifted from personal to largely impersonal, the dynastic state continues in the patriarchal organization of families and the ways capitals accumulate in a concentrated manner. In the current iteration of the nation-state, the private family household has become the main space where feelings of love and loyalty are expressed and fostered. As Francisco Villacorta Baños writes, a Bordieusian framework shows the homologies between the individual, the family, and the dynastic state. In such a framework, "family is the universal link in the chain of the nation-state's legitimation."⁸⁹ Villacorta Baños adds that symbolic capital or power, "is incorporated

⁸⁵ John McLaren, *Dewigged, Bothered, and Bewildered: British Colonial Judges on Trial, 1800-1900* (Toronto [Ont: Published for the Osgoode Society for Canadian Legal History by University of Toronto Press, 2011), 7.

⁸⁶ McLaren, *Dewigged, Bothered, and Bewildered*, 11.

⁸⁷ McLaren, *Dewigged, Bothered, and Bewildered*, 41.

⁸⁸ McLaren, *Dewigged, Bothered, and Bewildered*, 42; 11.

⁸⁹ "The Field of Fields. The State According to Pierre Bourdieu," *Culture & History Digital Journal*, 6 no. 1 (June 2017), p. 4.

through a systemic process of socialization in the home, and in the education systems to transmit codes, norms, values, and divisions.”⁹⁰ Sites of knowledge production, dissemination, and education, such as schools and universities, “install in the head of social actors” an “ideological universe” that is complimentary to the nation-state.⁹¹ Ideally, from the state’s perspective, this ideological universe becomes second nature to social actors and is reflected in their habitus and their methods of social reproduction.

Residential and Indian day schools were government-and-church-sponsored religious schools that were established to assimilate Indigenous children into Euro-Canadian culture. Some of these schools were boarding schools where Indigenous children were forced to live and work away from their families. Regardless if they were boarders and attending day school, the schools’ aims were to “take the Indian out of the child” and to sever familial bonds and kin networks. Residential schools exemplify the importance of education and family to the nation-state. In an American context, where residential schooling also occurred, K. Tsianina Lomawaima writes that the schools offered a “training in dispossession.”⁹² For Indigenous girls, this training was “under the guise of domesticity, developing a habitus shaped by the messages of subservience and one’s proper place.” The schooling directed girls and boys to certain positions in social space. Education is just one of several worldmaking mechanisms colonial states mobilize to shape social space. Colonial law, like the *Indian Act* and the *Criminal Code*, is another example of a worldmaking mechanism. As Bourdieu observes regarding the legal practices characteristic of colonialism, the colonizers attempt to force “the colonized to adopt the law of the colonizer” to reshape the “economy” and “lifestyle” of Indigenous peoples, in an attempt to deny them “the power of selection.”⁹³

⁹⁰ Villacorta Baños, “The Field of Fields,” 6.

⁹¹ Villacorta Baños, “The Field of Fields,” 3.

⁹² K. Tsianina Lomawaima, *They Called It Prairie Light: The Story of Chilocco Indian School*, (Lincoln: University of Nebraska Press, 1994), 86.

⁹³ Pierre Bourdieu, *Algeria 1960*, R. Nice (trans.) (Cambridge: Cambridge University Press, 1979), 64.

In 1879, Canada amended the *Indian Act* to include protective legislation that criminalized the “prostitution of” Indigenous women.⁹⁴ The provision fined or imprisoned “any person, being the keeper of any house” who “allows or suffers any Indian woman to be or remain in such a house, knowing, or having probable cause for believing, that such Indian woman is in or remains in such house with the intention of prostituting herself therein.” Even if one was not a “keeper,” if they “appear[ed], act[ed] or behave[d] as master or mistress” of a housing containing an Indigenous woman who sold sex, they “[would] be deemed and taken to be the keeper” regardless if “he or she may not in fact be the real keeper.” The legislation situated Indigenous women as dependents and charges who were prostituted and trafficked. Those in proximity to Indigenous women were made criminally responsible for Indigenous women’s intentions and behaviour, particularly their intended sexual behaviour. As noted above, “The British saw prostitution wherever they looked.”⁹⁵ Prior to the Dominion’s westward expansion, non-monogamous relationships were normal, and diverse gender and sexual expressions were accepted.⁹⁶ The *Indian Act’s* amendments extended Canada’s cis-hetero-paternalism into Indigenous peoples’ homes and ushered Indigenous women and girls into dependent positions. The *Indian Act’s* laws criminalizing the “prostitution of” Indigenous women were added to the *Criminal Code* in 1892 and amended again in 1906.⁹⁷ The legislation reflected the Canadian view that women should be legal dependents whose sexuality and access to the economy should be under the management and control of men.

The *Indian Act* and the *Criminal Code* are two legal mechanisms that changed Indigenous women’s, girls, and 2SLGBTQQIA’s positions in social space in the late nineteenth and early

⁹⁴ *An Act to amend “The Indian Act, 1876,”* 15 May 1879, c. 34, s. 7-8.

⁹⁵ Philippa Levine, “A Multitude of Unchaste Women’: Prostitution in the British Empire,” *Indiana University Press*, 15 4 (Winter, 2004), 159.

⁹⁶ Sabine Lang, *Men as Women, Women as Men: Changing Gender in Native American Cultures* (University of Texas Press, 1998). Sue-Ellen Jacobs, Wesley Thomas, and Sabine Lang, *Two-Spirit People, Native American Gender Identity, Sexuality and Spirituality* (Chicago: University of Illinois Press, 1997).

⁹⁷ S. C. 1892, c. 29, s. 190. R.S.C. 1906, c. 146, s. 220.

twentieth centuries. Drawing from the example of the Anishinaabe's Treaty 1 negotiations with Canada, Aimée Craft demonstrates how Treaty was another mechanism for creating new gendered social space.⁹⁸ The Treaty No. 1 negotiations and the signing of Treaty in 1871 was the beginning of patriarchal structure and governance among the Anishinaabe, which differed from traditional social structure and governance. In her testimony during the National Inquiry for missing and murdered Indigenous women, girls, and 2SLGBTQQIA people, Fay Blaney, a Xwémalhkwu (Homalco) Knowledge Keeper explains how paternalistic colonial law continues to impact Indigenous women, stating that

Its—men control the private sphere and the public sphere, and the private sphere is the family unit where, you know, we have our Indian Status because of the men in our lives. I have Status because of my husband, and before that, I had Status because of my father. And so, in our world, men hold all the cards and we hold none.

The criminalization of being a “keeper” held an important lesson for those in proximity to Indigenous women and girls, especially Indigenous men. Under the new Canadian gendered order, it represented their responsibility to maintain a gender binary and control Indigenous women's and girls' sexualities.

Victorians had an “obsessive preoccupation” with codifying sexuality and governing “the population.”⁹⁹ This obsession influenced the development of legislation managing sexuality. However, when it comes to prostitution, “Canadian law was significantly harsher in its treatment of prostitutes and their customers” in comparison to English law.¹⁰⁰ The English targeted specific

⁹⁸ *Breathing Life into the Stone Fort Treaty: An Anishinabe Understanding of Treaty One* (Saskatoon: Purich, 2013).

⁹⁹ Walkowitz, *Prostitution and Victorian Society*, 4; Walkowitz writes that Victorians were interested in the “moral statistics” of the population: “Researchers in ‘moral statistics’ viewed society as an atomized collection of individuals; they tended to see social problems as rooted in individual weakness, although they were willing to recognize that certain social situations could tempt or exacerbate this underlying moral frailty” (37). Walkowitz notes that “personal ambivalence” was evident in British moral statisticians’ writings, due to the tension between moralistic and environmental analysis.

¹⁰⁰ Constance Backhouse, “Nineteenth-Century Canadian Prostitution Law: Reflection of a Discriminatory Society,” *Social History/Histoire Social* 18 no. 36 (1985), 389. These laws were found unconstitutional and were struck down 20 December 2013. Sex work activists Terri-Jean Bedford, Amy

behaviours along gendered lines, while Canadian law criminalized *being* a prostitute.¹⁰¹ Section 238 of Canada's *Criminal Code* targeted one who:

- (i) Being a common prostitute or night walker, wanders in the fields, public streets or highways, lanes or places of public meeting or gathering of people, and does not give a satisfactory account of herself;
- (j) Is a keeper or inmate of a disorderly house, bawdy-house or house of ill-fame, or house for the resort of prostitutes;
- (k) Is in the habit of frequenting such houses and does not give a satisfactory account of himself or herself; or,
- (l) Having no peaceable profession or call to maintain himself by, for the most part supports himself by gaming or crime, or by the avails of prostitution.¹⁰²

As I demonstrate in chapter six on the juridical field, the legislation required clarification in court and among police as it fixed the status of “prostitute” on women in public, even when they were no longer sex workers. Though the legislation included language targeting men, those sections of the law were rarely applied.

Canada's harsher law was grounded in a vision of its ideal society—one that would not tolerate the same sexual problems as the metropole. Settlers of the north-west took it further.

Lebovitch and Valerie Scott challenged the constitutionality of the laws as they deprived sex workers their right to security by forcing them to work in secret. Both the Court of Appeal for Ontario and the Supreme Court of Canada agreed that elements of the law were unconstitutional. The Supreme Court offered one year for the Conservative-led government to develop new legislation following consultation with affected community. However, the replacement legislation entitled *Protection of Communities and Exploited Persons Act*, which came into force on 6 December 2014, is also considered harsh legislation as it criminalizes the purchase of sex, communicating for the purpose of selling sex, gaining material benefit from sex work, and advertising sexual services. On 21 February 2020, the newer legislation was found by Ontario Justice Thomas McKay to violate Canadian Charter of Rights and Freedoms. This legal history shows that there is nothing inevitable about legal approaches to managing sexual commerce. One can look to current laws in other historically British settler states to see a variation of approaches. The New Zealand Model, which decriminalized sex work, is often held up by Canadian sex work activists and their allies as an alternative to Canada's harsh approach.

¹⁰¹ Backhouse, *Nineteenth-Century Canadian Prostitution Law*, 389.

¹⁰² *Criminal Code*, 1892, 55-56 Vic., c. 29, ss. 238-239; *Criminal Code*, R.S.C. 1915, c.c.—16, ss. 238-239.

Western utopianism, which expresses “a readiness to adopt untried methods to achieve ideal ends,” shape the histories of the area and the region’s relationship with the rest of the Dominion.¹⁰³ An example of one such previously “untried method” is Saskatchewan’s *Act to Prevent Employment of Female Labour in Certain Capacities*, which, as *Quong Wing v. The King* (1914) demonstrates, was simultaneously understood by the Supreme Court of Canada as extremely harsh yet necessary protective labour legislation.¹⁰⁴ It banned white women workers from being employed by Chinese men to prevent so-called white slave trafficking. The legislation, which drew attention from other provinces interested in passing similar legislation, remained in place from 1912 to 1969.

The different degrees of harshness in legislation are examples of situated and diverse approaches to sexual commerce. Approaches have differed from one place to the next and have changed over time.¹⁰⁵ That is why it is important to heed Lynda Nead’s warning to read the term ‘prostitute’ not as “an objective description of an already-determined group” but, rather, a description that “actively constitutes a group which is both socially and economically specific.”¹⁰⁶ The category of “prostitute” is such a slippery category because strategic sex, inside and outside of marriage, is common. Innumerable people supplement low wages, or avoid low wages entirely, through sex work.¹⁰⁷ Further, innumerable people termed “women” have existed in public space

¹⁰³ “The Bias of Prairie Politics,” in A. B. McKillop, *Contexts of Canada’s Past: Selected Essays of W. L. Morton* (Toronto: Macmillan of Canada in association with the Institute of Canadian Studies, Carleton University, 1980), 32. Morton argued that the aim of Western utopianism was “capturing the nation” by “merging in the nation in the section.” “The Bias of Prairie Politics,” 33.

¹⁰⁴ S.S. 1912, c. 17.

¹⁰⁵ Sarah York, “‘We Have Never Allowed Such A Thing Here...’: Social Responses to Saskatchewan’s Early Sex Trade, 1880 to 1920” (master’s thesis, University of Saskatchewan, 2013).

¹⁰⁶ *Myths of Sexuality: Representations of Women in Victorian Britain* (Oxford: Basil Blackwell, 1988), 94.

¹⁰⁷ In 1836, social worker Alexandre Parent-Duchâtelet published a survey of ‘prostitutes’ in France. He learned his respondents worked over 600 different occupations: *couturières*, seamstresses, breeches makers, coat makers, hairdressers, glove makers, lace makers, artificial flower makers, day labourers, dairymaids, workers in farms and vineyards, shop clerks, street peddlers, acrobats, gauze makers, fringe makers, furriers, hatters, helmet makers, shoemakers, bootmakers, brush makers, laundresses, ironers, jewellers, clockmakers, enamellers, burnishers and polishers, engravers, stage actresses and extras, music teachers, and servants. Walkowitz writes that Parent-Duchâtelet’s study “served as the model for British social investigations of prostitution in the 1840s.” She adds that, in Parent-Duchâtelet’s study,

in ways that have made the propertied class, often termed “men,” uncomfortable. As Laura Maria Agustín writes, “all women in public were not selling sex; a diversity of women shared the same spaces as their patrons, friends, harassers, potential targets and boyfriends: parks, taverns, markets, theatres and streets. Women also liked to dance, drink, take walks, make money and have sex.”¹⁰⁸ The law’s gender norms and assumptions about private versus public space flow from paternalistic Euro-Canadian views that are not universal.

Like other British colonies, Canada’s notions of social order and social hierarchy were codified into law to differentiate between and to order groups of people. The transplant and fashioning of disorderly figures, as envisioned by British and Canadian law, provided settlers a familiar relational structure and social order in unfamiliar territories. For example, when Mrs. J. M. Blythe responded to a survey about her experiences homesteading in the north-west, she compared her feelings toward Indigenous peoples to her feelings about “gipsies” back home.¹⁰⁹ The Canadian colonial imaginary postulated that disorderly figures would benefit from the order

“prostitution emerges as a specialized but transnational occupation of young women of the labouring class.” Parent-Duchâtelet findings represented prostitution as a stage in his respondents’ lives. The British doctor William Acton also represented it as a stage in certain women’s lives. When he called for regulation, he said it would enable women “to pass through this stage of her existence with as little permanent injury to herself and as little mischief to society as possible” (Walkowitz, 46). In the context of the north-west in the late nineteenth and early twentieth centuries, everyday realities for women and girls made it virtually impossible to survive without the financial support of men; but for some women, such support did not exist, or it was not enough. In the *Saskatoon Phoenix*, 10 February 1913 issue a Baptist minister, Rev. R. E. Harkness, spoke of the issues women and girls faced in Saskatchewan’s early economy: “Economic conditions are responsible for social evil. The outcome of high rent and high prices for all the necessaries of life is all imaginable shame and disgrace and evil. A young girl comes to the city for employment. She receives \$10.00 a week as wages. She can scarcely get a room for less than \$15.00 a month, or board for less than \$6.00 or \$7.00 a week. That condition means ruin for the girl.” In comparison, men made at least double what women made in the workforce. Women who sold sex could set their own rates and hours and made enough money to not only cover the essentials but keep some funds for savings and improvements for their quality of life. With limited work options and a demand for sex work, their decision to sell sex was logical.

¹⁰⁸ Laura Maria Agustín, *Sex at the Margins*, 113

¹⁰⁹ Canadian Pacific Railway Company (CPRC), *What Women Say of the Canadian North-West: A Simple Statement of the Experiences of Women Settled in All Parts of Manitoba and the North-West Territories*, (London: H. Blacklock & Co., printers, 1886), <http://peel.library.ualberta.ca/bibliography/1602.html>, 43.

colonial law would bring. Further, the criminalization and reform efforts targeting disorderly figures offered respectable employment for settlers.¹¹⁰

One's position in social space depends on the fields they inhabit and their access to capital. Those who hold dominant positions, such as government ministers in the political field, judges in the juridical field, and journalists in the journalistic field, possess the types of capital required to shape social space. Michael Grenfell explains the relationships between capital, social space, and habitus, writing:

To the extent to which various individuals hold similar capital volumes and capital configurations (i.e. share material conditions) in conjunction with others, they will constitute a homogenous, and thus identifiable, group. In other words, they share a similar position in the overall structure of the social space, and thus also share similar habitus and consequent dispositional characteristics.¹¹¹

Yet, as Cheryl Hardy notes, social space includes “all of the objective positions available for an individual to occupy or aspire to—that is, all the recognizable and thinkable positions with their varying degrees of legitimacy.”¹¹² One's position in social space may be possible while also being perceived by the nation-state and its forces as lacking legitimacy or undesirable. Hardy's note explains experiences of criminalization and the existence of outlaw habitus.

5. Mapping Fields in Social Space: Dissertation Chapters

By mapping constellations of interlinked institutions where capital-holders vie to “impose the supremacy of the particular kind of power they wield,” relations of power and their affective

¹¹⁰ For an investigation of this history of employment and the modern fashioning of “prostitutes” as in need of rescue in broad European and American contexts, see Laura Maria Agustín's chapter “The Rise of the Social – And of ‘Prostitution’” in *Sex at the Margins: Migration, Labour Markets and the Rescue Industry* (London and New York: Zed Books, 2007): 96-133. In particular, Agustín is interested in the ways such work emerged as a result of the needs and desires of those in helping professions (97). Judith R. Walkowitz also explores the histories of helping professions in Victorian Britain in *Prostitution and Victorian Society: Women, Class, and the State* (Cambridge: Cambridge University Press, 1980).

¹¹¹ *Pierre Bourdieu: Key Concepts, Second Edition*, ed. Michael Grenfell (Durham: Acumen, 2008), 218.

¹¹² Cheryl Hardy, “Social Space” in *Pierre Bourdieu: Key Concepts, Second Edition*, ed. Michael Grenfell (Durham: Acumen, 2008), 231-232.

life become evident. In this dissertation, sources largely flow from the journalistic field, the political field, and the juridical field. The following chapters reflect these three main fields. They are integral to the nation-state—a place where power coalesces “as a result of structural differentiation fostering the emergence of a plurality of relatively autonomous fields, each governed by its own laws.” Autonomous fields have boundaries, specific rules of engagement, and they are competitive. However, as this dissertation shows, the boundaries separating fields are permeable thanks to common language and culture, shared narratives and feelings—all made possible by the state’s influence on embodiment and cognition.

Chapter four: “‘Principals of the nefarious traffic’: Late Nineteenth Century Narratives and Emotions in the Journalistic Field” is largely set in the Canadian journalistic field and is focused on reportage about Indigenous communities. Pierre Bourdieu argues that news is relationally constructed through the ongoing production of difference.¹¹³ This is evident in chapter four as the journalistic field, dominated by white men, grappled with claims that white men in the north-west were trafficking Indigenous women and girls. Different journalistic organs produce differing representations depending on their location in social space. Political affiliation, circulation, and geographic location shape reportage, public discourse, and national identities. The author’s habitus, the organizational ecology of the newspaper, the broader journalistic field in its municipal, regional, national, and international contexts, and the habitus of readers, inform the flow of capitals in relation to narratives and representations. Although, representations in news media reflect a relatively narrow clustering of perspectives within elite fields of cultural, political, and economic power.

Bourdieu argues that both structure and history should be taken into account when considering journalistic production, including habitus. “If I want to find out what one or another journalist is going to say or write, or will find obvious or unthinkable, normal or worthless, I have

¹¹³ Rodney Benson, “News Media as a ‘Journalistic Field’: What Bourdieu Adds to New Institutionalism, and Vice Versa,” *Political Communications* 23 (2006), 189.

to know the position that journalist occupies in space. I need to know, as well, the specific power of the news medium in question,” he observes.¹¹⁴ Similarly, a publication’s audience is predisposed by their educational experiences, their wealth, and their social background, which readies them to accept certain kinds of information, ideas, and styles of delivery. Bourdieu posits that habitus, and media organizational ecology, influence the types of narratives that appear in the news as well as representational politics.

Chapter four examines the Anglo-Canadian journalistic field as a site of colonial worldmaking. An affective reading of late nineteenth century sources that hold claims white men trafficked Indigenous women and girls, and that discuss sexual commerce, demonstrates processes of differentiation, their affective texture, and the ways narratives come into play. Three primary narratives—that of the typical prostitute, of sexual exploitation, and of sexual danger—extended imperial ways of relating into the North-West Territories. Drawing from newspapers, missionary publications, a House of Commons Debate, a report by the Privy Council, and historiography, themes of suffering and slavery, shock and horror, shame and disgust, and fear and anxiety emerge. I conclude with the 1889 *R. v. Ford* case to demonstrate a possible counter-narrative to those established in the Canadian journalistic field. The statements of O-cha-nah-kis and Que-qua-ah of Piapot First Nation are mediated through colonial law and the practices of the juridical field, though their statements are unique as they are made by two Indigenous people with experiences in sexual commerce. While engaging with the emergent colonial justice system for self-advocacy, O-cha-nah-kis and Que-qua-ah defy and engage narratives about Indigenous families and sexual commerce while forcing the colonial justice system to acknowledge its role.

The political field animates chapter five: “‘So long as they do not come ‘betwixt the wind and your nobility’: Sexual Commerce and Twentieth Century Colonial Worldmaking in Medicine Hat, Winnipeg, and Edmonton” which examines twentieth century narratives and affects in

¹¹⁴ Pierre Bourdieu, *On Television* (New York: New Press, 1998), 41.

investigations and oft-cited reports. A Bordieusian framework holds that such investigations and reports act on three levels of meaning: that of “alchemy,” which turns individual social actors, such as judges and informants, into representatives of the official and the public; that of the “theatralisation of authority and public discourse,” which provides symbolic elements to exercise power in social space, representing these elements as moral and universal; and that of the “configuration of a particular field of bureaucratic organization” that holds historical, institutional legitimacy and authority.¹¹⁵ These three levels of meaning support the accumulation of symbolic capital, or power, and authority. In the early twentieth century, moral reformers agitated to increase their political power to shape the appearance of the west. They mobilized feelings of suspicion to call into question police and municipal governments’ relationships with sex workers.

As established by W.L. Morton, western Canadians aimed to be exemplary. Their exceptionalism, a vestige of the Dominion’s civilizing mission, continued to be mobilized for settler colonial worldmaking in the early twentieth century. Part of that mission included the expectation that Canadians would model lifelong Christian monogamous marriage. Yet, British imperial landscapes and economies also included non-monogamous sex, sexual commerce, and sex workers. While police and municipal governments believed suppressing brothels should not be a priority, moral reformers were anxious that emergent western Canada would be overtaken by “evil” forces. They engaged the political field, and some went as far as accusing police and municipal governments of neglecting their duty to the community and supporting sexual commerce. Their agitation called on the authority of the juridical field and inspired official investigations and commissions, three of which are examined in chapter five.

An affective reading of a Medicine Hat Reverend’s persistent complaints about a Black man and a brothel on the outskirts of town, the 1911 Winnipeg Vice Commission, and the 1914 Edmonton Vice Commission offers insight into the affective basis of judgments and narratives

¹¹⁵ Baños, “The Field of Fields,” 3.

surrounding sexual commerce in emergent western Canada of the early twentieth century. Like the narratives mobilized in the journalistic field, the typification of prostitutes and notions of exploitation and sexual danger are evident, though less discrete as the popular concept of white slavery conflated them. An analysis of narratives and emotions shows who was considered worthy of concern and who was not. Anxiety and fear, suspicion, shame and disgust, and suffering emerge as affective themes in the sources.

Chapter six “Satisfaction Through Law? The Affective Basis of Judgments in the Early Twentieth Century” examines emotions in the juridical field. According to Bourdieu, the juridical field is a universe of relations where juridical authority is produced, reproduced, and exercised. The field conducts the “practical activity of worldmaking” by legalizing and criminalizing certain sex acts and relationships and transforming those ordinary acts and relations into juridical confrontations to be assessed in the “separate and bounded space” of the court by “a superior power”.¹¹⁶ In this chapter, it is evident that judges were required to express satisfaction or dissatisfaction as part of their intellectual evaluation of evidence and the law. Therefore, their expressions of satisfaction were not always based on personal satisfaction. In fact, some were clear that, even though intellectually satisfied as per their training and knowledge of the law, they were not personally or morally satisfied by their decisions. Noticing this discrepancy and dissonance attends to the embodied experience of the mind/body divide in western law.

Bourdieu likens the juridical field to the church and the school as they all require faith in the systems of order they represent and perpetuate; the juridical field consecrates and legitimizes the established order which aligns with the vision of the state. Like the church and the school, it relies on generalization and universalization taking the field and its effects far beyond geographical and generational parameters. Its logic is structured by power relations among competitive actors with the “technical competence to interpret texts sanctifying a correct or

¹¹⁶ Bourdieu, “The Force of Law, 830 & 831.

legitimized vision of the social world” and its own internal logic informed by “a system of values” aligned with “the positive logic of science and the normative logic of morality.”¹¹⁷ Actors in the upper echelons of the juridical field usually hold worldviews and practice logic that align with the texts they interpret. Bourdieu writes that,

There is no doubt that the practice of those responsible for ‘producing’ or applying the law owe a great deal to the similarities which link the holders of this quintessential form of symbolic power to the holders of worldly power in general, whether political or economic. [...] The closeness of interests, and, above all, the parallelism of habitus, arising from similar family and educational backgrounds, fosters kindred worldviews.¹¹⁸

Judges’ “ascetic and simultaneously aristocratic attitudes, which are the internalized manifestation of the requirement of disengagement,” and are “inscribed at the deepest level of *habitus*,” require continual processes of rationalization, reproduction, and reinforcement by their peer group of fellow judges which, in these sources, are often referred to as a brotherhood or fraternity.¹¹⁹ It is the actions of this brotherhood that enabled faith in the juridical order by universalizing the law and neutralizing its violence via linguistic procedures.

To understand relations of power that structure the juridical field, Bourdieu suggests that scholars should avoid asking if power comes “from above or below” but, rather, map out the “totality of objective relations” between the juridical field and other fields of power. The juridical field is a place where differing worldviews and ways of being, or differing habitus, meet over a conflict and become grounded. The habitus of the judge, the habitus of the police, and the habitus of the appellant or plaintiff and their legal counsel are not the same.

¹¹⁷ Bourdieu, “The Force of Law, 818.

¹¹⁸ Bourdieu, “The Force of Law, 842.

¹¹⁹ Emphasis original, Bourdieu, “The Force of Law,” 830. Bourdieu argues that the chain of legitimation that protects the violence enacted by the state relies on a “common familial experience” through knowledge of the law and interpretation of its text (833). Like the spiritual leader’s interpretation of religious texts and the teacher’s interpretation of canonical writings taught in schools, judges tie the present continuously to the past by interpreting the law and drawing from jurisprudence and case law.

In chapter six, the tradition of settler colonial exceptionalism continues to be evident in the treatment of white women and girls and of Asian men in the juridical field. Canada's *Criminal Code* codified men's satisfaction into law in section 238 by requiring women in public to give "satisfactory" accounts of themselves to police or risk arrest and charges as vagrants and prostitutes. In this chapter, I focus on fourteen early twentieth century cases concerning sexual commerce in the west and the affective expressions, projections, and hauntings that informed the gendered, racialized, and sexual worldmaking of a fledgling justice system and legal culture. Judges believed their role in the region was to bring "peace and good order" through colonial law. The provinces of Manitoba, Saskatchewan, and Alberta established colonial justice systems modeled after British and Canadian, particularly Ontarian, justice systems and legal cultures. The qualifications bestowed by colonial legal education and experience in central Canada enabled a sense of cultural and structural continuity during westward expansion that benefitted Canada and made its cultural and legal expansion possible.

The judges who decided the cases investigated in chapter six had been involved in municipal, territorial, provincial, and federal politics. Their social status and their legal education enabled their colonial worldmaking as they transplanted British and Canadian legal structures and cultures while shaping distinct provincial legal cultures and justice systems in the early twentieth century. While previous chapters include analysis of narratives within popular culture, this chapter focuses on the affective journey of Judges' decisions. Their decisions have an affective structure, moving from uncertainty to a verdict—a process Bourdieu argues is represented as "an ordered progression toward the truth."¹²⁰ The emotional journey of a decision holds layers of feelings and emotions, all filtered through individual judges who may find themselves in agreement or disagreement with their peers.

¹²⁰ Bourdieu, "The Force of Law," 830.

White, Anglo-Canadian men's feelings are centred and legally supported in the emerging colonial world through the language of the law, and juridical actors' interpretations and applications of the law. In chapter six, the emergent western Canadian legal system demonstrates Gayle Rubin's conceptualization of the sex/gender system in which men's satisfaction demands women's subordination.¹²¹ While judges were trained to maintain emotional distance through reason, at times they expressed feelings such as, fear, horror, and pity over both real and imagined suffering. However, they also understood that suffering is legal and could be the result of their decisions as they carried the authority to subject people to fines and unfreedom. Sometimes, judges were unsure of how best to proceed. When encountering cases of sexual commerce or cases haunted by concerns about sexual commerce, judges struggled to differentiate between the broad unfreedom women experienced in settler-colonial culture, through marriage and economic dependence on men, and sexual commerce in general. What becomes clear is that feelings over sex work and sex workers held central positions in the settler-colonial worldmaking of the north-west.

In the concluding chapter of this dissertation, I continue to apply a self-reflexive method and I trace the emotional through-lines made evident in my research and analysis. I begin with Alberta women's anger over a proposed red-light district in Edmonton in the early-twentieth century and situate first wave feminism and eugenics within western Canadian worldmaking. I consider the limitations of a self-reflexive method and settler colonial studies before outlining my main findings. As I conclude, Canada's westward expansion in the late-nineteenth and early-twentieth centuries involved the transplant and mobilization of narratives surrounding sexual commerce across fields in emergent settler colonial social space. Three main narratives emerged in my reading of primary and secondary sources: narratives of the typical prostitute, of sexual exploitation, and of sexual danger. Following a discussion of narratives, I outline the emotional

¹²¹ Rubin, Gayle. "The Traffic in Women: Notes on the 'Political Economy' of Sex." In Rayna Reiter (ed.) *Toward an Anthropology of Women* (New York: Monthly View Press, 1975).

findings that were evident across the journalistic, political, and juridical fields. These emotions are anxiety, fear, suffering, satisfaction, and horror. I then turn to emotions that are evident in specific fields such as disgust, shame, and shock. Following a short discussion of field-specific emotions, I consider relationships between emotions such as pity and horror, anxiety/suspicion/uncertainty and satisfaction.

In the next chapter, chapter three “History of Emotions: A Feminized Method” I offer a brief overview of the interdisciplinary subfield of the history of emotions, which has increased in popularity in recent years. The field counters presumptions of universality and rationality by turning toward the affective side of history. It relies on the view that emotion varies across time and place and so has a history that can be explored. Due to the association of feelings, emotions, embodiment and femininity, the history of emotions can be understood as a feminine or even feminized approach to historical research and scholarship. In this chapter I introduce scholarship, research methods, methodologies, and themes in the emerging field of the history of emotions. I begin by exploring the reason/emotion binary in western thought. Then I turn to broad themes in the field, including analytic frameworks. As I show, an emotions historian may focus on individual or social frameworks, events or processes, specific emotions and historical processes, specific audiences or broader publics, unique geographic contexts, or comparative projects. I explain how I came to the field, its relationship to law, and I demonstrate the affectively rife legal process of differentiation for a gendered-racialized order and the ascendance of whiteness in a settler colonial context. I conclude this chapter with an outline of my method.

Chapter Three

History of Emotions: A Feminine or Feminized Method

In the last decade the history of emotions has increased in popularity. Carol Stearns and Peter Stearns are often credited for developing the field in the 1980s. Their contribution is situated within new social history. However, as Peter Stearns wrote in 2020, “the leaders of the *Annales* school called for the history of emotions” eighty years ago.¹ Eric H. Reiter notes that the history of emotions counters presumptions of rationality in human motivation by bringing the “long neglected affective side of history” to the fore.² The field relies on the view that emotion varies across time and place and so has a history that can be explored. It counters universalist views of emotions and, instead, emphasizes that “embodied experience is itself a product of culture.”³ Emotions history brings forward methodological questions about the relationship between culture and the body. Due to the association of feelings, emotions, embodiment and femininity, emotions history can be understood as a feminine or even feminized approach to historical research and scholarship.

1. The Reason/Emotion Binary and the Feminization of Emotion

In western philosophical traditions, emotion and reason are often constructed in binary opposition. This dichotomous understanding is reflected in other binary constructs central to western thought; as Alison Jaggar writes, "Not only has reason been contrasted with emotion, but it has also been associated with the mental, the cultural, the universal, the public, and the male, whereas emotion has been associated with the irrational, the physical, the natural, the particular, the private, and, of course, the female."⁴ These associations are evident in Reiter’s analysis of moral injury in Quebec—injuries Reiter characterizes as “subjective, open-ended, and, to be

¹ Peter Stearns, “Choices in the History of Emotions,” *Historia Crítica*, 78 (2020): 4.

² Eric H. Reiter, *Wounded Feelings: Litigating Emotions in Quebec, 1870-1950*, (Toronto: Published for the Osgoode Society for Canadian Legal History by University of Toronto Press, 2019), 11.

³ Katie Barclay, “State of the Field: The History of Emotions,” *History* (London) 106, no. 371 (2021): 457.

⁴ Alison Jaggar, “Love and Knowledge: Emotion in Feminist Epistemology,” in *Gender/Body/Knowledge: Feminist Reconstructions of Being and Knowing*, ed Alison Jaggar and Susan Bordo (New Brunswick, New Jersey: Rutgers University Press, 1989), 145.

frank, feminine ('mere feelings')."⁵ As Lara Campbell, Catherine Gidney, and Michael Dawson argue in *Feeling Feminism: Activism, Affect, and Canada's Second Wave*, feminist activists have a history of rejecting the reason/emotion binary and, instead, mobilizing our emotions to challenge gendered inequalities.⁶ Scholarship, research methods, and methodologies engaging in emotions and affect are highly feminized in western knowledge production and often discounted.

The reason / emotion binary is a recent invention in western thought. For example, Plato, who is hailed as one of the founders of western philosophy and academy, argued that emotion and reason were connected. Plato saw emotion as a horse and reason as a charioteer. He postulated that emotion and reason require one another. After all, what purpose does a charioteer serve if there is no horse? Antonia Damasio affirmed these connections, writing: "work from my laboratory has shown that emotion is integral to the process of reasoning and decision making, for worse and for better."⁷ During the rise of modern science in the sixteenth century, the reason / emotion binary became entrenched in western knowledge production through the development of the scientific method.⁸ The scientific method encouraged dispassionate conditions so emotions would not cloud and bias scientists' views. But research, such as Damasio's, shows that the reason / emotion binary is false.

Western constructs of emotion emerged in processes of domination.⁹ Binary constructs, such as reason / emotion, or those listed above by Jaggar, like culture / nature, offered a framework for Europeans to justify a gendered-racialized order, exploration, and colonization, and

⁵ Reiter, *Wounded Feelings*, 8.

⁶ Lara Campbell, Catherine Gidney, and Michael Dawson, eds. *Feeling Feminism : Activism, Affect, and Canada's Second Wave* (Vancouver, BC: UBC Press, 2022).

⁷ Antonio Damasio, *The Feeling of what Happens: Body and Emotion in the Making of Consciousness* (New York: Harcourt Brace, 1999), 41.

⁸ Susan Bordo, *The Flight to Objectivity: Essays on Cartesianism and Culture* (Albany, New York: SUNY Press, 1987); Genevieve Lloyd, *The Man of Reason: 'Male' and 'Female' in Western Philosophy* (Minneapolis: University of Minnesota Press, 1984).

⁹ Catherine Lutz, "Depression and the Translation of Emotional Worlds" in *Culture and Depression: Studies in the Anthropology and Cross-Cultural Psychiatry of Affect and Disorder* eds. A. Kleinman and B. Good (Berkeley: University of California Press, 1985), 63-100; Catherine Lutz, "Emotion, Thought and Estrangement: Emotion as a Cultural Category." *Cultural Anthropology* 1 (1986): 287-309.

to manage the emotions associated with those orders and processes. Sixteenth century Italian philosopher Niccolo Machiavelli encouraged Europeans to conquer a wild and feminine Fortune, which included nature. In the context of this dissertation, the western European view of nature differed significantly from Indigenous ways. For example, in her chapter "Life in Harmony with Nature," writer Beverly Hungry Wolf (Sikski-Aki) notes that "traditionally our people have great respect for women because women create life. [...] The Earth as Mother has nurtured all people, in the same way that I as mother have nurtured my children."¹⁰ Hungry Wolf explains that her Nation values symbiotic relationships with nature which supports long-term sustainability.

In *The Death of Nature: Women, Ecology and the Scientific Revolution* Carolyn Merchant draws links between the domination of nature and women, arguing that a modern western mechanistic cosmology perceives nature as inert matter available to human manipulation.¹¹ The rise of the capitalist economic system in the sixteenth century in tandem with western thinkers, such as Francis Bacon and Rene Descartes, ushered western society into a mechanistic view of nature. While Bacon encouraged technological innovation, Descartes offered a model that removed spirit from nature, which served to justify nature's exploitation.

Londa Schiebinger argues that modern science has constituted itself through processes of exclusion. Schiebinger writes that the eighteenth century was a significant period when social developments were met with an obsessive search for natural differences, making "the body the touchstone of political rights and social privilege."¹² Influential western European eighteenth-century naturalists were almost exclusively white males who projected their cultural views into their representations of nature. The notion of natural differences, with dichotomous styles of

¹⁰ Beverly Hungry Wolf, "Life in Harmony with Nature," in *Women of the First Nations: Power, Wisdom, and Strength*, ed. Christine Miller and Patricia Chuchryk (Winnipeg: The University of Manitoba Press, 1996), 77.

¹¹ Carolyn Merchant, *The Death of Nature: Women, Ecology and the Scientific Revolution*, (New York: HarperCollins, 1980).

¹² Londa Schiebinger, *Nature's Body: Gender in the Making of Modern Science* (Boston: Beacon Press, 1993), 116.

relating, assuaged empathic emotional responses and supported relations of domination. Yet, it also alienated knowledge producers from their emotions. For example, Charles Darwin noted the emotional flatness the scientific method fostered in him when he wrote: "...[I]t is a horrid bore to feel as I constantly do. I am a withered leaf for every subject except science. My mind seems to have become a kind of machine for grinding general laws out of large collections of facts. It sometimes makes me hate science."¹³ Modern alienation from one's emotions is a popular area of exploration in feminist sociological research of commodity exchange. For example, Arlie Hochschild's dramaturgical and Marxist concepts of emotion work, or workers' management of their own emotions, and emotional labour, or the work of managing others' emotions, demonstrate the emotional alienation workers experience.¹⁴ Hochschild names sex work, like other types of service work, as an example of feminized emotion work and emotional labour in which workers decide how much emotional labour to give and how much to withhold.

2. Mapping the Field

Though practitioners must be mindful of western centrism, the history of emotions has the potential to counter this legacy of the reason/emotion binary through its interdisciplinarity and intersectional standpoint theory's methodological influence on the field.¹⁵ The history of emotions illuminates dimensions of emotional experience to provide explanations for emotion's production and its relationship to culture, society, economy and political life.¹⁶ An emotions historian may focus on individual or social frameworks, events or processes, specific emotions and historical processes, specific audiences or broader publics, unique geographic contexts, or comparative projects.

¹³ Charles Darwin, Francis Darwin, *Charles Darwin: His Life Told in an Autobiographical Chapter, and in a Selected Series of his Published Letters* (London: John Murray, 1902), 269.

¹⁴ Arlie Hochschild, *The Managed Heart: Commercialization of Human Feeling* (Berkeley: University of California Press, 1983).

¹⁵ Stearns, "Choices in the History of Emotions," 3.

¹⁶ Barclay, "State of the Field: The History of Emotions," 460.

In a review of historiographical themes and areas of empirical research, the interdisciplinarity of the field is clear.¹⁷ Emotions history scholarship engages with sciences, such as natural, environmental, health, and social sciences.¹⁸ It engages languages and linguistics as emotions historians emphasize emotion words like love, hate, or anger in different languages, across time, and among different groups.¹⁹ It engages cultural studies and literature as sites of primary and secondary sources.²⁰ It also engages law and political science because of available primary sources, funding, and the field's interest in modern states' influences on emotional practices.²¹ The field has close ties to histories of the body and embodiment, the history of experience, and felt history.²² It is currently dominated by western works—European, Australian, and American especially—though it is rapidly expanding.

¹⁷ Olga, Simonova, "The Study of Emotions as an Area of Interdisciplinary Cooperation: The History and Sociology of Emotions in the Search for the Explanation of 'Emotional Turn' (On the Russian Translation of the Jan Plamper's *The History of Emotions*)," *Sotsiologicheskoe Obozrenie/Russian Sociological Review* 17.3 (2018): 356–378.

¹⁸ Susan J. Matt and Peter N. Stearns, *Doing Emotions History*, Urbana: University of Illinois Press, 2014; Jan Plamper, *The History of Emotions: An Introduction, First edition*, (Oxford, United Kingdom: Oxford University Press, 2015); Tuomas Tepora, "What, If Anything, Can the History of Emotions Learn from the Neurosciences?" *Cultural History* 9.1 (2020): 93–105.

¹⁹ Ana Deumert, "Sensational Signs, Authority and the Public Sphere: Settler Colonial Rhetoric in Times of Change." *Journal of Sociolinguistics* 23.5 (2019): 467–484; Elizabeth Johnston and Mary Vitello, "Reconstructing the History of Emotions: Revisiting Elizabeth Duffy's Rejection of the Term 'Emotion.'" *History of Psychology* 24.4 (2021): 301–322; Fay Bound Alberti, "This 'Modern Epidemic': Loneliness as an Emotion Cluster and a Neglected Subject in the History of Emotions." *Emotion Review* 10.3 (2018): 242–254.

²⁰ Damien Boquet, Piroska Nagy, and Robert Shaw, *Medieval Sensibilities: A History of Emotions in the Middle Ages*, (Newark: Polity Press, 2018); Daniela Hacke, Claudia Jarzebowski, and Hannes Ziegler, *Matters of Engagement: Emotions, Identity, and Cultural Contact in the Premodern World*, (Milton: Taylor & Francis Group, 2020).

²¹ Karl Gustafsson and Todd H Hall, "The Politics of Emotions in International Relations: Who Gets to Feel What, Whose Emotions Matter, and the 'History Problem' in Sino-Japanese Relations." *International Studies Quarterly* 65.4 (2021): 973–984; Dolores Martín-Moruno and Beatriz Pichel, *Emotional Bodies: The Historical Performativity of Emotions*, Vol. 6, (Champaign: University of Illinois Press, 2019); Younes Saramifar, "Emotions of Felt Memories: Looking for Interplay of Emotions and Histories in Iranian Political Consciousness Since Iran–Iraq War (1980–1988)." *Anthropology of Consciousness* 30.2 (2019): 132–151.

²² Melanie Catherine Lo, "Affective History, Felt Time, and Embodied Pasts in Early Modern England," ProQuest Dissertations Publishing, 2018; Deidre E. Pribram, "Felt History: Emotions, Gender, and Genre in The Bletchley Circle," *Gender & History* 30, no. 3 (2018): 755–768.

The history of emotions is often interested in the emotional standards of a society or group, or what Stearns and Stearns term emotionology.²³ American social psychologist Kenneth J. Gergen explains emotionology as a marriage between history and psychology.²⁴ "Feeling rules," a social-psychological concept also used in emotions history, offers a framework for understanding socialization's relationship to feelings and emotions. Feeling rules are guidelines for interaction that determine what kinds of emotions are acceptable or desirable, who is entitled to feel and express them, and what forms of expression and display are permissible.²⁵ According to Stearns, "'Feeling rules' are put forth most clearly in hegemonic groups."²⁶ "They may genuinely affect the emotional experience of other classes," Stearns adds, "they will certainly shape opportunities for expression, for example in courts of law." The emotionology of a society reveals broad trends and shifts in emotions, responding to economic and demographic changes. For example, the rise of industrial capitalism deterred factory workers from expressing emotions like anger in their workplaces.²⁷ Emotions history of the working classes, immigrant communities, and rural societies remains a gap in the field. Due to the bias of "the upper-class sense," class-related tensions feature prominently in emotions history and in the field's production.²⁸

The history of emotions can focus on the emotional experiences of groups or individuals. However, the field disrupts a group/individual binary as the history of emotions demonstrate how individuals are mobilised "as part of something larger than the self."²⁹ Group emotions histories explore how groups display and regulate feeling. Scholarship on groups also show the evolution

²³ Peter N. Stearns and Carol Z. Stearns, "Emotionology: Clarifying the History of Emotions and Emotional Standards," *The American Historical Review*, 90, no. 4 (Oct., 1985), pp. 813–836.

²⁴ Kenneth J. Gergen, "History and Psychology: Three Weddings and a Future," in *An Emotional History of the United States*, ed. Peter N. Stearns and Jan Lewis, (New York: New York University Press, 1998), pp. 15-29.

²⁵ Kent Sandstrom et al., *Symbols, Selves and Social Reality: A Symbolic Interactionist Approach to Social Psychology*, Fourth Edition (New York: Oxford University Press, 2014).

²⁶ Stearns, "Choices in the History of Emotions," 5.

²⁷ Carol Z. Stearns and Peter Stearns, *Anger: The Struggle for Emotional Control in America's History* (Chicago: University of Chicago Press, 1986).

²⁸ William Ian Miller, *Humiliation and Other Essays on Honor, Social Discomfort, and Violence* (Ithaca, NY: Cornell University Press, 1993), 93.

²⁹ Barclay, "State of the Field: The History of Emotions," 464.

of emotional cultures over time. Such histories offer insight into the operation of power and group dynamics.

3. Analytic Frameworks in Emotions History

Emotions history's interdisciplinary leanings are also reflected in the analytical frameworks one can find in the field. Such frameworks and concepts support the historicization of feelings and “provide researchers with powerful analytical tools to move beyond a relatively static descriptive view of feelings as individual emotional responses and towards a dynamic, historicized view of the confrontation between individual feelings and the social norms within which they were expressed and understood.”³⁰ The following short survey offers a snapshot of popular analytic frameworks and concepts in the history of emotions and situates this dissertation within and outside of the frameworks.

Silvan Tomkins presents affect as an umbrella category characterized in neurological, physiological, and aesthetic terms.³¹ He offers a “periodic table of affective elements” and formulates nine primary affects, including: enjoyment/joy, interest/excitement, surprise/startle, anger/rage, disgust, dissmell, distress/anguish, fear/terror, and shame/humiliation, which can combine to become any number of emotional molecular structures or substances. These primary affects are not sovereign, nor are they experienced in pure form. They are not separate from systems of meaning, purpose, signification, or sociality.

I first came to Tomkins' work through feminist theory. As Clare Hemmings writes, “Tomkins' work suggests that affects have a complex, self-referential life that gives depth to human existence through our relations with others and with ourselves.”³² She goes on to explain that in “terms of our relations with others, Tomkins asked us to think of the contagious nature of

³⁰ Reiter, *Wounded Feelings*, 13.

³¹ Frank, Adam J, and Elizabeth A Wilson. *A Silvan Tomkins Handbook: Foundations for Affect Theory* (Minneapolis: University of Minnesota Press, 2020), 4.

³² Hemmings, Clare. “INVOKING AFFECT: Cultural Theory and the Ontological Turn.” *Cultural studies* (London, England) 19, no. 5 (2005), 552.

a yawn, smile or blush. It is transferred to others and doubles back, increasing its original intensity. Affect can thus be said to place the individual in a circuit of feeling and response, rather than opposition to others.” Tomkins’ theorization of affect as increasing in intensity via transfer is foundational to Sara Ahmed’s work on “affective economies,” discussed below.

William Reddy’s concept of emotives functions in politicized worlds of feeling. He calls these worlds “emotional regimes.”³³ Emotional regimes are somewhat like feeling rules because they subscribe to particular norms around emotional expression. Barbara Rosenwein’s influential contribution, the “emotional community,” imagines people as belonging to more than one group. She writes that “people move (and moved) continually from one such community to another – from taverns to law courts, say – adjusting their emotional displays, and their judgments of weal and woe (with greater and lesser degrees of success) to these different environments.”³⁴ Legal and governmental sources can be read to demonstrate the utility of both “emotional regimes” and “emotional community.” As Reiter notes regarding the work of judging feelings in moral injury cases in Quebec, “the act of judging feelings had, like Reddy’s emotional regimes, a top-down normative influence on how feelings were seen as legitimate for different litigants and in different contexts.”³⁵

If Reddy and Rosenwein offer tools to understand emotion and hierarchy, selves, and community, Sara Ahmed illuminates the material dimensions of affect’s circulation in the context of globalized racial capitalism. Ahmed offers a framework for understanding how emotions move between bodies in her work on “affective economies.”³⁶ Her economic model of emotions

³³ William M. Reddy, *The Navigation of Feeling: A Framework for the History of Emotions* (Cambridge: Cambridge University Press, 2001).

³⁴ Barbara H. Rosenwein, *Generations of Feelings: A History of Emotions 600-1700* (Cambridge: Cambridge University Press, 2016), 824. On putting the idea of emotional communities to use, see also Barbara H. Rosenwein, “Problems and Methods in the History of Emotions,” *Passions in Context* 1 (2010): 1-32.

³⁵ Reiter, *Wounded Feelings*, 15.

³⁶ Sara Ahmed, “Affective Economies,” *Social Text* 79.2 (2004), 117-139.

suggests that emotions “work to bind subjects together.”³⁷ Drawing from semiotics, psychoanalysis, and the Marxian critique of the logic of capital, Ahmed theorizes that “emotions work as a form of capital: affect does not reside positively in the sign or commodity, but is produced only as an effect of its circulation.”³⁸ Further, “the accumulation of affective value shapes the surface of bodies and worlds.”

Ahmed demonstrates her theory by analysing emotionally laden language in sources such as a post on the Aryan Nation website, post - 9/11 speeches by George W. Bush, and in Franz Fanon *Black Skin, White Masks*. In this demonstration, Ahmed shows the affective ties between whiteness, anti-Blackness, and western subjectivity and citizenship. “Through a discourse of pain,” such as what followed the 9/11 attacks, white subjects mobilize negative attachments to Black and Brown subjects who are characterized by western states as “dangerous” asylum seekers and “terrorists.”³⁹ The affective economies framework shows how white peoples’ fear and hatred of the other are often explained as positive attachments to family and the state—such as feelings of national pride. According to Ahmed, the mobilization and production of these negative attachments are “trace[s] of how histories remain alive in the present.”⁴⁰ Throughout my doctoral coursework, Ahmed’s extensive works have been required reading and her contributions have influenced my own approach and understanding of feminist affect theory. In particular, her query on the history of happiness shaped the early questions that lead to the development of my doctoral research.⁴¹

Using Bourdieu’s habitus, which explains the dialectical and co-constitutive relationship between structure and practice, Deborah Gould develops the concept of emotional habitus to

³⁷ Ahmed, “Affective Economics,” 119.

³⁸ Ahmed, “Affective Economics,” 120.

³⁹ Ahmed, “Affective Economics,” 118.

⁴⁰ Ahmed, “Affective Economics,” 126.

⁴¹ Sara Ahmed, “Killing Joy: Feminism and the History of Happiness.” *Signs: Journal of Women in Culture and Society* 35, no. 3 (2010): 571–594.

describe "a social grouping's collective and only partly conscious emotional dispositions."⁴² "That is," Gould writes, "members' embodied, axiomatic inclinations toward certain feelings and ways of emoting."⁴³ Through processes of conditioning and social interaction, humans co-create, enforce, and reinforce social structures. All social structures rely on human practices. The habitus is "acquired—and this has a relation to the social—but it is also embodied, inculcated at the level of nonconscious, bodily knowledge."⁴⁴

Monique Scheer's embodied emotions framework holds that emotions are a type of performance.⁴⁵ In that performance, people work out their feelings in relation to norms, social position, and the situation. Scheer argues that emotions are historically contingent "because the practices in which they are embodied, and bodies themselves, undergo transformation."⁴⁶ Unlike Gould, who also draws on emotionology in the history of Act-Up's fight against HIV/AIDS, Scheer notes important differences between emotionology and Bourdieu's analytic framework. According to Scheer, emotionology emerged out of cognitivist theories of emotion whereas Bourdieu's analytic tools elaborate on the connections between cognition, the body, and social structure. While emotionology and Bourdieusian frameworks differ, I see them as complimentary and useful working together, particularly when exploring the history of emotions in different fields.

In 2013, at the start of my doctoral program, I found my way to emotions history through Gould's work. I read *Moving Politics: Emotions and Act Up's Fight Against AIDS* while taking a *History of Sexuality* course. Gould's reliance on a Bourdieusian analytic framework intrigued me and I began reviewing Bourdieu's extensive work. During that time, and in the five years that followed, I worked as a teaching assistant in a course on the sociology of everyday life titled *Social*

⁴² Deborah Gould, *Moving Politics: Emotions and Act Up's Fight Against AIDS* (Chicago and London: The University of Chicago Press, 2009), 32.

⁴³ Gould, *Moving Politics*, 32.

⁴⁴ Gould, *Moving Politics*, 33.

⁴⁵ Monique Scheer, "Are Emotions a Kind of Practice (And is that what makes them have a History?): A Bourdieusian Approach to Understanding Emotion," *History and Theory* 51 (May 2012), 193-220.

⁴⁶ Scheer, "Are Emotions a Kind of Practice?", 220.

Interaction and Community. The course centres symbolic interactionism as an analytic framework for understanding human meaning-making and the constitution of self in community. Symbolic interactionists believe social interaction to be fundamental in the creation and maintenance of meaningful social worlds. Emotion and feeling rules are significant areas of research for interactionists who often use interviews and ethnography to learn how people experience and navigate emotion in their daily lives. While Bourdieu, an interdisciplinary sociologist who avoided strict adherence to identifying with a particular discipline, was not an interactionist, he was influenced by and has influenced symbolic interactionism.⁴⁷

4. Law and Emotions

The history of emotions intersects with the “law and emotions” area of scholarship. In general, the topic challenges legal positivist foundations and false binaries like reason/emotion. Emotions come up in law, law-making, and law enforcement in various ways. Renata Grossi notes that law and emotions scholarship holds different approaches.⁴⁸ For example, some scholars take up the topic to illuminate the relevance of emotion in law and to identify emotion in legal processes and actors. Others consider how law shapes the content of emotions and their expression. Meridee Bailey and Kimberley-Joy Knight encourage historians of law to explore the area by drawing from legal and extra-legal source material.⁴⁹ For those working in the area, Natalie Zemon-Davis’ work is foundational.⁵⁰ In *Fiction in the Archives*, Zemon-Davis explores the crafting of narratives in legal storytelling. One chapter considers “hot anger” in self-defence cases. In addition to unpacking the reason/emotion binary, such scholarship contributes to a deeper

⁴⁷ Elżbieta Hałas (2004), “Pierre Bourdieu’s Concept of the Politics of Symbolization and Symbolic Interactionism,” *Studies in Symbolic Interaction* 27, (2004): 235-257.

⁴⁸ Renata Grossi, “Understanding Law and Emotion.” *Emotion Review* 7.1 (2015): 55–60.

⁴⁹ Merridee L Bailey, and Kimberley-Joy Knight, “Writing Histories of Law and Emotion.” *Journal of Legal History* 38.2 (2017): 117–129.

⁵⁰ Natalie Zemon Davis, *Fiction in the Archives: Pardon Tales and Their Tellers in Sixteenth-Century France*, (Stanford, CA: Stanford University Press, 1987).

understanding of the workings of the law. It also offers insight into the emotional worlds of those who are working in, or who are otherwise caught up in, legal systems.

Some scholars engaged in law and emotions history are interested in the early affective underpinnings and contexts of law and its development. John Hudson explores the significance of the nature of legal records for the relationship between emotion and law by drawing from lawbooks and records of cases from the Angevin period.⁵¹ Through his analysis, Hudson pays attention to the use of emotionally charged language, the vocabulary of emotions in the sources, routinized use of language that holds different meaning in other contexts, and practices of emotional distancing in early common law. Kathryn Temple takes a different approach to an emotions history of common law by focusing on legal emotions in the influential text *Commentaries on the Laws of England* by William Blackstone.⁵² Temple considers the text's influence on cultivating feelings of loyalty to the British imperial legal system across the empire. More recently, Ali Daud historicizes the development of courtly emotions in early India.⁵³ Daud locates the birth of courtly emotions in the first centuries of the Common Era when there was an explosion of sources containing openly articulated emotions that were "deemed to constitute the relations between men of birth and standing who attended the lordly households of the era."

Law and emotions also come up as one topic among many in collections, such as in Roger Patulny et al.'s *Emotions in Late Modernity*.⁵⁴ Like Patulny et al., David Traven also considers contemporary contexts in *Law and Sentiment in International Politics*.⁵⁵ Traven turns to moral emotions and considers their influence on law's design. Barbara Rosenwein's *Generations of*

⁵¹ John Hudson, "Emotions in the Early Common Law (c. 1166-1215)," *Journal of Legal History* 38.2 (2017): 130–154.

⁵² Kathryn D. Temple, *Loving Justice: Legal Emotions in William Blackstone's England*, (New York: New York University Press, 2019).

⁵³ Daud Ali, "Towards a History of Courtly Emotions in Early Medieval India, c. 300-700 CE," *South Asian History and Culture* 12.2-3 (2021): 129–145.

⁵⁴ Roger Patulny, *Emotions in Late Modernity*. 1st ed. (Milton: Routledge, 2019).

⁵⁵ David Traven, *Law and Sentiment in International Politics: Ethics, Emotions, and the Evolution of the Laws of War* (Cambridge, United Kingdom; New York, NY: Cambridge University Press, 2021).

Feelings: A History of Emotions, 600-1700, is the first comprehensive history of emotions focused on pre- and early modern Western Europe. Rosenwein puts her “emotional communities” framework to use by focusing on groups in England and France, such as those in the ducal courts.⁵⁶

Scholarship on marriage and the family are important sites of law and emotions history. In *Courtship, Marriage and Marriage Breakdown: Approaches from the History of Emotion*, Katie Barclay, Jeffrey Meek, and Andrea Thomson highlight how marriage has been shaped by law and society as well as individual and collective choices, desires, and emotional values.⁵⁷ They also show that same-sex and non-traditional relationships have always influenced marriage as both a socio-legal institution and an emotional union. In another contribution to law and emotions history scholarship, Barclay’s case study of women on trial for murdering their husbands in early nineteenth-century Ireland explores what happens when emotion is ignored or underplayed in trial narratives to demonstrate power dynamics and legal cultures.⁵⁸ Barclay’s approach contrasts with Eric Reiter’s legal history of emotions in Quebec. Reiter, who explores moral injury cases, writes that “in many cases, moral injury was accepted because it was self-evident to judges who occupied a shared social or cultural field with the plaintiff that a given act would cause that plaintiff some kind of harm.”⁵⁹ In contrast, Barclay’s investigation of women in Ireland explores emotion’s erasure. While Reiter and Barclay are interested in how judges did or did not evaluate the evidentiary weight of emotions, this dissertation considers judges’ emotions along with everyone else’s.

5. Gendered-Racialization and the History of Emotions

⁵⁶ Barbara H. Rosenwein, *Generations of Feeling: A History of Emotions, 600–1700* (Cambridge University Press, 2015).

⁵⁷ Katie Barclay, Jeffrey Meek, and Andrea Thomson, *Courtship, Marriage and Marriage Breakdown: Approaches from the History of Emotion*, 1st ed. (Milton: Routledge, 2020).

⁵⁸ Katie Barclay, “Narrative, Law and Emotion: Husband Killers in Early Nineteenth-Century Ireland,” *Journal of Legal History* 38.2 (2017): 203–227.

⁵⁹ Reiter, *Wounded Feelings*, 9.

As Barclay writes, “Large categories, like gender, race, class and nationality, have often been significant dividing lines in emotional life, where different categories of people are assumed to emote differently, socialised to feel in ways appropriate to their status, and punished or rewarded accordingly.”⁶⁰ The boundaries of categories are relationally constructed, often through processes of differentiation. Bourdieu’s work on differentiation presents power’s circulation and coalescence in the context of modern nation states “as a result of structural differentiation fostering the emergence of a plurality of relatively autonomous fields, each governed by its own laws.”⁶¹ Ian Haney-López demonstrates how modern western states were created through whiteness in his analysis of American prerequisite cases.⁶² The category “white person” was relationally developed by differentiating the category, and its inhabitants, from non-whites.⁶³ “In this relational system,” Haney-López writes, “Whiteness exists not only as the opposite of non-Whiteness, but as the *superior* opposite [...] Whites fashion an identity for themselves that is the positive mirror image of the negative identity imposed on people of color.”⁶⁴ Similar processes have been named in the Canadian context.⁶⁵ My analysis of primary sources in this dissertation show how British imperial and Canadian whiteness was produced through gendered-racialized processes of differentiation at the local, municipal, provincial, federal, and imperial levels.

⁶⁰ Barclay, “State of the Field,” 460.

⁶¹ Francisco Villacorta Baños, “The Field of Fields. The State According to Pierre Bourdieu,” *Culture & History Digital Journal*, 6 no. 1 (June 2017), 2.

⁶² *White by Law: the Legal Construction of Race. Rev. and updated, 10th anniversary ed.* (New York, NY: New York University Press, 2006), 9.

⁶³ Constance Backhouse’s article “The White Women’s Labor Laws: Anti-Chinese Racism in Early Twentieth-Century Canada” (*Law and History Review* 14:2 [Fall 1996] 315-68) offers feminist legal historical analysis of how prairie whiteness was relationally developed at Chinese Canadian and working class white women’s expense in legal processes of differentiation in Saskatchewan and in the Supreme Court of Canada. I consider the affective dimensions of these processes in my chapter on the juridical field.

⁶⁴ Haney-López, *White by Law*, 13. Emphasis and capitalization original.

⁶⁵ For example, Constance Backhouse *Colour-Coded: A Legal History of Racism in Canada, 1900-1950* (Toronto: Published for the Osgoode Society for Canadian Legal History by University of Toronto Press, 1999).

Derek Hook conceptualizes whiteness in two ways.⁶⁶ The first is as a silent denominator of postimperial privilege. The second is as an affective formation. Drawing from Paul Gilroy's assertion that "our relation with our racial selves is [...] often easier to feel than to express" and Ahmed's model of affective economies—a model that "speculate[s] about a mode of affective constitution that plays its part in binding imagined subjects and communities to the questionable 'substances' of place, history and nation"—Hook argues that racism is an affective technology connected to hegemonic forms of whiteness and managed by liberal-democracies.⁶⁷ One of the primary tasks of liberal-democratic governments is to manage the affective forces of the nation. Such governments deploy constitutional language, regarding the "pursuit of happiness" or "peace, order, and good government," as evidence of the inherent goodness and worthwhileness of liberal-democratic aims. However, Gilroy, Hook, and Ahmed note that there is a psychological toll to embracing the positive affective attachments to western liberal-democratic states. Such attachments are often accompanied with the denial and repression of colonial realities, contexts, and histories. Feelings of ambivalence and defensive attitudes emerge in liberal-democratic citizens due to the contradictory nature of these attachments.

The "good life" the settler colonial nation-state promises is unevenly distributed to support the ascendance of whiteness. Cheryl Harris traces the origins of whiteness as property in the parallel systems of domination of Black and Native American Peoples in the United States, arguing that the laws construction of whiteness defined and affirmed critical aspects of identity (who is white); of privilege (what benefits accrue to that status); and of property (what legal entitlements arise from that status).⁶⁸ Verna St. Denis (Cree and Métis) explains that in the context of Canada, the racialization of Indigenous peoples occurred, in part, through the legislation of the

⁶⁶ Derek Hook, "Affecting Whiteness: Racism as Technology of Affect," *International Journal of Critical Psychology* (2005), 16, 74.

⁶⁷ Hook, "Affecting Whiteness," 75, 76.

⁶⁸ Cheryl Harris, "Whiteness as Property," *Harvard Law Review* 106.8 (1993): 1707–1791.

Indian Act which constructed the category “Indian” and delineated who belonged, who did not, how one would belong, and whether one could belong.⁶⁹

Racialization is, in part, a cognitive and emotional process that shapes one’s relationship to self and to others. In *Decolonizing Education: Nourishing the Learning Spirit*, Marie Battiste (Mi’kmaw) outlines the concept of cognitive imperialism, which is “when Indigenous knowledge is omitted or ignored [...] Cognitive imperialism is about white-washing the mind as a result of forced assimilation, English education, Eurocentric humanities and sciences, and living in a Eurocentric context complete with media, books, laws, and values.”⁷⁰ A cognitive imperialistic approach to education and knowledge production necessitates movements toward cognitive justice. In “Globalization and Higher Education: Working toward Cognitive Justice,” Diana Brydon defines cognitive justice as the “goals of reciprocal knowledge production based on dialogues across differences and attempts to compensate for power differentials in the interests of promoting social justice.”⁷¹

Laws shape reproductive choices and, therefore, the appearance of a population. They do so by excluding people with certain features and developing legal consequences that skew procreative choices. In the Canadian context, *The Final Report of the National Inquiry Into Missing and Murdered Indigenous Women and Girls* explains:

The 1876 Indian Act included the 1851 definition of ‘Indian’ that had become tied to a male bloodline, even though many Nations traced lineage through the mother, or through both bloodlines. Its definition of ‘Indian’ maintained that the Status of an Indian woman depended on the Status of her husband. So, if her husband was an Indian, she would maintain her Indian Status. If her husband was enfranchised (or was a Canadian subject),

⁶⁹ Verna St. Denis, “Aboriginal Education and Anti-Racist Education: Building Alliance Across Cultural and Racial Identity,” *Canadian Journal of Education* 30.4 (2007), 1068-1092.

⁷⁰ Saskatoon: Purich Publishing, 2013, 26.

⁷¹ Raphael Foshay (ed.) *Valences of Interdisciplinarity: Theory, Practices, Pedagogy* (Athabasca: Athabasca University Press, 2011), 10.

she, too, would become a Canadian subject. At the same time, if a non-Indigenous woman married a Status Indian man, she would acquire Indian Status. These laws ensured that encounters between First Nations women and 'Canadians' resulted in dramatically reducing the number of people for whom the government claimed responsibility.⁷²

Canada's *Indian Act* still distributes Status to First Nations women and her children through the "race" of her father and husband.

Laws like the *Indian Act* or Saskatchewan's "White Women's Labour Law," which barred Chinese businessmen from employing white women, supported the assumption that women's labour belonged to their husbands. Amy Dru Stanley writes in her book *From Bondage to Contract* that the "contract freedom" characteristic of liberal-democracy "assured men property not only in themselves but in their wives."⁷³ Georgina Binnie-Clark, a journalist and farmer in the Qu'appelle district of Saskatchewan, observed that her world was "governed by laws made by men for men."⁷⁴ Yet, as Kathryn McPherson writes in her exploration of dominant interpretive frameworks used to analyze Prairie women's lives, women who bought property or homesteaded did so on contested land. As "agents of whiteness and colonialism," white settler women "benefited from and participated in the assertion of Euro-Canadian beliefs about economic development, beliefs that stood in sharp contrast to First Nations' ones." Though Manitoba, Saskatchewan, and Alberta were the first to enfranchise *some* women, legal constructions of whiteness and the unequal distribution of resources in the region were not fundamentally challenged.

⁷² National Inquiry into Missing and Murdered Indigenous Women and Girls, *Reclaiming Power and Place: The Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls Volume 1a*, 250.

⁷³ Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation*, (New York: Cambridge University Press, 1998), 59.

⁷⁴ Kathryn McPherson, "Was the 'Frontier' Good for Women?: Historical Approaches to Women and Agricultural Settlement in the Prairie West, 1870-1925," *Atlantis* 25.1 (2000), 78.

Some white settler women, such as diarists published in Susan Jackel's compilation *A Flannel Shirt and Liberty: English Emigrant Gentlewomen in the Canadian West, 1880-1914*, wrote that they enjoyed the liberty they found in the west.⁷⁵ Homesteading and raising a family was arduous work. It was not uncommon for settler women to die while trying. They held onto the belief that "their self-sacrifice, patience and endurance, in the face of acknowledged hardships," would "be recognized at last as proof of moral superiority."⁷⁶ As idealized figures in a "masculinist enterprise," their primary roles were to "guide and sustain life, and to care for the race."⁷⁷ "Cast as civilizers," writes Catherine Cavanaugh, "Anglo-Canadian women in particular were assigned the privileges that were assumed to accrue to their race, but race privilege rested on sex differences and was hedged around the dominant notions of ideal femininity."⁷⁸ As McPherson notes, dominant interpretive frameworks about women in the west emphasize regionally-specific feminist politics.⁷⁹ As I found in my archival research, such feminist politics, like that of agrarian feminists and public health activists Zoa Haight and Violet McNaughton, held "eugenic marriage" as a model for the region and characterized white women's use of birth control as "race suicide."⁸⁰

Sex workers fell outside of idealized models of femininity and "negated the law of marriage, which restricted exchanging sex for subsistence to husband and wife and entitled men to women's bodies."⁸¹ Though they negated the law of marriage, the presence of sex workers in the north-west was largely tolerated as one of myriad types of non-monogamous sex in the region. Toleration was unevenly and racially distributed, however. Primary sources, such as Canada's 1885 *Report of the Royal Commission on Chinese Immigration*, show the racializing process of

⁷⁵ Vancouver: University of British Columbia Press, 1982.

⁷⁶ Susan Wood, "God's Doormats: Women in Canadian Prairie Fiction," *Journal of Popular Culture* 14.2 (1980): 352.

⁷⁷ *In Times Like These* (Toronto: McLeon and Allen, 1915), pp. 191-193.

⁷⁸ Catherine A. Cavanaugh, "'No Place for A Woman': Engendering Western Canadian Settlement." *The Western historical quarterly* 28, no. 4 (1997): 493-518.

⁷⁹ McPherson, "Was the 'Frontier' Good for Women?", 79.

⁸⁰ Provincial Archives of Saskatchewan, Haight Papers A5 File 2, Women's Grain Growers Association Correspondence (Letters) V. McNaughton 1913-1917, "To Mrs. Haight from Mrs. McNaughton, 13 March 1916;" and A5 File 7, Speeches (drafts) n.d.

⁸¹ Dru Stanley, *From Bondage to Contract*, 218.

differentiation that affirmed white sex workers as preferred over Chinese sex workers. According to the authors of the report, Chinese sex workers were less moral and carried more virulent sexually transmitted infections in comparison to white sex workers.⁸² The contemporary late-nineteenth-century report on Chinese immigration and the investigation of white men's trafficking of Indigenous women and girls characterized Chinese and Indigenous women as prostitutes and as morally and racially inferior to white women.

6. A Layered Method

The foundations supporting this dissertation and the methods it draws from were fostered over a sixteen-year period, beginning with my post-secondary education in an interdisciplinary and research-focused program. Immediately after I received a Bachelor of Arts with high honours, I began a master's program in History. I completed my Social Science and Humanities Research Council-funded Master's thesis "*We Have Never Allowed Such A Thing Here...": Social Responses to Saskatchewan's Sex Trade, 1880-1920*" in 2013. Drawing from government and police records, moral reform and public health documents, and media sources such as newspapers, and applying intersectional analysis of gender, race, class, and ethnicity, I investigated histories and social responses to the buying and selling of sex in Saskatchewan. The thesis won the 2013-2014 University of Saskatchewan Graduate Thesis Award in Humanities and Fine Arts in recognition of outstanding research achievement.

In the process of my previous research, I contacted and visited archives, libraries, and museums across Saskatchewan in Prince Albert, Moose Jaw, Saskatoon, and Regina. During eight months of research, I found that there were certain groups and institutions that were concerned with the sex trade in Saskatchewan's early history. Sources such as government and police records, like the attorneys general files, public health, and RCMP records, moral reform

⁸² Canada. Royal Commission on Chinese Immigration. *Report of the Royal Commission on Chinese Immigration: Report and Evidence* (Ottawa: Printed by order of the Commission, 1885). Retrieved from <https://www.canadiana.ca/view/oocihm.14563>

documents, and local newspapers showed how Saskatchewan's communities and institutions responded to the sex trade and how they perceived it in relation to and independently of themselves. I learned that while responses differed from one geographic location to the next, they were also part of broader territorial, provincial, national, and transnational movements and discourses.

The Saskatchewan-focused expertise I cultivated during the process of completing my graduate program supported my doctoral dissertation research. Established relationships with Saskatchewan-based archives, libraries, and museums continued to support and shape my work, though I aimed to expand my expertise through a broader exploration of territorial, provincial, national, and transnational histories and contexts. I began my doctoral program in 2013 and, from September 2013 to May 2015, I completed the required coursework for my doctoral program, focusing on history, advanced theory, and research methods. In the spring of 2015, I won a Joseph Armand-Bombardier Canada Graduate Scholarship in support of this dissertation project. Following the completion of coursework, I began my comprehensive readings, with a general focus on cultural studies, advanced theory, and transnational studies and a specific focus on history and the subfields of legal history, gender history, and histories of colonialism and imperialism. I completed my comprehensive exams in July 2016.

Drawing from prior knowledge, the expertise cultivated through coursework and comprehensive exams, the successful Canada Graduate Scholarship proposal, and literature reviews of recent scholarship, I developed a dissertation proposal to investigate the affective basis of judgments and narratives surrounding sexual commerce in western Canada in the late nineteenth and early twentieth centuries. Initially, I proposed a focus on narratives of trafficking as well as histories of people involved in sexual commerce. This proposal was shaped significantly by my participation in the Critical Trafficking and Sex Work Studies research cluster of York University's Centre for Feminist Research. In my proposal, which was approved by my program and committee in May 2017, I suggested archival research and methods of affective

analysis, reflexivity, discourse analysis, and intersectional analysis of primary sources to historicize fears of trafficking and their relationship to Canada's westward expansion.

While reviewing relevant secondary sources, I made note of oft-cited primary sources in the literature, such as the 1887 Privy Council report on the alleged trafficking of Indigenous women and girls by white men in the north-west, the Winnipeg Vice Commission that led to the *Robson Report*, and the case of *Quong Wing vs. The King*. I also made note of less-cited sources that could offer some insight into the lives of those with experience in sexual commerce. Few sources from the perspective of late nineteenth century and early twentieth century sex workers exist in institutional archives, like Library and Archives Canada, and those that do are mediated by the rules and processes of the fields that produced them, like the journalistic field or the juridical field. While noting primary sources in the literature, I also made note of historiographical trends and considered what assumptions appeared to animate these trends.

I had been conducting archival research throughout the years of my doctoral program. However, from 2017-2019 archival research was the focus of my dissertation work. Through consultations with my dissertation supervisor, librarians, and archivists I developed a primary source list and organized research trips for sources I had to consult in the archives. For sources I was able to access via interlibrary loan, such as newspapers on microfilm, I conducted research at York University's Scott Library. I also had the benefit of accessing some digitized sources online, such as House of Commons Debates, early North-West Mounted Police (NWMP) personnel records, and cases on the Canadian Legal Information Institute site.

While reviewing the sources I collected it became evident that my initial aim to focus on trafficking would not work. It was unnecessarily limiting. Sources on trafficking invoked a wide range of views on sexual commerce—a finding that is reflected in the narrative analysis featured in this dissertation. I shifted gears to consider sexual commerce in a broad sense and found that my new approach aligned well with queer, feminist, and political economic theory.

In 2018 I began writing to flesh out a methodology that would support my aim to analyse primary sources. Much of the methodological rationale I developed through this process is laid out in this and previous chapters. Sharing this early writing with my supervisor helped us both to grapple with different approaches to emotions research and the history of emotions. We agreed that the Bordieusian concept of habitus would serve the project, though applying the concept would be highly intensive and time consuming as Bourdieu instructs researchers to map out the “totality of objective relations” across fields of power. This mapping is necessary in a Bordieusian methodology because the habitus of a missionary, the habitus of a judge, the habitus of a police constable, and the habitus of an appellant or plaintiff and their legal counsel all differ. Therefore, to conduct this research, I considered each actors’ subjectivity investigating their biographies, service records and criminal records (when available) and paid close attention to actors who appeared in more than one source. It was consistently easiest to locate information about judges, Crown attorneys, police magistrates, and police and it was consistently difficult to locate information about appellants, plaintiffs, and defence attorneys.⁸³ As Bourdieu argues, attorneys tend to have similar social positions as their clients; this is especially evident in the defence attorneys for those involved in sexual commerce and the difficulties in locating information about them. While judges have been memorialized as integral parts of provincial and federal history, sex workers’ defence attorneys have not.

Though information on the most marginal actors was limited, I was able to see how habitus shaped histories of and responses to sexual commerce as well as alignments and ruptures on the topic across fields in social space. I used Excel to organize the biographical data of the actors found in the primary sources and created discrete Sheets for each field, such as expeditioners, fur traders, main players in The Family Compact, missionaries, clergy, police, judges, politicians, government men, Indigenous leaders, journalists, and sex workers. I could not include all of the

⁸³ The exception to this difficulty is Quong Wing, appellant in *Quong Wing vs. The King*. Quong Wing’s history and experience have been memorialized in academic research and public history.

biographical information I compiled because it would make the dissertation significantly longer and distract from the primary focus of emotions, judgments, and narratives. The biographical information I have included is strategically placed throughout, such as the footnote on judges' background in chapter six or my discussion of Reverend Constantine Scollen's biography below.

In addition to considering each actors' subjectivity, in 2019 I began writing linear historical narratives centred on Indigenous-settler relations to map contexts and developments during my period of study and to trace change over time. It was during this stage of writing that I began to question my plan to organize chapters based on particular emotions. Rather than getting a clear sense of the affects circulating around sexual commerce, I found that the affective texture of Canadian settler colonialism and colonial worldmaking animated the sources. Questions of women's place in an ideal society dominated, though women's voices were almost never included. My supervisor and I strategized about next steps. Knowing that the linear narratives I developed offered a broad and established historical view, she advised me to take a deeper dive into specific cases.

I selected case studies for deeper analysis. The below examples are three of several case studies I developed. These three cases are well-documented by the federal government in the late nineteenth and early twentieth centuries. In the case of Reverend Father Constantine Scollen, I learned that Scollen's own life experiences as an Irish Catholic and survivor of the Great Famine shaped his behaviour and approach before and during the Department of Indian Affairs' starvation policy. Scollen's mother had died of starvation during the Great Famine. As a result, he understood the impacts of starvation and British imperial policy. He could see an uprising forming due to the tandem starvation policy and the sexual exploitation of Indigenous women. He hoped that treaties would prevent the worst outcomes as long as the Dominion stayed true to its word. The 1885 uprising came despite his efforts. And the same month Louis Riel was sentenced by Judge Hugh Richardson to hang for treason, a disillusioned Scollen resigned from the Oblates.

Readers will find Scollen's and Indigenous leaders' contributions to narratives of sexual exploitation in chapter four.

The 1889 case of *R. v. Ford* is an example of post-1885 relating and sexual commerce. I was first introduced to the case by Shelley Gavigan's *Hunger, Horses, and Government Men: Criminal Law on the Aboriginal Plains, 1870-1905* in which Gavigan demonstrates how Plains First Nations participated within the colonial legal systems and used and resisted colonial laws. Constable James Ford of the NWMP purchased his discharge 5 November 1889 following a reckoning over his treatment of a O-cha-nah-kis (Piapot First Nation) and her family. Ford joined the NWMP the spring of 1885 while the force aimed to suppress the North-West Indigenous Resistance Uprisings, though his only qualification for the job was working in a horse stable back home in Ireland. He was among those in the force who paid for sex. Ford is mostly silent in the records detailing his case, but the sworn statements of O-cha-nah-kis and her husband Que-qua-ah, which detail Ford's behaviour, illuminate the fear and duress Indigenous families endured while trying to survive in a settler colonial economy. O-cha-nah-kis' and Que-qua-ah's statements show that they did not passively accommodate colonial law but used it to advocate for themselves even as they were targets of criminalization. Readers will find the case and analysis of O-cha-nah-kis' and Que-qua-ah's sworn statements in chapter four.

Finally, I examined the early twentieth century complaints of Medicine Hat's Church of England Reverend W. Nicolls. Nicolls was among those who framed men as victims of sex workers' presence and influence—a characteristic of the narrative of the typical prostitute. Nicolls became fixated on Frankie Jarvis' brothel on the outskirts of Medicine Hat because a Black man named Geo Phillips resided there. Searches for biographical information yielded little about Nicolls. However, in correspondence between NWMP Superintendent R. B. Deane, who resisted Nicolls efforts to shutdown Jarvis' brothel, and NWMP Commissioner A. B. Perry, Deane writes that Nicolls had a connection through marriage to a Crown prosecutor named "Mr. Mitchell." It may be that this connection influenced the outcome of Nicolls' complaints as the Deputy Minister

of Justice E. L. Newcombe became involved—a rarity in Canadian histories of sexual commerce. Readers will find Nicolls featured in chapter five.

Though these case studies include two reverends, their contributions to responses to sexual commerce significantly differed. Scollen, who was concerned with the treatment of Indigenous peoples in the north-west following Canada's westward expansion, partnered with Indigenous leaders who wished to advocate for themselves. According to the co-authored open letter published in the *Edmonton Bulletin*, Scollen and its Indigenous signatories—all men—perceived Indigenous women's labour in sexual commerce as sexual exploitation due to the context of the DIA's starvation policy. In comparison, Nicolls held deeply negative view of sex workers and carried no concern about their wellbeing. In his view, the plight of those involved in sexual commerce deserved no consideration and he encouraged varying levels of the justice system to enforce the law and affirm the ascendance of whiteness in the region.

The case studies also included multiple members of the newly formed mounted police force. The mounted police often frequented brothels. Constable Ford's short career ended shortly after he and two of his colleagues terrorized O-cha-nah-kis and her family. In comparison, Superintendent R. B. Deane had a long career, first in the Royal Marines and then the mounted police. W. M. Baker writes that Deane was "an imperial officer" who "held the values of the Anglo-Canadian elite."⁸⁴ Beyond his resistance to Reverend Nicolls' efforts in Medicine Hat, Deane has a record of advocating for sex workers. As S. W. Horall notes in "The (Royal) North-West Mounted Police and Prostitution on the Canadian Prairies," Deane went to bat for Lethbridge's sex workers too after a Presbyterian minister wrote to NWMP Commissioner Herchmer asking him to remove twenty-six sex workers from the town. Deane curtly responded that the town's clergy would do

⁸⁴ "Deane, Richard Burton," in *Dictionary of Canadian Biography*, vol. 15, University of Toronto/Université Laval, 2003–, accessed September 30, 2020, http://www.biographi.ca/en/bio/deane_richard_burton_15E.html.

better to pay more attention to the juvenile depravity among their own congregation. The "professional ladies," said Deane, are "orderly, clean, and on the whole not bad looking."⁸⁵

The above case studies demonstrate difference within fields. Each social actor brings their personal histories, views, and experiences to a situation. Through developing the above case studies, I once again recognized the necessity of Bourdieu's instructions to map the totality of relations. With the development of broad linear historical narratives and by taking a deeper dive through case studies, I was ready to conduct affective analysis of primary sources. Using the example of chapter six, which is focused on the juridical field, I will explain the process of conducting affective analysis. To conduct an affective reading of judges' decisions in the selected cases, I became familiar with the cases through a close reading, noting the judges and attorneys involved as well as the appellants, plaintiffs, defendants, witnesses, and police. Based on the information in the decisions, I mapped the various levels of colonial justice systems that were relevant to the decision, such as police who made initial arrests and charges and local magistrates who made verdicts that were later appealed in superior courts. I noted the vocabulary of emotions in the sources, instances of emotionally charged language, routinized use of language, and areas in the sources when language is used for emotional distancing. Then I categorized affects into defined emotions.

Upon locating the emergent affective categories, I researched their Anglo-Canadian definitions via Canadian dictionaries, Fitzhenry and Whiteside's *Canadian Thesaurus*, and considered them in relation to affective categories discussed in secondary sources and emerging from primary sources. Then I read the cases together in chronological order, noting the affective details while keeping each source authors' perspective in mind. For example, I noted whether a judge was expressing an emotion he experienced or projecting an emotion onto someone else. I then divided affects based on their location as expressions or contextual and created a web of

⁸⁵ Gregory P. Marchildon (Ed) *History of the Prairie West Series: Immigration and Settlement, 1870-1939* (Regina: CPRC Press, 2009), 138.

related affective expressions and projections by grouping and colour-coding related emotions such as fear, horror and anxiety, or pity, sympathy, and compassion. With these systems I was able to colour code expressed and contextual affects and visualize each decisions' emotional journey from start to finish. This method was useful as it gave me a chance to see the structure of affect in individual decisions as well as affects across time.

When my committee began weighing in on my initial drafts in 2020, they made important observations about my sources and use of footnotes. Practitioners of a Bordieusian method need to consider the practices of each field. However, as my committee noted, the sources in this dissertation are Anglo-centric, though the vast region under study contained many different languages and multi-ethnic communities. The history of emotions privileges textual sources and encourages a focus on one language unless conducting comparative studies. In the context of this dissertation, the primary sources purvey and universalize white, male, Anglo-European, Christian views as a method of colonial worldmaking. As my committee advised, the Anglo-whiteness that dominated in the primary sources would require careful treatment to avoid continuing a legacy of universalizing whiteness. Further, while observing my excessive use of footnotes during the early stages of writing, my committee noted that it had a marginalizing effect and that much of the footnoted histories were Indigenous peoples' histories. The footnotes were part of the process of mapping out the "totality of objective relations" across fields of power, but they had an unintended effect. To address the limitations and drawbacks of this method, I took a critical approach to whiteness and integrated histories that demonstrate how whiteness is a racial technology for Canadian settler colonialism.

Finally, I believe I would be remiss to not mention other factors that influenced this dissertation. The work of this dissertation occurred simultaneously while I worked as a teaching assistant in almost one hundred courses at an average of nine courses a year. It also occurred during two CUPE 3903 strikes against York University, one of which was the longest strike in the post secondary education sector in Canadian history. My archival research was impacted by the

closure of the Provincial Archives of Saskatchewan's Saskatoon archive and reading room. I was the last researcher to leave on the last day the location was open, which was fortuitous as the sources would not be available for eight months following the archive's closure. In addition to the teaching work, the strikes, and the archival research, in 2019 I received a graduate assistant placement to lead a transnational feminist project partnership among the Conjugal Slavery in War partnership of the Harriet Tubman Institute and York University Library's Digital Scholarship Centre. My work leading the project connected me with transnational feminist digital methods practitioners. Together with my co-conspirators, we organized events, a conference, and we developed communities of practice and a formal Feminist Digital research cluster hosted by the Centre for Feminist Research. The work of this dissertation was disrupted by moves—one from my first Toronto apartment on Jameson Avenue in Little Tibet, Parkdale to a basement suite in the Roncesvalles neighbourhood and another to St. Catharines in the Niagara peninsula after the pandemic struck. These experiences, and many I do not name here, shaped this dissertation and the pace with which it was completed.

Chapter Four

“Principals in the nefarious traffic”:

Late Nineteenth Century Narratives and Emotions in the Journalistic Field

On 1 February 1883 the *Edmonton Bulletin* published a co-authored open letter to Prime Minister John A. Macdonald. It was written by Reverend Father Constantine Scollen and nine Indigenous headmen of Treaty 6 territory. Of the myriad grievances and broken treaty obligations named in the letter, the authors noted that “our young women are reduced by starvation to become prostitutes to the white man for a living” due to white men’s increased economic monopoly in the territory and the Dominion’s Department of Indian Affairs’ (DIA) starvation policy. The following year, Anglican missionary H. T. Bourne alerted readers of the *Evangelical Churchman* that his fourteen-year-old student had been purchased by a man in her community. Bourne imagined she would be “blighted under a life of abject slavery” as a result. “More than likely” the girl would be “re-sold as a bad bargain to some godless white man.”¹ Bourne’s colleague Samuel Trivett also claimed that he had witnessed young Indigenous women “become the wives of several white men in succession,” which he termed “prostitution.”²

During the 1885 Indigenous resistance uprising, Canadian militiamen drew from the colonial view that Indigenous marriage enslaved women as a motive to rescue white women held as captives by Big Bear’s band in treaty six.³ As Canadian newspapers grappled with what led to the uprising, missionaries reported that white men’s behaviour had been a major influence. Trivett wrote that he had witnessed Indigenous girls “sold to white men for from \$10 to \$20!”⁴ Toronto’s *Globe* commented that “white men and Government officials are principals in the nefarious traffic[.]”⁵ While Charles Edward Dudley Wood’s *Macleod Gazette* rebuffed such claims arguing that, “Many of these women were prostitutes before they went to live with the white men.”⁶ Now that “the civilizing influence of white women was felt” in the region, the necessity of intermarriage

¹ *Evangelical Churchman*, 22 May 1884

² *Globe*, 1 February 1886.

³ Daoust, Charles r. *Cent-vingt jours de service actif: Récit de la campagne de 1885 du 65^{ème} au Nord-ouest, 1886*. Reprint, St-Lambert, QC: Éditions numerus, 2006 as translated and quoted in Kostash, Myrna, ed. *The Frog Lake Reader*.

⁴ *Globe*, 1 February 1886.

⁵ *The Globe*, 1 February 1886.

⁶ *Macleod Gazette*, 16 March 1886.

among white men and Indigenous women would decrease, Wood advised. The DIA confronted claims that white men trafficked Indigenous women and girls by warning it could reinvigorate “rebellious” sentiments in Indigenous communities and put white women at risk to, once again, be “dragged into horrible captivity.”⁷

The Anglo-Canadian journalistic field of the late nineteenth century held significant power as a site of colonial worldmaking. Powerful as it was, it purveyed limited, imperially influenced perspectives and narratives, while differentiating between Indigenous and non-Indigenous people. As discussed in the previous chapter, processes of differentiation are relational and affectively rife. This chapter demonstrates how three narratives, and their associated emotions, circulated from the journalistic field to the political field and back again. This chapter attends to late nineteenth century Anglo-Canadian journalistic narratives about sexual commerce, Indigenous women and girls, as well as representations of Indigenous and non-Indigenous men as violent predators. Such narratives held elements of “melodrama’s most popular form, class exploitation—that terrible secret.”⁸

In the late nineteenth century, the Anglo-Canadian press conveyed three primary narratives—those of the typical prostitute, sexual exploitation, and sexual danger. As Judith Walkowitz writes, melodramatic class exploitation narratives, which represented an “erotic triangle of upper-class male villain, passive plebian hero or grieving father, and passive, victimized heroine,” was in vogue in the imperial press.⁹ Such narratives were mobilized in the colonies to extend imperial ways of relating. These narratives served to differentiate Euro-Canadians from Indigenous peoples and to support white ascendance under settler colonialism. An analysis of emotions in newspapers and missionary publications shows the interplay between emotions and narratives.

⁷ *The Facts Respecting Indian Administration in the North-West*, p. 4.

⁸ *City of Dreadful Delight*, 86.

⁹ Walkowitz, *City of Dreadful Delight*, 87.

When stories about white men trafficking Indigenous women and girls persisted in prominent Canadian newspapers, politicians, judges, and the Privy Council weighed in. While some believed the DIA was at fault and that the 1885 North-West resistance was in part a response to the DIA's treatment of Indigenous women and girls, the Privy Council blamed Indigenous peoples and affirmed Prime Minister John A. Macdonald's assertion that "that the evil complained of results from the habits and customs of the Indians themselves [...]"¹⁰ Turning to the 1889 Supreme Court of the North-West Territories case of *R. v. Ford* which contains the statements of O-cha-nah-kis, and her husband, Que-qua-ah, of Piapot First Nation, a potential counternarrative emerges.

To demonstrate and distinguish narratives of the typical prostitute, narratives of sexual exploitation, and narratives of sexual danger, I draw from Canadian newspapers, missionary publications, a House of Commons debate, government reports, and Canadian historiography. In an affective reading of primary sources, I locate themes of suffering and slavery, shock and horror, shame and disgust, and fear and anxiety. These sources begin in the late 1870s but are concentrated during the 1880s and span the period leading to, and following, the 1885 Resistance Uprising and the 1886 Trafficking Panic. During this period, Anglo-Canadian journalistic representations of Indigenous women and girls shifted to reflect Canadian interests. Paternalistic narratives that represented Indigenous women and girls as in need of rescue from their communities gave way to narratives that represented Indigenous women and girls as threats to white-settler communities. As Sarah Carter notes, British imperial discursive and representational practices established in places like India and Jamaica were similarly mobilized in the north-west following the 1885 Indigenous uprisings.¹¹

¹⁰ Certified copy of a report of a committee of the Honourable the Privy Council approved by His Excellency the Governor General in Council on the 31 October 1887, file 32345, vol. 3762, RG 10, Library and Archives Canada (LAC),

¹¹ Sarah Carter, *Capturing Women: The Manipulation of Cultural Imagery in Canada's Prairie West* (Montreal, PQ and Kingston, ON: McGill-Queen's University Press, 1997), 73.

I conclude this chapter with the 1889 *R. v. Ford* case to demonstrate a possible counter-narrative not found in the journalistic field. The statements of O-cha-nah-kis and Que-qua-ah are mediated through colonial law and the practices of the Juridical field, though their statements are unique as they are made by a Cree woman and man with experiences in sexual commerce. While engaging with colonial law to advocate for themselves, O-cha-nah-kis and Que-qua-ah defy and engage the primary narratives about Indigenous families and sexual commerce while forcing colonial institutions to acknowledge their role.

1. Imperial Connections: Newspapers, W. T. Stead, and the *Pall Mall Gazette*

Any national journalistic field holds differences and variety in topics, narrative styles, and graphic formats. Yet, each newspaper purveys a universal, common-sense view that assumes a shared perspective. In the history of Canada's westward expansion, newspapers performed multiple functions. Central Canadian newspapers, such as reformer George Brown's *Globe* and the tory-aligned *Mail*, shaped public and political discourses about westward expansion. Newspapers established in the north-west, such as Frank Oliver's *Edmonton Bulletin*, Nicholas Flood Davin's *Regina Leader*, and Charles Edward Dudley Wood's *Macleod Gazette*, marked a stage of settlement held as a sign of civilization. In the context of the nineteenth century, scandal-driven and sensationalistic news coverage thrived in the imperial press. The coverage created an image of social problems for public consumption and blurred the boundaries between information and entertainment.

W.T. Stead's "Maiden Tribute of Modern Babylon" series was published in the *Pall Mall Gazette* 6 to 10 July 1885. The highly popular investigative series, which included Stead's purchase of a young white girl from her mother, was met with widespread fascination, horror, and outrage, which was Stead's intention as he aimed to "rouse the nation" by purifying "the heart with the emotion of pity and horror."¹² When Canadian journalists engaged with claims that white men

¹² Stead quoted in Walkowitz, *City of Dreadful Delight* (Chicago: University of Chicago Press, 1992), 84.

were trafficking Indigenous women and girls in the north-west, they immediately drew links to Stead's "Maiden Tribute." For example, while reporting on a missionary's claim that teenaged Blackfoot girls in the north-west were "sold to white men for from \$10 to \$20!," the *Globe* suggested that its readers review "the worst part of the Stead revelations, and let him then understand that reliable men and Christian missionaries declare that similar things are going forward among the Indians of our North-west, and that white men and Government officials are principals in the nefarious traffic, not in order to oblige others, but to suit themselves!"¹³ The *Macleod Gazette* responded to accounts of trafficking in its region by accusing the local missionaries of "seeking the glory of a Stead or a Pall Mall Gazette."¹⁴

According to Judith Walkowitz, Stead was among the British writers who attempted to "transform what appeared to be a chaotic, haphazard environment" among the poor and working classes into an ordered narrative of class exploitation.¹⁵ During this period, the poor of London were perceived "as a race apart, outside the national community."¹⁶ Stead's work, which Walkowitz situates within literary melodrama, urban exploration, and travel writing, appealed to early feminists and moral crusaders who agitated for a shared standard of monogamous heterosexuality. They perceived "undifferentiated male lust" as a serious moral issue that "ultimately led to prostitution and homosexuality."¹⁷ British Parliament responded to Stead's series and the social agitation it inspired by passing new legislation that raised the age of consent for girls from thirteen to sixteen and criminalized "gross indecency," including sodomy. The legislation gave police more power to prosecute streetwalkers and brothel-keepers. After it passed, an estimated 250,000 demonstrators convened in Hyde Park to demand the enforcement of the new legislation. Mary Jean Corbet writes that, "taken together, these events aimed to articulate a single

¹³ *The Globe*, 1 February 1886.

¹⁴ *Macleod Gazette*, 16 March 1886.

¹⁵ Walkowitz, *City of Dreadful Delight*, 18.

¹⁶ Walkowitz, *City of Dreadful Delight*, 19.

¹⁷ Walkowitz, *City of Dreadful Delight*, 125.

standard for heterosexual conduct and to repudiate sodomy as an unnatural practice that would no longer be tacitly tolerated within the (homosocial) public sphere.”¹⁸ A large and concerned public fixed its sight on politicians and aristocrats with increasing scrutiny and newspapers profited.

Public fixation on British aristocrats could be found in the north-west’s newspapers. The *Manitoba Sun* reported “The English aristocracy is having a hard time of it just now.”¹⁹ Following several public and high-profile divorce cases, the *Sun* likened “the ordinary life of the London noble” to “the occupation of the inhabitants of Sodom and Gomorrah in their worst days.” The newspaper appealed “to strengthen the democratic ideas with which the English masses are largely pervaded, and to lead sooner or later to the abolition of the hereditary aristocracy.” In Canada during this period, missionaries made claims of trafficking and expressed concerns over the presence of sex workers in the north-west. When a Liberal Member of Parliament, Malcolm Cameron (West Huron) questioned who was responsible for trafficking and prostitution, scrutiny of Canadian government men, police, and politicians increased. At the behest of Lawrence Vankoughnet, the deputy superintendent general of Indian Affairs, Justice George Wheelock Burbidge submitted a report on the “subject of the sale in the Territories of Indian girls to white men” on 5 October 1886 and the Governor General in Council approved the Privy Council’s report on “the alleged sale of Indian girls to white men in the Canadian North West.”²⁰ Drawing from and shaping established narratives about sexual commerce, the above social actors tapped into the capitals circulating in the Dominion’s social space.

2. Narratives of the Typical Prostitute, of Sexual Exploitation, and of Sexual Danger

¹⁸ “On Crawford v. Crawford and Dilke, 1886,” *BRANCH: Britain, Representation and Nineteenth-Century History*, Ed. Dino Franco Felluga. Extension of *Romanticism and Victorianism on the Net*. Retrieved from https://branchcollective.org/?ps_articles=mary-jean-corbett-on-crawford-v-crawford-and-dilke-1886 18 February 2022.

¹⁹ *Manitoba Sun*, 7 December 1886.

²⁰ Letter, George Burbidge to L. Vankoughnet, 5 October 1886, file 32345, vol. 3762, RG 10, LAC; *Privy Council Report*, 31 October 1887..

One of the aims of this dissertation is to investigate the affective basis of narratives surrounding sexual commerce. In this section, I will draw from late nineteenth century sources and historiography to demonstrate and distinguish three main narratives about sexual commerce in the north-west. These narratives are not mutually exclusive; that is, they can be mobilized at the same time. They are at home in melodrama and in the nineteenth century, when white missionaries, explorers, and journalists, developed social texts to bring order to what appeared chaotic and haphazard. Narratives about the plight of the fallen woman were increasingly popular during this period. Below I show how the narratives were mobilized to produce difference and support white ascendance under settler colonialism. The narratives typify, racialize, and order women in social space.

2.1 Narratives of the Typical Prostitute

Narratives of the typical prostitute distinguish sex working women from other women by presenting prostitutes as unsupervised, family-less nomads, migrants, and strangers who may behave boldly in public space. They may appear in the latest high fashions, or they may be poorly dressed and impoverished. British doctor and urban researcher William Acton contributed to this typification of prostitutes and identified them as “fair creatures, neither chaperons nor chaperoned[.]”²¹ And women “whom nobody knows[.]” They could be “painted, dressy women flaunting along the streets and boldly accosting the passerby” or “miserable creatures, ill-fed, ill-clothed, uncared for [...] covering under dark arches and among bye-lanes[.]” Acton differentiated prostitutes from “our wives and daughters,” writing that they “elbow our wives and daughters in the parks and promenades and rendez-vous fashion[.]” Acton’s description of prostitutes ostensibly acknowledged their close proximity to men’s women kin in space.

Narratives of the typical prostitute have an ordering effect and often represent the sex-working woman as responsible for men’s downfall and the destruction of domestic happiness. As

²¹ *Prostitution* (1870. Fryer ed) (New York, 1966), p. 24.

discussed in the introductory chapter, Erika Koenig-Sheridan demonstrates the worldmaking utility of the narrative in her investigation of the 1863 Red River case of Reverend Griffith Owen Corbett.²² As Koenig-Sheridan writes, Red River's *Nor-Wester* newspaper transformed Maria Thomas, Corbett's employee, from a "mixed-blood daughter of Red River into a typical Victorian prostitute who traded sexual favours for money and dress, articulated inappropriate sexual knowledge, and gadded about it in public, destroying the domestic happiness of respectable families and the reputations of respectable neighbourhoods."²³ *The Nor-Wester* represented the Reverend's British wife as ideal, reflecting white women's ascendance as the model of womanhood in the region.

Narratives of the typical prostitute can be found in the *Regina Leader's* reporting in the spring and summer of 1883. The *Leader's* founder and editor, Nicholas Flood Davin, had a public feud with Regina's sex workers. He complained about their public presence, writing that "women of bad character are parading our streets and scandalizing this city."²⁴ The *Leader* reported that sex workers were jubilant when Davin was arrested for drinking whisky on a train. One sex worker reportedly shouted "We have downed Davin at last!" while another "rode [a horse] triumphantly up and down Broad street."²⁵ Over six hundred kilometres from Regina, but still considered a competitor, Charles Edward Dudley Wood's *Macleod Gazette* rebuffed claims that white men in the region trafficked Indigenous women and girls into prostitution. "Many of these women were prostitutes before they went to live with the white men," the *Gazette* claimed.²⁶ The newspaper also asserted that now that "the civilizing influence of white women was felt" in the region, white men's relationships with Indigenous women would decrease.

²² Koenig-Sheridan, "'Gentlemen, This is no Ordinary Trial': Sexual Narratives in the Trial of the Reverend Griffith Owen Corbett, Red River, 1863" in Jennifer Brown and Elizabeth Vibert's (eds) *Reading Beyond Words: Context for Native History, 2nd Edition* (Toronto: University of Toronto Press, 2003), 367.

²³ Koenig-Sheridan, "'Gentlemen, This is no Ordinary Trial,'" 368.

²⁴ *Regina Leader*, 17 May 1883.

²⁵ *Regina Leader*, 23 August 1883.

²⁶ *Macleod Gazette*, 16 March 1886.

2.2 Narratives of Sexual Exploitation

Narratives of Sexual Exploitation situate sexual commerce within a broader economic context, such as when Indigenous leaders of seven Bands in Treaty 6 territory collaborated with Father Constantine Scollen to write an open letter to Prime Minister John A. Macdonald.²⁷ The letter, published in an 1883 issue of the *Edmonton Bulletin*, detailed the conditions Indigenous peoples faced as they tried to share space with the white man, who “made the conditions both for himself and for us.”²⁸ Whites treated them as “children, unable to judge for ourselves[.]” While Indigenous peoples were expected “to respect all property belonging to white man. If any of our tribes pushed by hunger, kill an animal belonging to a white man, they are taken and punished according to law.” Yet white men broke treaty “with impunity.” As a result of white men’s increased economic monopoly, “our young women are reduced by starvation to become prostitutes to the white man for a living, a thing unheard of before amongst ourselves and always punishable by Indian law.” Given the treatment they received, they asserted that “the treaty is a farce enacted to kill us quietly.”

The letter made explicit, from the perspectives of its signatories, Canada’s necropolitical agenda. It also denaturalized foundational assumptions about the gendered-racialized order of the Canadian economy. Its disruptive power instigated an investigation of the Catholic Reverend Scollen who, according to correspondence from Indian Commissioner and Lieutenant-Governor Edgar Dewdney to Prime Minister Macdonald, “appears to have been interfering in Indian Matters[sic] most unwisely.”²⁹ Father Scollen wrote to Superintendent General Dewdney on 17 March 1884, stating that he wanted to clear up any “misunderstanding” and “show to your entire

²⁷ In the letter, the signatories names appear as: “Chief Bobtail, Chief Samson, Chief Ermineskin, Chief Woodpecker, Maminonatan, Agowastin, Siwiyawiges, Iron Head, and William.”

²⁸ *Edmonton Bulletin*, 1 February 1883.

²⁹ Library and Archives Canada (LAC), RG10, reel C-10118, vol. 3673, file 10986, “Dewdney to Macdonald,” 2 April 1883, Northwest Territories – Charges Against Reverend Father Constantine Scollen. 1883-1884.

satisfaction that I'm not the kind of man which circumstances may have led you to believe."³⁰ He warned that it was ignorant of the administration to believe that Indigenous peoples were "afraid of the police. No honorable Sir, there were not Police enough in the whole North West to daunt them." As the *Frog Lake Reader*, edited by Myrna Kostash, informs, concerns regarding white men's sexual exploitation of Indigenous women are part of the context for the killings at Frog Lake during the 1885 Resistance Uprising.³¹

Paternalistic gendered power relations were reified by socio-legal responses to narratives of sexual exploitation in this period. Such narratives purveyed the view that sexual exploitation of women was a crime against their male kin. This may explain how the DIA took up reported complaints by Indigenous men about Indigenous women's mobility in the north-west. According to the DIA, "The Chiefs of several Bands made representations in regard to the matter [of Indigenous women's presence near settler towns and villages 'for the worst purposes'], and stated that they were unable to prevent their women from frequenting these places unless local authorities would assist in breaking up their establishments."³² Similar claims were made by DIA officials about Indigenous men's appeals in British Columbia.³³ It is difficult to be certain that the claims in the sources are accurate. But, as Emma LaRocque warns, it is important to resist the assumption that sexist gendered relations are entirely products of colonialism.³⁴ The DIA's claims about Indigenous men's concerns mobilized paternalistic state power to control Indigenous women's movement on their homelands.

2.3 Narratives of Sexual Danger

³⁰ LAC, RG10, "Scollen to Dewdney, 17 March 1884," Northwest Territories – Charges Against Reverend Father Constantine Scollen. 1883-1884.

³¹ *The Frog Lake Reader* (Edmonton, Alberta: NeWest Press, 2009), 27.

³² LAC, RG10, File 698, Indian Affairs "Vankoughnet to Macdonald, Re Camping of Indians in view of Towns and Villages in the North West," 15 November 1883. The text in brackets is drawn from a prior sentence in Vankoughnet's letter.

³³ LAC, RG10 Vol 3816, Reel C-10193 Indian Affairs, "Moffatt to Pidcock," 28 March 1889.

³⁴ Emma LaRocque, "Métis and Feminist: Ethical Reflections on Feminism, Human Rights, and Decolonization" in ed Joyce Green, *Making Space for Indigenous Feminism* (Winnipeg : Fernwood , 2007), 65.

Narratives of sexual danger do not focus on a broader context. Generally, such narratives affirm men's authority and their monopoly on space. The narratives function as cautionary tales. According to Walkowitz, narratives of sexual danger, like those purveyed in W. T. Stead's "Maiden Tribute of Modern Babylon" and in the case of Jack the Ripper, served as a warning to women and girls that they were not safe.³⁵ Below, I draw from two examples to demonstrate this narrative in the north-west. The first is written by missionary H. T. Bourne and published in the *Evangelical Churchman*. The second is "Calgary's Jack the Ripper case," in which William Fisk is found guilty of manslaughter after he murdered a Cree woman identified only by the name Rosalie.

In the 22 May 1884 issue of the *Evangelical Churchman*, H. T. Bourne, an Anglican missionary working on the Káínawa Reserve in Treaty 7 territory, wrote a story about a fourteen-year-old girl. This story centres Bourne's perspective rather than the girl's perspective. According to Bourne, the girl was close to his family. He had baptized her the summer before and she "seemed always to be happy and contented with us." His wife called him home when the girl was found, "in a very agitated state," hiding behind a curtain in their sitting room. The man claiming to be her husband explained he had "paid seven loads of wood for her" as he attempted to coax her out of her hiding spot. She refused to go with him. After threatening violence, the man sent in two of his other wives, one of whom was the girl's aunt, and they took the girl away. Bourne called it the "dark side" of missionary life. He imagined that the girl would be "rudely torn up" or "blighted under a life of abject slavery." And "more than likely" the girl would be "re-sold as a bad bargain to some godless white man."

Bourne centred his work and concerns, writing: "how does it affect the missionary, as viewed in connection with the Great Master's work? The Great Master knows if a single grain of good seed was sown in that poor child's heart." He presented himself as a concerned patriarch who believed the girl would have been better off with his family, particularly in his home. The

³⁵ *City of Dreadful Delight*, 3.

broader context of what he claimed to witness is missing from his tale. Although it is clear from his report of conditions on the reserve that they were overwhelmed by illness, death, and starvation, Bourne does not situate the girl's experience within that context. Instead, he focused on the "old established customs" of the "worse than heathen savages"—that is, Indigenous marriage practices.

The second example was termed "Calgary's Jack the Ripper case."³⁶ William Fisk was among the 5,400 men who marched west from central Canada to fight in 1885. He did not return home to Ontario. In February 1889, Fisk killed a Cree woman identified only by the name Rosalie. According to Fisk and the bartender at Calgary's Turf Club, Rosalie was a prostitute. She and Fisk arrived together having already agreed on terms. They borrowed the bartender's room at the Turf Club. That is where Fisk killed her. In my review of newspaper coverage of the case, Rosalie's familial and community connections are not evident while Fisk's are discussed at length and represented as one reason he should have a lenient sentence.

As Walkowitz writes, Jack the Ripper "established a common vocabulary and iconography for the forms of male violence that permeated the whole society, obscuring the different material conditions that provoked sexual antagonism in different classes."³⁷ Popular media portrayed the brutal murders of prostitutes in east London as "the wages of sin" as well as a warning that no woman was safe in public. The Ripper's victims were "economically desperate women, who violated their 'womanhood'" for a bit of money and shelter.³⁸ The victims "became unsympathetic objects of pity" who elicited "feelings of fear and loathing" in readers. Walkowitz notes that "this

³⁶ James Gray, *Talk to My Lawyer!: Great Stories of Southern Alberta's Bar & Bench* (Edmonton: Hurtiq, 1987), 6. For more on the case of William Fisk and what happened to Rosalie see Donald Smith, 'Bloody Murder Almost Becomes Miscarriage of Justice,' *Herald Sunday Magazine*, 23 July 1989, p.13 and Sarah Carter, "Categories and Terrains of Exclusion: Constructing the 'Indian Woman' in the Early Settlement Era in Western Canada" in Mary-Ellen Kelm and Lorna Townsend ed. *In the Days of Our Grandmothers: A Reader in Aboriginal Women's History in Canada* (Toronto: University of Toronto Press, 2006), 146-169.

³⁷ *City of Dreadful Delight*, 220.

³⁸ *City of Dreadful Delight*, 201

paradoxical response to the 'great social evil' was not unique; it was embedded in the literature of prostitution" including Stead's "Maiden Tribute of Modern Babylon."

Popular late nineteenth century media shaped the Jack the Ripper story to elicit sympathy for the mass murderer. One theory held that the Ripper was avenging himself for catching "specific contagion" from a prostitute.³⁹ Canadians in defensive positions regarding white men's treatment of Indigenous women characterized Indigenous women as sources of disease, including sexually transmitted infections. For example, in the House of Commons MP Mr. Ferguson (Leeds, Conservative) claimed that "the disease of that character [...] is an incident of the human family in semi-civilised communities" and Justice Burbidge warned that "unclean" and "diseased" Indigenous women were a "danger[.]"⁴⁰ Walkowitz asserts that this theory of "avengement" coincided with the "fears of racial degeneration" that occupied the minds of "the dominant classes of society" in the late nineteenth century.⁴¹ That explanation applies to Calgary's "Jack the Ripper case" as well.

Another theory for the east London murders held that the murderer had a split "Jekyll and Hyde" personality that allowed him to exist in respectable society. This theory also applies to Calgary's "Jack the Ripper case." William Fisk was well-liked in Calgary and back home in Ontario. His community asserted that they "had known him as a harmless boy and a good dispositioned young man[.]"⁴² They imagined that Rosalie brought violence upon herself and that she brought out a side of Fisk no one had witnessed.

Fisk's trial proved difficult as men eligible to act as jury members found his behaviour to be excusable. Even the Crown prosecutor J.R. Costigan expressed regret that he had to hold Fisk accountable.⁴³ Fisk was found "not guilty" by his first jury in April 1889, though Justice Charles

³⁹ Walkowitz, *City of Dreadful Delight*, 210.

⁴⁰ *Debates of the House of Commons*, 15 April 1886, Charles Frederick Ferguson, 739; Letter, George Burbidge to L. Vankoughnet, 5 October 1886, file 32345, vol. 3762, RG 10, LAC.

⁴¹ *City of Dreadful Delight*, 211.

⁴² *Calgary Herald*, 24 July 1889.

⁴³ James Gray, *Talk to My Lawyer!*.

Rouleau of the Supreme Court of the Northwest Territories dismissed the verdict and ordered another trial. In July 1889 the second jury found Fisk guilty of manslaughter. Justice Rouleau had “made up his mind” to sentence Fisk to life in prison, but Calgarians and Ontarians had so vigorously defended Fisk that Rouleau was influenced to sentence him to fourteen years at hard labour instead.⁴⁴

Calgary’s Jack the Ripper case reflects a shared understanding of sexual danger from the British metropole to the north-west. The case also shows how settlers perceived Indigenous women as the same “type” or “class” of women as prostitutes. This understanding of sexual danger and the view that Indigenous women were like the prostitutes of London shaped responses to Rosalie’s murder. The narrative of sexual danger and Calgary’s “Jack the Ripper case” held necropolitical utility in settler colonial worldmaking as white settlers imagined Indigenous peoples as a dying race. It was also used to affirm segregation between Indigenous and non-Indigenous communities as, according to the *Calgary Herald*, the lesson of Rosalie’s murder was to “keep the Indians out of town.”⁴⁵

3. Affective Analysis

3.1 Suffering and Slavery

Slavery was part of Euro-Canadian and Indigenous socio-economic structure in the fur trade era, though practices of slavery in Euro-Canadian communities and Indigenous communities differed. In early Toronto, newspaper printers acted as middlemen in slave transactions, making its early printing press offices function as “slave depots.”⁴⁶ Of New France, Karlee Sapoznik writes that “the ritual exchange of gifts, including slaves, produced and

⁴⁴ *Calgary Herald*, 24 July 1889.

⁴⁵ *Calgary Herald*, 8 March 1889

⁴⁶ Myseum, “Brought in Bondage: Black Enslavement in Upper Canada,” myseumoftoronto.com, 23 February 2022, <http://www.myseumoftoronto.com/programming/Black-enslavement-in-upper-canada/#location2>.

maintained community solidarity[.]”⁴⁷ Indigenous peoples as well as non-Indigenous Euro-Canadians traded captives as slaves, such as the Dene “stolen woman” Thanadelthur.⁴⁸ Slaves had a wide range of experiences and views on slavery, and its bounds, differed. For example, James M. Parker writes that Euro-Canadian fur traders extended the ethical boundaries of a Chipewyan marriage practice, “wrestling for the prize of a woman,” into “slave traffic in women[.]”⁴⁹ In 1800, the Chipewyan asked the fur traders to stop the corrupted version of their marriage practice.

The 1836 abolition of slavery across the British empire distinguished Britain from the United States. The abolition of slavery across the empire followed the Baptist War, when an estimated 60,000 enslaved Black workers in Jamaica mobilized for wages and against the British slave economy. The Baptist War, which is also known as the Christmas Uprising and the Great Jamaican Slave Revolt, is credited for accelerating slavery abolition in the empire. Though the abolition of slavery was hard-won, it is often memorialized in the commonwealth as an example of British benevolence and exceptionalism. In the minds of some Canadians, it distinguished them from First Nations. As missionary Bourne’s tale of the teenaged girl demonstrates, the characterization of Indigenous women and girls as unsafe in their communities and as victims of slavery justified his missionary work.

Sources in the journalistic field of the late nineteenth century represent Indigenous women and girls as people who can be purchased. This representation can be found in narratives of sexual danger that represent Indigenous men and families as traffickers. The power of this representation and its influence on the political field can be demonstrated in the 15 April 1886

⁴⁷ “Where the Historiography Falls Short: La Vérendrye through the Lens of Gender, Race and Slavery in Early French Canada, 1731-1749,” *Manitoba History* 62 (2009), 23.

⁴⁸ Patricia A. McCormack, “The Many Faces of Thanadelthur: Documents, Stories, and Images” in *Reading Beyond Words: Contexts for Native History, 2nd ed.*, eds. Jennifer S. H. Brown and Elizabeth Vibert, (Peterborough: Broadview, 2003).

⁴⁹ *Proceedings of the Fort Chipewyan and Fort Vermillion bicentennial conference*, by Patricia A. McCormack, R. G. Ironside, Boreal Institute for Northern Studies, (1990), 80.

House of Commons debate when MP Sir Hector Langevin (Trois-Rivières, Conservative) drew from the *Battleford Herald* of Treaty 6 territory to suggest “the story about the traffic in girls arose from the fact that according to Indian ideas marriage is simply a bargain and sale, and that the parents of a young woman are always on the alert to find a buyer for her.”⁵⁰ As Sarah Carter demonstrates, this view was based on the mischaracterization of the gift-exchange which was an established marriage practice that had long been considered legal.⁵¹ The mischaracterization of the practice aligned with the church’s increasing authority over state sanctioned and managed heterosexual, monogamous, lifelong Christian marriage. “Anyone can buy a wife for a number of horses or robes,” claimed a North-West Mounted Police (NWMP) Commissioner Macleod working among the Blackfoot Confederacy.⁵² A *Mail* correspondent claimed that Piegan girls of the Blackfoot Confederacy were “sold like so many cattle to suitors,” or to “those able to pay the price asked for them[.]”⁵³

Anglican missionaries Bourne and Samuel Trivette repeatedly claimed that teenaged Indigenous girls were trafficked. While Bourne wrote that the teenaged girl was purchased with “seven loads of wood,” his colleague Trivett claimed that teenaged Indigenous girls were “sold to white men for from \$10 to \$20!”⁵⁴ Bourne added that the local Indian Agent told him that such situations were a “frequent occurrence.” Although “contact with European traders, missionaries, and settlers led to or intensified the subordination of women” and the enforcement of “patriarchal norms,” the missionaries presented Indigenous marriage practices as the main problem.⁵⁵ Bourne told his Evangelical audience that “slavery” was part of Indigenous marriage. The Toronto *Mail* reported that Piegan wives did “all the menial work,” including “cut and bring in the wood, carry

⁵⁰ *Debates of the House of Commons*, 15 April 1886, p. 731.

⁵¹ *The Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: University of Alberta Press, 2008)

⁵² *Globe*, 1 June 1877.

⁵³ 23 January 1886.

⁵⁴ *Globe*, 1 February 1886.

⁵⁵ Where the Historiography Falls Short, 28.

the rations, and generally make themselves useful.”⁵⁶ The *Mail's* comments demonstrate how Euro-Canadian men were uncomfortable with Indigenous women’s work as it appeared to overlap with Euro-Canadian men’s domain.⁵⁷

The view that Indigenous marriage enslaved women functioned as a mobilizing force in Canada’s response to the 1885 Indigenous resistance uprising. Frank Oliver, editor of the *Edmonton Bulletin*, acknowledged that:

There is no question that the knowledge that Big Bear was holding in captivity the young girls of the McLean family had a great deal to do with inspiring the enthusiasm which caused the formation of the scout and rifle corps at Calgary, as well as the 91st and 92nd infantry battalions in Winnipeg. No doubt many a young fellow who joined the forces had in his mind when he took the oath the prospect of being one to rescue these unfortunates from cruel hands, with perhaps a further eye to the rest of such enterprises as set forth in the novels.⁵⁸

Sergeant Charles Daoust of the 65th Battalion claimed that while examining the remains of Fort Pitt on 26 May 1885, the soldiers imagined horrifying fates for each of the white women and girls caught up in the conflict.⁵⁹ Of the McLean sisters, the men imagined that “they were given as brides to two of the band’s second-in-command. Bride, slave – what’s the difference?” They viewed Indigenous marriage as synonymous with slavery and imagined themselves as rescuers who would end the women’s suffering.

⁵⁶ 23 January 1886.

⁵⁷ Where the Historiography Falls Short, 28.

⁵⁸ *Edmonton Bulletin*, 18 July 1885.

⁵⁹ Daoust, Charles r. *Cent-vingt jours de service actif: Récit de la campagne de 1885 du 65^{ème} au Nord-ouest, 1886*. Reprint, St-Lambert, QC: Éditions numerus, 2006 as translated and quoted in Kostash, Myrna, ed. *The Frog Lake Reader*. Edmonton, Alberta: NeWest Press, 2009, 86-87. This was not the only view, however. In *Clearing in the West*, Nellie McClung notes that her mother held the belief that the captives would not be hurt by the Cree. “Women are safer with Indians than they would be with some white men,” McClung’s mother argued. See Nellie McClung. *Clearing in the West: My Own Story*. (Toronto; Thomas Allen, 1964), 184.

Representations of Indigenous marriage in the late nineteenth century journalistic field are increasingly negative. In an 1877 source, the practice of consent in Indigenous marriage is discussed alongside the so-called “purchase” aspect of the marriage process.⁶⁰ NWMP Commissioner Macleod characterized Blackfoot marriage as a “bargain” *and* as requiring parent’s consent and “the girl’s consent” before she would go to live “with her purchaser.” According to Macleod, “A great many white traders have taken wives in this way, and no instance has been known in which these women have been ill-treated by their husbands.” He observed that Indigenous wives married to white men were better off than those married to Indigenous men in multiple ways: firstly, they were not “ill-treated” and, secondly, “they are pretty sure to become well off and comfortable.” Macleod surmised that the latter was of particular importance in Indigenous parents’ decision-making and approval of their daughters’ marriages to white men.

If it is true that white men were considered ideal husbands in 1877, that view appears to have changed. In 1882, the DIA reported that Blackfoot Chief Crowfoot wanted to end intermarriage between white men and Blackfoot women.⁶¹ Crowfoot sought a private meeting with Inspector Thomas Page Wadsworth to discuss a sexual relationship between a Blackfoot woman and a Farm Instructor as well as Crowfoot’s desire to end intermarriage. Following an investigation, Inspector Wadsworth found that farm instructor Johnny Norrish had significantly increased food rations for the family of a woman he was “sleeping with.” Wadsworth reported that Chief Crowfoot was concerned that “it would make his young men angry” if white men had such relationships with Indigenous women and that white men would “interfere with [Blackfoot men’s] wives.” Crowfoot “did not want this thing on his Reserve as so many white men were now coming into the country some others would do it.” Like other Indigenous men in leadership during the

⁶⁰ *Globe*, 1 June 1877.

⁶¹ LAC, Department of Indian Affairs, RG 10, Volume 3609, File 3334, “Agent Denny, 1882.” See letter from Inspector T. P. Wadsworth to Indian Commissioner Edgar Dewdney, 24 July 1882.

period, Crowfoot purveyed a narrative of sexual exploitation and differed from narratives of sexual danger.

The sources represent Indigenous women and girls as suffering due to the way Indigenous men treated them. For example, NWMP Commissioner Macleod claimed that his police work involved ending the “time-honored custom” of wife beating among the “wild tribes” of Treaty 7.⁶² Macleod suggested that the Indigenous men he worked with “dislike[d]” the police “interfer[ence]” as it “prevent[ed] them from getting as much work out of their women as they used to under the old order of things.” Of the Piegan, the *Mail* correspondent claimed that “the poor daughters” were neglected and forced to take care of themselves “at a tender age”.⁶³ During the height of the 1886 Trafficking Panic, Anglican missionary Trivett warned that colonial law and white men’s trafficking of Indigenous girls intersected to create a major humanitarian crisis in Treaty 7 territory.⁶⁴ According to Trivett, the children of such unions were “running about the reserves wearing rags!” While their mothers, after being discarded by white men, often “become the wives of several white men in succession,” or what Trivett also terms “prostitution,” “others have been thrown upon the mercy of the camp.” After they were abandoned, Trivett notes, “they are not recognized as government wards, and in some cases are unprovided for.” Trivett’s stories fit within narratives of sexual exploitation, and they accounted for the impacts of the *Indian Act*.

Another Member of Parliament, Mr. Cameron (Middlesex), affirmed that the mounted police “furnished evidence that the Indians were suffering and starving, as a result of the policy of the Department” in the early 1880s. In response, Conservative Member of Parliament O’Brien asserted that government work on reserve was a delicate balance because Indigenous peoples have to “feel the pangs of hunger or they will not work[.]” Distributing rations required a measured approach, O’Brien surmised, as Indigenous workers had to be kept “exactly in a state in which he

⁶² *Globe*, 1 June 1877.

⁶³ 23 January 1886.

⁶⁴ *Globe*, 1 February 1886.

is driven from sheer necessity to exert himself.” The Conservative government held that Indigenous peoples on reserve required managing and conveyed the notion that Indigenous men were lazy—even their leaders. After Cameron quoted Chief Poundmaker’s statement that, “It is impossible to work on an empty stomach,” the DIA replied: “As to Poundmaker’s objection to work on an empty stomach, he always had a strong disinclination to work upon a full one.” The Department asserted that that “to complain is a chronic feature” of Indigenous peoples’ nature and, therefore, their complaints “must always be taken *cum grano salis*.”⁶⁵

3.2 Shock and Horror

When confronted with claims of trafficking in the north-west, newspaper editors expressed shock and horror. They questioned who was to blame and, like Stead of the *Pall Mall Gazette*, they set their sight on men in power. Following Trivett’s account of trafficking in Treaty 7 territory, the *Globe* asked its readers to “think of a Christian missionary at this time of day, with all the horrors of the Stead revelations still so recent, gravely counselling that the traffic in Indian girls for the worst purposes has been going on among Canadian officials.”⁶⁶ Pointing to the behaviour of “Canadian officials,” the *Globe* extended Stead’s narrative of sexual danger to include sexual exploitation. Upon reviewing reports from the north-west regarding the trafficking of Indigenous women and girls, Liberal MP Cameron stated in the House of Commons that the evidence “in my judgment [is] simply startling.”⁶⁷ Cameron also judged that his colleagues felt “surprise” and “astonishment” at the “charges” he made against the sitting government.⁶⁸ As Walkowitz notes, Stead’s “Maiden Tribute” drew from “melodrama’s most popular form, class exploitation—that terrible secret[.]”⁶⁹ Popular British class exploitation narratives were “represented in the erotic

⁶⁵ *The Facts Respecting Indian Administration*, p. 7.

⁶⁶ *Globe*, 1 February 1886.

⁶⁷ *Debates of the House of Commons*, 15 April 1886, Malcolm Cameron, p. 719.

⁶⁸ *Debates of the House of Commons*, 15 April 1886, Malcolm Cameron, p. 721.

⁶⁹ *City of Dreadful Delight*, 86.

triangle of upper-class male villain, passive plebian hero or grieving father, and passive, victimized heroine.”⁷⁰ Such narratives centred a patriarchal view.

While the *Globe* held that, “the facts are too shocking and too well established to be any longer either ignored or denied,” the *Macleod Gazette* denied Trivett’s claims stating that “immorality as he pictures it, does not exist at all in this country.”⁷¹ The newspaper claimed that Trivett’s misstatements would encourage readers to imagine:

the auctioneer introducing the various victims, dwelling upon their merits and extolling the article he offered for sale for the most grossly immoral purposes. We can imagine their horror struck faces as they listened in fancy to the going, going, - third and last time – are you all done? -gone! Another pure minded Indian maiden sacrificed on the altar of human depravity.

The *Gazette* drew from popular imagery of a slave auction to craft a joke with the underlying message that what occurred in Treaty 7 was not so horrible in comparison.

Both the *Globe* and the *Regina Leader* took issue with *Gazette*. In fact, the *Globe* held that the *Gazette*’s response compounded the initial horror due to the *Gazette*’s “nonchalance” over the “state of things.”⁷² “While the *Gazette* asserts that things are not quite as bad as Mr. Trivett’s statement would lead the people of the older Provinces to suppose, it describes a state of things that is very horrible indeed[,]” the *Globe* concluded. The Toronto-based paper eyed the “cowboy organ” with disapproval.

3.3 Outrage and Disgust

Actors in the journalistic field used newspapers to express and project feelings of outrage and disgust toward Canadian police and government officials. In the 17 May 1883 issue of the *Regina Leader*, in an editorial titled “WHERE ARE THE POLICE! [sic],” Nicholas Flood Davin

⁷⁰ Walkowitz, *City of Dreadful Delight*, 87.

⁷¹ *Globe*, 1 February 1886; *Macleod Gazette*, 16 March 1886.

⁷² *Globe*, 29 March 1886.

claimed that Regina's "protectors of the peace, it seems, are breakers of the peace – the red coat of the mounted policeman is seen flashing in and out from these dens at all hours. As no arrests have been made the character of these visits may easily be surmised." Later, on 26 July 1883, Davin demanded that "such misconduct" among the police "must cease." During the 1886 Trafficking Panic, George Brown wrote that "the truth about the Indians of our North-west, and the treatment they have received at the hands of Canadian officials, is being brought out surely, if slowly, in all its offensive hideousness and reality."⁷³ Brown and Davin, who were powerful in their own domain, pointed fingers at police and government officials. "It is a burning shame to us... what would be thought of us in England, or in any other Christian country[?]" *Moose Jaw News* asked its readers in its 13 June 1884 issue.

While some directed outrage and disgust toward police and officials, others were outraged and disgusted by the missionaries' claims and the characterization of white men as traffickers. For example, Charles Edward Dudley Wood expressed outrage that missionaries spread "broadcast throughout the Dominion statements that would brand the men of this country as being little better than beasts."⁷⁴ Such missionaries had failed in their duty to maintain "Christian feelings," Wood argued. Their accounts "arouse[d] ill feeling and resentment, feelings which can by no means be classed as 'Christian.'" Wood held that missionaries accounts of white men's trafficking did not acknowledge the difficulties and "outrages" white men experienced in the region. It was "hard to keep the young [Indigenous] men from committing illegal acts and depredations on the settlers and ranchmen, and these outrages will be undoubtedly resented by the latter." A further outrage, according to Wood, was the taxation of "the people of Canada [...] to feed these armed, idle mobs" of Indigenous peoples.

3.4 Fear and Anxiety

⁷³ *Globe*, 1 February 1886.

⁷⁴ *Macleod Gazette*, 16 March 1886.

In his 1877 newspaper report about policing in the north-west, published in the *Globe*, NWMP Commissioner Macleod articulated the goals of Canadian law in his telling of a Blackfoot man's recent incarceration. According to Macleod, when the man "returned to his people he conveyed to them such a wholesome dread of Canadian law that not only has he now become a well behaved member of such society as exists in the Blackfeet country, but has induced many others formerly as bad as himself to follow his example."⁷⁵ However, others suggested that Indigenous peoples did not fear the police but dreaded Canadian policy itself. As discussed above, Father Constantine Scollen warned the DIA that it was ignorant of the administration to believe that Indigenous men in Treaty 6 were "afraid of the police" when "they would certainly sooner have chosen to die at the muzzle of a rifle than by starvation[.]"⁷⁶

Key players in the Dominion government expressed anxiety about relationships with Indigenous peoples in the north-west and the potential resistance Indigenous communities could mount. For example, Prime Minister Macdonald told the HBC governor in 1871 that "I am very anxious, indeed, that we should be able to deal with the Indians upon satisfactory terms."⁷⁷ "They are the great difficulty in these newly civilized countries," Macdonald wrote.

Members of the colonial government remained anxious about potential Indigenous uprisings. Their anxiety shaped their approach to claims that Indigenous women and girls were sexually exploited by white men. This anxiety influenced the DIA's response to Father Scollen—an Irish Catholic and a survivor of the great famine. A DIA agent in Treaty No. 6 territory alerted Superintendent General Dewdney that Father Scollen should be arrested after helping Indigenous leaders pen the open letter, published in the 1 February 1883 issue of the *Edmonton Bulletin*. The letter mobilized a narrative of sexual exploitation as it represented Indigenous women as selling

⁷⁵ *Globe*, 1 June 1877.

⁷⁶ LAC, RG10 "Scollen to Dewdney, 17 March 1884," Northwest Territories – Charges Against Reverend Father Constantine Scollen. 1883-1884.

⁷⁷ Quoted in A.J. Ray, *The Canadian Fur Trade in the Industrial Age*, (Toronto: University of Toronto Press, 1990) p. 4.

sex due to starvation brought about by the DIA's policies. The agent also sent a letter to Scollen's superior, Bishop Grandin, threatening Scollen's arrest. "Some steps must be taken to stop the man from plotting against the government offices in their duty, or trouble will rise to follow with the Indians, as they are so prone to follow evil advice," the agent warned.⁷⁸ The agent claimed that Scollen encouraged Indigenous leaders to take up arms to force the DIA to feed them better.

Following the 1885 uprising, the *Macleod Gazette* articulated anxiety over the possibility that another uprising could happen. It claimed that "constant vigilance and watchfulness are the price of safety in any Indian country."⁷⁹ Such "vigilance" was necessary in the *Gazette's* view as Indigenous peoples "are treacherous, and may be quiet today and raise the mischief tomorrow." The *Gazette* reminded its readers that the DIA "persisted in saying, up to the moment rebellion broke out, that everything was perfectly satisfactory. It is not so very improbable that the same thing might happen again." The DIA mobilized similar fears in its *Facts Respecting Indian Administration in the North-West*.⁸⁰ It accused Liberal MP Cameron of attempting to "inflamm" Indigenous peoples "against the Government and against the white settlers" after Cameron questioned the government's treatment of Indigenous peoples.⁸¹ "The government reminded Canadians, "We have ourselves seen the homes of pioneers in flames, settlers murdered, women dragged into horrible captivity and even priests massacred while in the act of administering the last consolations of religion to other victims."⁸² The federal government warned that inciting Indigenous peoples against the government put white women in the north-west at risk of being "dragged into horrible captivity."⁸³ Such warnings cultivated fear of Indigenous men and presented them as predators of white women. If Cameron was a "patriotic man" he would be careful "in

⁷⁸ LAC, RG10, "Anderson to Dewdney" February 1883.

⁷⁹ *Macleod Gazette*, 2 February 1886.

⁸⁰ Ottawa: Department of Indian Affairs. Available online at: <https://www.canadiana.ca/view/oocihm.54700/2?r=0&s=1>

⁸¹ *The Facts Respecting Indian Administration in the North-West*, p. 4.

⁸² *The Facts Respecting Indian Administration in the North-West*, p. 4.

⁸³ *The Facts Respecting Indian Administration in the North-West*, p. 4.

approaching a subject so dangerous as the Indian question” and would pursue the topic only if “the good resulting from discussion would outweigh the danger of precipitating an Indian rising.”⁸⁴

Regardless of political affiliation, many agreed things were tense. In the House of Commons, Cameron quoted Thomas Wesley Jackson (Qu’Appelle) of the North-West Council. Jackson likened the situation in the north-west to a “seething volcano ready to burst forth at any moment.”⁸⁵ Cameron echoed Jackson’s statement, asserting that “the result [of Dominion policy] is that to-day I solemnly believe, from the testimony that comes from the North-West, that this Dominion is standing on the brink of a volcano, which may burst forth at any moment.”⁸⁶ The *Gazette* characterized Indigenous peoples as “a large, armed and idle mob” who were “difficult to keep under control.” The presence of the mounted police provided the *Gazette* some comfort because they could “cut off food supply” to reserves if needed. Such a view on essential resources affirmed the policy of using food to control Indigenous peoples in the north-west.

4. O-cha-nah-kis and Que-qua-ah

The above examples that demonstrate fear, anxiety, and the “dread of the law” are from sources centring the perspectives of white men involved in the work of settler colonialism in the north-west. While the press and government incited fear of the potential sexual violation of white women and represented Indigenous men as violent predators, they appear to have neglected *R. v Ford* as searches yielded no results. The following example, the *R. v Ford* case, is an archival story drawn from statements in the Supreme Court of the North-West Territories to demonstrate a counter-narrative, not evident in the journalistic reportage, that centres the perspectives of O-cha-nah-kis and her husband Que-qua-ah, both of Piapot First Nation, as they engaged with colonial law to self-advocate.⁸⁷ On 11 October 1889, with the assistance of translator William

⁸⁴ *The Facts Respecting Indian Administration in the North-West*, p. 69.

⁸⁵ *Debates of the House of Commons*, 15 April 1886, Malcolm Cameron, p. 720 & p. 721.

⁸⁶ *Debates of the House of Commons*, 15 April 1886, Malcolm Cameron, p. 721.

⁸⁷ Provincial Archives of Saskatchewan, Supreme Court of the North-West Territories (Crim.) 29 A.D. 1889; *R. v Ford*; 1889, Collection Number 1286, File 11.

McNab, O-cha-nah-kis, who is noted in the records as disabled, and Que-qua-ah made sworn statements to NWMP Inspecting Superintendent John Cotton, who was also Regina's Justice of the Peace. According to their statement, a man came to their tent near the railway track in Regina where they had been selling blankets. They told him to go away but he was persistent. He had been "calling for a woman." The man started to barter with O-cha-nah-kis on a price for sex. After they agreed on a price, the two went to a private place that was still in the camp. After sex, the man accused O-cha-nah-kis of stealing his money.

"I didn't know what he was after," she recalled. She called for Que-qua-ah, who quickly came to her aid. Que-qua-ah told the stranger to leave. "You got what you wanted already," Que-qua-ah added. When the man left, they went to bed. Hours later three mounted police came to the camp asking for a woman. "At first," O-cha-nah-kis said, "I did not get up. They were kicking the tent." They opened the door, uninvited, and came in while she was still in bed. The man who accused O-cha-nah-kis of stealing was one of the three Mounties—a twenty-six-year-old Irishman named James Ford. Assuming he had returned with reinforcements to retrieve the money he had just paid her, O-cha-nah-kis directed Que-qua-ah to give the police the money. But the police demanded decuple the amount Ford paid and brought out handcuffs as a show of force. Their display instigated a "dread of the law" in O-cha-nah-kis. "I was so frightened that I cried," she reported. She begged Que-qua-ah to give the police all the money they demanded. The family, including O-cha-na-kis' sister who was also Que-qua-ah's wife, pooled their resources to give the police a sum that would make them go away.

The evidence of O-cha-nah-kis' and Que-qua-ah's statements in the *R. v Ford* case diverges from some of the established narratives and characterizations with which this chapter engages. Claims that Indigenous men forced Indigenous women and girls to sell sex are evident in the journalistic field and in the Privy Council's Report. However, according to their sworn statements, Que-qua-ah did not tell his wives how to behave or what to do. His statement shows an initial grudging willingness to manage the interaction and to respect O-cha-nah-kis' decision

while staying near to keep her safe. The statements indicate that Que-qua-ah did not automatically have rights to his wives' money. Que-qua-ah's statement holds that the money contributed by his other wife, O-cha-nah-kis' sister, was explicitly her money. Though O-cha-nah-kis' statement includes her pleas to her husband to give police the money they requested, Que-qua-ah may have been holding her money for a few reasons. First, O-cha-nah-kis was reportedly blind and may have relied on Que-qua-ah to handle the money. Second, when Ford began to accuse her of stealing, she immediately called Que-qua-ah and handed him her earnings for safe keeping.

While O-cha-nah-kis' statement includes explicit recognition of the fear Ford and his colleagues induced, as she states that "I was so frightened that I cried," Que-qua-ah's feelings of fear are redacted. In Que-qua-ah's statement the phrase "I was frightened" is written and then crossed out. Was that an error on the part of the translator who correctly translates the same phrasing in O-cha-nah-kis' statement? Or is this a statement Que-qua-ah made and revoked? O-cha-nah-kis' and Que-qua-ah's statements show a version of events that were more complex than what was often described in the journalistic field and the Privy Report. Further, the case demonstrates their engagement of the Canadian justice system to advocate for themselves and their family. As a result of their self-advocacy, Cotton pursued Ford on a charge of theft and Ford quit the force.⁸⁸

O-cha-nah-kis' and Que-qua-ah's statements placed an awkward spotlight on the mounted police. Imperial forces and authorities rarely acknowledged their role in sexual commerce and the way they relied on sex workers. Philippa Levine writes that prostitution was an important source of pleasure and leisure for men working in the British colonies due to the organization of labour and prevalent views of sexuality and masculinity.⁸⁹ "Colonial officials, both

⁸⁸ For more analysis on the case of James Ford, see Shelley Gavigan, *Hunger, Horses, and Government Men: Criminal Law on the Aboriginal Plains, 1879-1905* (Vancouver: UBC Press, 2012), 105.

⁸⁹ Philippa Levine, "'A Multitude of Unchaste Women': Prostitution in the British Empire," *Indiana University Press*, 15 4 (Winter, 2004), 159.

in the metropole and in the colonies, recognized the preponderantly masculine forms in which their work was cast and argued strenuously that without prostitution, life in the colonies would be morally and physically dangerous. The argument turned, of course, on understanding the male sex drive as an aggressive, active force, itself vital to colonial conquest.”⁹⁰ In the British colonies, it was typical for men to work in isolated camps and in hard conditions while nearby women laboured to provide “sex, cooked meals, and company.”⁹¹

While “the British saw prostitution wherever they looked,” their typification of prostitutes rarely grasped sex workers’ familial and community networks.⁹² Narratives of the typical prostitute distinguish sex working women from other women by presenting prostitutes as unsupervised, family-less nomads, migrants, and strangers who may behave boldly in public space. By all accounts, O-cha-nah-kis was not alone nor was she behaving boldly. Rather, it was Constable Ford who was causing a disturbance. O-cha-nah-kis was with her family when Ford came to the railroad tracks drunk and looking for sex. It was O-cha-nah-kis’ family who protected her and helped her when Ford returned with police. Courageously, Que-qua-ah joined O-cha-nah-kis and made statements with her even as the *Indian Act* targeted him in so-called protective legislation criminalizing the “prostitution of” Indigenous women. The fact that the law was not mobilized against Que-qua-ah in *R. v. Ford* is highly noteworthy given that Que-qua-ah admitted to allowing his wife to sell sex while he kept her safe. It may be that NWMP Inspecting Superintendent John Cotton opted not to invoke the *Indian Act* to avoid further scrutiny.

5. Conclusion

In this chapter, I demonstrate how processes of differentiation mobilized narratives and emotions that served, and challenged, westward expansion and settler colonial worldmaking in the late nineteenth century. This chapter demonstrates how three narratives surrounding sexual

⁹⁰ Levine, “A Multitude of Unchaste Women,” 160.

⁹¹ Levine, “A Multitude of Unchaste Women,” 159.

⁹² Levine, “A Multitude of Unchaste Women,” 159.

commerce, that of the typical prostitute, sexual danger, and sexual exploitation, circulated from the journalistic field to the political field and back again. While some argued the incursion into Indigenous lands was responsible for the sexual exploitation of Indigenous women and girls, the Dominion characterized Indigenous women and girls as typical prostitutes. The Dominion's characterization challenged scrutiny of white men's behaviour and it situated white men more favourably in Canada's national discourse. Such efforts supported and protected Anglo-European immigration to the region.

Even those who claimed to feel concerned about Indigenous women's and girls' purveyed self-serving narratives, such as H. T. Bourne's narrative of sexual danger in the *Evangelical Churchman*. Like the melodramatic narratives of class exploitation, Bourne represented himself as a paternal figure caught in an erotic triangle between the girl and a man "old enough to be her father" who claimed to have purchased her. Bourne did not discuss the broader context of the girl's experience. His narrative reified paternalistic ways of relating to Indigenous girls and supported the fear of Indigenous men.

Narratives of sexual exploitation, like those found in Indigenous leader's open letter in the *Edmonton Bulletin* and Trivett's claims published in the *Globe*, challenged the status quo of colonial worldmaking and represented Indigenous women's and girls' suffering due to settler colonialism, white men's behaviour, and colonial laws. According to NWMP Commissioner Macleod, part of the work of mounted police and the application of Canada's justice system was to induce a "dread of the law" in Indigenous communities while also improving conditions for Indigenous women and children. O-cha-nah-kis' and Que-qua-ah's statements in *R. v. Ford*, a case that went unreported in the Canadian press, make evident the representational limitations of established British imperial narratives. Their statements challenged the paternalistic view that westward expansion improved Indigenous peoples' lives.

Chapter Five

“So long as they do not come ‘betwixt the wind and your nobility’”:

Sexual Commerce and Twentieth Century Colonial Worldmaking

in Medicine Hat, Winnipeg, and Edmonton

“It is not enough that Edmonton shall not be worse than other cities; we want her to be better,” Dr. W. L. Armstrong, the pastor of McDougall Methodist Church, asserted at a 24 May 1914 mass meeting of concerned citizens.¹ The gathering followed reports that, once again, despite recent agitation against them, the number of sex workers in the city were growing. In fact, Edmonton-based sex workers encouraged others to come work in Edmonton.² When arrested, some said they had been told that Edmonton “was to be a free town, and stated that was why they came to the city.”³ Their presence was a source of concern for a powerful contingent of the city’s Protestant religious leaders and moral reformers: “Our young manhood and young womanhood must be protected; our homes must be protected,” urged Dr. Armstrong. Reverend R. G. Stewart of Robertson Presbyterian claimed that the high number of sex workers in the city represented a loss of “solid manhood and graceful womanhood” to the “gutters of hell.”

According to Dr. Armstrong, “honesty and righteousness, virtue and purity must characterise our city, else we are not living up to our responsibilities.”⁴ His statements align with the views of Protestant Canada’s westward expansion and moral reform movements as well as a typical characteristic of western Canadians established by W. L. Morton: they aimed to be exemplary.⁵ This exceptionalism is, in part, a vestige of the civilizing mission the Dominion mobilized for westward expansion. Part of that mission included the expectation that Canadians would model lifelong monogamous marriage. Yet, British imperial landscapes and economies also included non-monogamous sex, sexual commerce, and sex workers. The Reverend of Knox Presbyterian in Edmonton commented, “worshipers in our churches” rented space to sex workers

¹ *Edmonton Bulletin*, 25 May 1914.

² *Edmonton Bulletin*, 22 July 1914. According to Justice David Lynch Scott, this fact was born out by the evidence of interrupted mail from “one Brown who was convicted of living on the avails of prostitution to a friend in Oklahoma[.]” Scott’s report is published in full in the referenced *Edmonton Bulletin* issue.

³ *Edmonton Bulletin*, 22 July 1914. Arrested sex workers said so when questioned by Inspector Burbeck.

⁴ *Edmonton Bulletin*, 25 May 1914.

⁵ “The Bias of Prairie Politics,” in A. B. McKillop, *Contexts of Canada’s Past: Selected Essays of W. L. Morton* (Toronto: Macmillan of Canada in association with the Institute of Canadian Studies, Carleton University, 1980).

and financially profited from sexual commerce.⁶ Tithes from such “worshippers” implicated Edmonton’s churches in sexual commerce and functioned as a reminder of sex workers’ economic contributions to communities. Some people, like North West Mounted Police (NWMP) Superintendent R. B. Deane, believed sex workers contributed a public good to the community.⁷ Deane and others argued that suppressing brothels should not be a priority because buying and selling sex was not considered a serious crime and the work of suppression was difficult with little benefit. Still, moral reformers argued that it was up to police and municipal governments to enforce the law.

After immigration to the region increased at the turn of the twentieth century, Protestant Anglo-Canadian agitators, particularly religious leaders, mobilized feelings and narratives to shape the appearance of communities and influence law enforcement, politicians, and judges to challenge the tolerance of sex workers in western Canada. The agitators were anxious that the west would be overtaken by “evil” forces and agitated for moral and social reform. Their approach marked another significant shift in permitted styles of relationships and non-monogamous sex in the region. They believed that the local sex trades were imbricated in municipal and regional politics and policing. Anti-sex-work agitation flowed from feelings of suspicion about sex workers, complicit police, and political leaders. Their agitation inspired official investigations which led to judgments serving Canada’s worldmaking as fledgling justice systems flexed their legal authority. Investigations defined and differentiated between good immigrants and undesirable ones. Moral panic and persistent agitation led to expensive, resource-intensive investigations, commissions, and law enforcement.

An analysis of investigations in Medicine Hat, Winnipeg, and Edmonton makes evident the disagreements and alignments across Canadian fields in social space. An affective reading of correspondence containing Medicine Hat’s Reverend W. Nicolls’ persistent complaints about a

⁶ *Edmonton Bulletin*, 25 May 1914.

⁷ In Deane’s 10 June 1903 letter to Commissioner Perry.

Black man and a brothel outside of town, the 1911 Winnipeg Vice Commission, and the 1914 Edmonton Vice Commission offer insight into the affective basis of judgments and narratives surrounding sexual commerce in emergent western Canada of the early twentieth century. The role of anti-Black racism and sentiments in twentieth century Canadian worldmaking comes to the forefront in analysis of Reverend Nicolls' successful complaints. An analysis of narratives shows who was considered worthy of concern and who was not. Like the narratives mobilized in the journalistic field, the typification of prostitutes and notions of exploitation and sexual danger are evident, though the bounds of the narratives are murkier. Narratives of white slavery contained elements of earlier narratives and captured the attention of moral reformers across the western world. The expectation that sexual commerce be suppressed led to an increase in police and legislative power. Suffering and its relationship to slavery, anxiety and fear, suspicion, and shame and disgust emerge as affective themes in the sources.

1. Twentieth Century Investigations and Reports

1.1 Reverend W. Nicolls, Medicine Hat

In the first years of the twentieth century Reverend W. Nicolls, a minister for the Church of England in Medicine Hat, became fixated on a brothel outside of the town's limits.⁸ In December 1902 Nicolls complained to NWMP Superintendent R. B. Deane that the brothel, kept by Frankie Jarvis, was "an offence to the congregation and myself" because a Black man resided there.⁹ Further, inmates and frequenters disrupted funeral processions because the brothel shared a road with the Roman Catholic and Church of England cemeteries.¹⁰ The brothel had made funerals "very unpleasant" for the Reverend and he requested that the NWMP carry out the law

⁸ Reverend W. Nicolls to NWMP Superintendent R. B. Deane, 23 December 1902, Government, 1902/12-1903/06, RG 13 A-2, "Rev. W. Nicolls – Medicine Hat North West Territories – Request that a house of prostitution be suppressed," LAC. In his 23 December 1902 letter to NWMP Superintendent R. B. Deane of Maple Creek, Nicolls wrote that he had encouraged the police to "suppress" the brothel since 1901.

⁹ Nicolls to Deane, 4 December 1902.

¹⁰ The cemetery is now known as the "Old Hillside Cemetery" in Medicine Hat, Alberta.

to “protect” him, “a decent citizen,” from “annoyance.”¹¹ Initially, Superintendent Deane resisted Nicolls’ demands and called Nicolls a “crank.”¹² Besides, “a raid requires three or four men,” and there were not enough police in the area to conduct raids, gather evidence, and suppress the brothel.¹³ Undeterred, Nicolls escalated his complaints up the NWMP chain of command and Superintendent Deane was instructed to enforce the law.

Given that there were several brothels in the town and that Nicholls’ complaint targeted Frankie Jarvis’ establishment because a Black man named Geo Phillips lived there, those tasked with suppressing the brothel believed their job was to catch Geo Phillips.¹⁴ Police conducted at least seven raids from 1901 to 1903—five of which were between the months of February and June in 1903. Of those five raids, only two found frequenters.¹⁵ Six people were arrested in a 25 February 1903 raid, including Geo Phillips and a brothel regular named E. Griffin who worked as a hotel bartender. Justice of the Peace W. Crosskill fined all six people arrested but reserved the highest fine for Geo Phillips.¹⁶ Weeks later, a “despondent” Griffin died in the brothel from a drug overdose.¹⁷ Nicolls escalated his complaints all the way to the Minister of Justice, instrumentalizing Griffin’s death and claiming it occurred “under suspicious circumstances.”¹⁸

¹¹ Nicolls to Deane, 4 December 1902.

¹² Deane to Nicolls, 26 December 1902.

¹³ Macleod to Deane, 7 June 1903.

¹⁴ For example, on 9 June 1903 Sergeant Macleod performed a raid that found 6 women. He noted, however that “[...] I found that Geo Phillips, the [n-word] about whom the Rev. Mr. Nicolls complains, was not present when the raid was made” (Macleod to Deane, 9 June 1903).

¹⁵ The three unsuccessful raids occurred 10 February 1903, 14 February 1903 and 9 June 1903. They each required three or four police with one at town expense and the rest at NWMP, thus, federal expense. In the failed raids police found only inmates and keeper and no evidence of lawbreaking. Prior to the raids, there was over a month of preparation and coordination of resources. At times, like when the Seven Persons Creek flooded, police could not get to the brothel to conduct a raid (Macleod to Deane, 7 June 1903). And the efforts to “suppress” Frankie Jarvis’ brothel did not begin and end with raids; police also conducted random stops to survey the place and intimidate the keeper and her inmates.

¹⁶ Macleod to Deane, 23 February 1903. Frankie Jarvis, the keeper, was fined \$30, the inmates and frequenter were fined \$10-\$20, but Phillips was fined \$50.

¹⁷ Sergeant Macleod, “Crime Report: The Griffin Inquest,” 12 May 1903.

¹⁸ Nicolls to Minister of Justice, 16 May 1903. NWMP Superintendent R. B. Deane later clarified in a 10 June 1903 letter to NWMP Commissioner Perry that, “So far as we know at the present time there are no ‘suspicious circumstances’ connected with the untimely fate of the late E. Griffin, a bartender at the American Hotel, who might have died anywhere.” “The evidence at the inquest appears to show that he went to Frankie Jarvis’ house in a drunken condition and that he took a bottle of whiskey with him; that he had been drinking for several days and was in more or less a despondent mood. The evidence showed

Nicolls may have held extra influence on the department due to a connection through marriage to a Crown prosecutor named “Mr. Mitchell.”¹⁹ Deputy Minister Newcombe ordered an inquest and the raids of Jarvis’ brothel continued.²⁰ Though Jarvis advocated for her brothel through conversations with police and through her lawyer who asserted her contributions to the community, the raids and the scrutiny made it so “hardly any one ever came near the place[.]”²¹

1.2 The Robson Report, Winnipeg

The 1911 Winnipeg Vice Commission, also known as the *Robson Report*—after the report’s author Chief Justice Hugh Amos Robson, exemplifies how a missionary’s report to newspapers influenced the Canadian political field and engaged the juridical field.²² Following his western tour with the Moral and Social Reform Council of Canada, Toronto-based urban missionary and moral reformer Reverend J. G. Shearer told central Canadian newspapers that “Winnipeg has the rottenest condition of things in regard to the question of social vice, to be found in any city in Canada.”²³ Shearer claimed that “Some half a dozen of white slave victims have been marketed within the past year in the vice district of Winnipeg” because the City of Winnipeg had a segregated district which “offered a ready market for the white slave trade.” Chief Justice Robson was appointed Commissioner to investigate the veracity of Shearer’s claims.

Following Justice Robson’s investigation, he suggested the city employ “vigilant and energetic officers” and advised the city on the legal tools Winnipeg had at its disposal.²⁴ If Winnipeg treated sex workers harshly, “the resistance would not long endure. Even although, as

further that he was addicted to the use of morphine.” He added that, “Apart from the circumstances that one E. Griffin died there, it is only fair to say that the house in question has been very little ‘*en evidence*,’ and, for a place of its character, seems to have been very well conducted.”

¹⁹ Deane to Perry, 10 June 1903.

²⁰ Deputy Minister of Justice E. L. Newcombe to Perry, 26 May 1903.

²¹ Macleod to Deane, 12 February 1903.

²² Manitoba, *Commission [on Charges re Social Vice in Winnipeg], Robson Report*, 1911, Provincial Archives of Manitoba.

²³ *Toronto Globe*, 12 November 1910. For a history of the panic Shearer’s report instigated, see Mariana Valverde’s chapter “White Slave Panic” in *The Age of Light, Soap, and Water: Moral Reform in English Canada, 1885, 1925* (Toronto: McLelland & Stewart, 1991).

²⁴ *Robson Report*, 20.

is said, this evil can never be wholly eradicated in any City, there is no doubt that once these offenders are subject to a rigorous application of the law, the nuisance will be reduced to the lowest possible point.” Robson found that many bawdy houses served liquor. He advised Winnipeg police to use Section 130 of the Liquor License Act and for the city to no longer license bawdy houses that sold liquor. Robson also suggested new legislation, like Section 641 of the Criminal Code regarding gambling houses. Section 641 gave constables power through the magistrate to “enter and take custody all persons found in such a place[.]” He believed that “such a provision as this would be of great assistance in suppressing this evil traffic.”²⁵

1.3 The *Scott Report*, Edmonton

Finally, the 1914 Edmonton Vice Commission, or the *Scott Report*—after the report’s author Justice David Lynch Scott of the Alberta Supreme Court, demonstrates relations across fields.²⁶ During the 24 May 1914 Edmonton City Council meeting at the McDougall Church, concerned citizens headed by local religious leaders and moral reformers passed a resolution that police and city officials’ relationships with sex workers be investigated due to sex workers’ increased numbers in the city and reports of official misconduct. Justice Scott headed the investigation, and his report is published in full in the 22 July 1914 *Edmonton Bulletin* issue. Justice Scott suggested that his report be considered an interim report and that a tribunal follow. “The general condition revealed is of the most serious possible character,” Scott concluded.

The above sources represent different levels of government and demonstrate relations between fields in social space. Affective analysis of Reverend Nicolls demonstrates the relationship between emotions and colonial law in a settler town, a range of perspectives on sexual commerce, and the ways that anti-Black racism and colonial law were mobilized to secure white, Anglo-Canadian and Protestant ascendance during a time of colonial worldmaking. The

²⁵ *Robson Report*, 21

²⁶ *Edmonton Bulletin*, *Scott Report*, 22 July 1914. See “The Saga of Joe Clarke—Radical Conservative with Socialist Leanings” in James Gray’s *Red Lights on the Prairies* (Toronto: Macmillan 1971) for a history.

1911 Winnipeg Vice Commission involves Winnipeg's municipal government, and the 1914 Edmonton Vice Commission involves Edmonton's municipal government. Canadian newspapers also feature prominently in the sources. The juridical field has the final word in these instances of moral panic. Actors in the juridical field intervene, investigate claims, assess evidence and testimony, and offer orders, legal guidance, and suggestions. Through this process, the view is maintained that British and Canadian law are the best tools to solve complex problems.

2. "His appearance [...] a constant reminder":

Anti-Black Sentiment and Policing Undesirables

While Protestant Christian religious leaders and moral reformers wished to strengthen the white patriarchal family in twentieth century western Canada, British imperial views also held that "the male sex drive" was "vital to colonial conquest."²⁷ Some believed brothels contributed a public good to the community by, for example, reducing the number of "illegitimate births."²⁸ NWMP Superintendent Deane claimed that "[...] there are persons, forming no unimportant part of the community [Medicine Hat], who think that houses of convenience which are under supervision and which do not obtrude themselves on the public, are preferable to the rise in the rate of illegitimate births which has been known to attend their untimely suppression."²⁹ Winnipeg's and Edmonton's municipal governments and police believed that prostitution was inevitable. Edmonton's Mayor McNamara went as far as stating that "houses of prostitution were a necessity in a western city," though he objected to "streetwalkers and pimps." In Winnipeg, the city's Board of Police Commissioners empowered the Chief of Police to "act in accordance with his best judgment" to manage sexual commerce. A segregated district in Winnipeg was the result.

As actors and Canadian worldmakers vying for power and influence, moral reformers organized to place pressure on police forces and municipal governments to suppress sexual

²⁷ Philippa Levine, "A Multitude of Unchaste Women': Prostitution in the British Empire," *Indiana University Press*, 15 4 (Winter, 2004), 160.

²⁸ Deane to Commissioner Perry, 10 June 1903.

²⁹ Deane to Commissioner Perry, 10 June 1903.

commerce in towns and cities.³⁰ They appealed to authorities by arguing that acquiescing to their demands was for the good of their communities. They framed the issue of sexual commerce through the binary of good versus evil. For example, Reverend Nicolls warned Canada's Minister of Justice that not suppressing Frankie Jarvis' brothel on the outskirts of Medicine Hat was "a question of victory for one side or the other."³¹ He added that:

In the general interests of the community, and as a question of public policy for the good of the town, the law should be enforced to a degree in which it will cause the removal of these parties from the town and district. If it is not done, the evil element will have comparatively the upper hand and run things to suit themselves. I may say from 20 years residence and work in this part of Canada, that the North West Mounted Police have a magnificent opportunity, while it is so rapidly settling, to enforce the law, cause the people to respect it, and make town and country desirable places in which to reside.

The Reverend and other religious leaders addressed police and political leaders with dual authority as religious leaders and respected members of the community. However, for Nicolls, Geo Phillips—a Black man residing in Jarvis' brothel—was a primary focus in his campaign to suppress Jarvis' brothel. NWMP Superintendent Deane noted that Nicolls did not complain of other more prominent brothels in Medicine Hat.³²

³⁰ Two examples of similar efforts in Winnipeg and Saskatoon can be found in newspaper reports, such as the 18 November 1903 issue of *The Winnipeg Telegram* and the 11 November 1904 issue of *The Saskatoon Phoenix*. These efforts, both contemporaries of the case of Reverend Nicolls, had different results. While Saskatoon's Town Council was, on the surface, receptive to demands and moved to encourage the mounted police to suppress a "house of ill-fame" outside town limits, Winnipeg's City Council refused to acquiesce to the demands of the community's Ministerial Association. Winnipeg's Mayor J. Arbutnot stated that both the council and police force were "satisfied" by their policies managing "the social evil," as were "all fair minded citizens who have any knowledge of the question." However, years later, Justice Robson was tasked with investigating Winnipeg's approach to managing sexual commerce.

³¹ Nicolls to Minister of Justice, 16 May 1903.

³² In Deane to Perry, 10 June 1903 Superintendent Deane pointed to a brothel Nicolls did not complain of as an example of a worse establishment. He wrote, "There is another house of ill-fame in Medicine Hat, which came into prominence during the trial last autumn of Convict Forsyth for burglary – in fact he was arrested therein. This house is in a far more prominent position in the town than the house which is two miles beyond the town limits, but it is observable that Mr. Nicolls in his care for "the general interests of the Community" has no complaint to make with regard thereto. His *amour propre* would appear to be involved in the suppression of the one and not the other."

It is unclear what role Geo Phillips' held in Frankie Jarvis' brothel as he is called "a negro named Geo Phillips, who has been hanging about the place," "the negro who lives with the woman," and "the negro" who "appears to be a servant."³³ He may have had a relationship with Frankie Jarvis. Sergeant W. B. Macleod reported that during a raid of the brothel at 3:30 AM on 14 February 1903, he found Jarvis and Phillips together in a room where she "was lying on her bed in her night clothes." As their efforts to suppress the brothel increased, lesser-ranked Mounties, such as Inspector C. Starnes and Sergeant Macleod, referred to Phillips as the "the [n-word] about whom the Rev. Mr. Nicolls complains[...]"³⁴ In reply, Deane admonished Starnes and Macleod, writing "I do not see what the negro has to do with your raids. He is a servant of the house, and the keeper of the house is responsible for him. If she uses the colour of his face as an advertisement, that is her business."³⁵ If Frankie Jarvis was concerned about Geo Phillips' wellbeing, her concerns for him did not appear in the primary sources which include letters from her lawyer to the NWMP and reports by police about conversations they had with Jarvis.

Reverend Nicolls made his view of Geo Phillip's presence in Medicine Hat known to every level of law enforcement and government he engaged. He wrote to the Minister of Justice stating that, "the negro who lives with the woman keeper of the house should not be allowed to be in, or frequent, the town or district, as from his personal appearance he is a marked character and his occupation well known; hence his appearance is a constant reminder and suggestion of wrong."³⁶ Phillips' mere appearance reminded Nicolls of Phillips' "occupation". The Reverend felt entitled to protection from such reminders. Of those receiving Nicolls' complaints, only Superintendent Deane pushed back. Deputy Minister of Justice E. L. Newcombe, NWMP Commissioner A.B. Perry, and other police aligned with Nicolls' demands to target Phillips. As Oliver Cromwell Cox

³³ Sergeant Macleod to Superintendent Deane, 14 Feb 1903; Nicolls to the Minister of Justice, 16 May 1903; Superintendent Deane to Commissioner Perry, 10 June 1903.

³⁴ Inspector Starnes to Superintendent Deane; Sergeant Macleod to Superintendent Deane, 9 June 1903.

³⁵ Superintendent Deane to Sergeant Macleod 10 June 1903.

³⁶ Nicolls to Minister of Justice, 16 May 1903.

established, major institutions must share a general agreement about their orientation toward Black masculinity.³⁷ Though Nicolls complaints preceded the 1911 federal government order banning Black immigration, a general agreement among levels of law enforcement and political leaders is evident in the targeting of Geo Phillips. When the order in council passed, it stated that the "Negro race [...] is deemed unsuitable to the climate and requirements of Canada."³⁸ Anti-Black campaigns shaped the appearance of and access to emergent western Canadian social space and citizenship in the early twentieth century.

Karina Joan Vernon develops a rich archive documenting Black immigrants' experiences and feelings about building lives on the prairies in the late nineteenth and through the twentieth centuries in her PhD Dissertation "The Black Prairies: History, Subjectivity, Writing."³⁹ It may be that Geo Phillips was among the Black settlers attracted to the Canadian prairies following Clifford Sifton's immigration campaign of the late 1890s and early 1900s. As Vernon writes, "Sifton's recruitment of immigrants mentioned no restrictions, and since the *Saint Paul Broadax* in 1901 ran articles in which the premier of Manitoba extended cordial invitations to all readers, Black Americans assumed that they were welcome."⁴⁰ The 25 April 1903 issue of *The Gazetteer and Guide* of Pittsburgh, Pennsylvania published a call for Black people to settle in the north-west, stating that:

No better opportunity affords itself to the agricultural Negro than in Western Canada [...]
The one salvation of the Negro is to migrate to a section where he can be a component part in building up an undeveloped country under favorable conditions, there is no question to the fact, that it was largely the Negro labour that built up the Southland.⁴¹

³⁷ Anthony J. Lemelle, *Black Masculinity and Sexual Politics* (New York: Routledge, 2010), 18.

³⁸ R. B. Shepard, *Deemed Unsuited* (Toronto: Umbrella Press, 1996), 100. For more scholarship on Canada's anti-Black immigration policies, see Agnes Calliste, "Race, Gender and Canadian Immigration Policy: Blacks from the Caribbean, 1900–1932," *Journal of Canadian Studies* 28 no. 4 (1994): 131–148.

³⁹ Vernon, "The Black Prairies," University of Victoria (2008), <https://dspace.library.uvic.ca/handle/1828/896>.

⁴⁰ Vernon, "The Black Prairies", 49.

⁴¹ Quoted in Vernon, "The Black Prairies", 49.

As Nicoll's successful campaign to suppress Jarvis' brothel shows, the area "was in fact a hot bed of anti-Black sentiment."⁴²

Though Superintendent Deane believed Nicolls' demands to be unfeasible for the small police force, the resources were spent to appease the reverend. In Canadian histories of sexual commerce, anti-Black racism and sentiments are important factors in policing and the allocation of police resources. Police had limited resources and a lot of responsibilities. Gathering evidence to build a serious case against "a house of ill-fame" was very difficult and required a lot of time and resources. Repeated raids were often needed to develop a strong case. At times, police were drawn from surrounding communities to help. In 1899, Medicine Hat attempted to lighten the NWMP's responsibilities in the community by establishing a town constable position. The constable was expected to collaborate with the NWMP when needed. When Nicolls complained to the local police, Sergeant Macleod explained, "A raid requires three or four men" and the area did not have enough police to draw from. As Nicolls escalated his complaints, Macleod kept watch from home, surveilling Hatters who passed his house which was conveniently located outside of town where rigs had to pass to get to the brothel.⁴³

The historiography and primary sources indicate that anti-prostitution laws were disproportionately applied to Black people. Further, the consequences dolled out were harsher in comparison to the consequences whites faced. For example, Regina's City Chief of Police Theodore Zeats planned a large-scale raid of Black-owned businesses in Regina's Germantown. On 14 February 1911, Zeats raided Black-owned brothels and gambling houses, arresting business owners and sex workers.⁴⁴ But those arrested recognized they had been targeted by police. They appeared in court, pleading guilty, which was a standard approach defendants took in such cases.⁴⁵ Sex workers often pled guilty and were given an option of jail time or paying a

⁴² Vernon, "The Black Prairies", 46.

⁴³ Macleod to Deane, 16 February 1903.

⁴⁴ James Gray, *Red Lights on the Prairies* (Calgary, Alta: Fifth House, 1995), 80 - 83.

⁴⁵ *The Leader*, 14 February 1911.

fine. They often had the financial means to pay the fine and avoid jail time. But the Black Reginans from the 1911 raid were sentenced to jail time without the option of a fine. William Taylor, his wife Louise Maxwell, and Josephine Turner each received sentences of three months. Emelia Webster who pleaded guilty to keeping a house of ill fame got five months. But her husband, who had watched the court proceedings unfold, opted to plead not guilty to throw a wrench in the discriminatory practice of the court.⁴⁶ He was defended by C.A. Wood, who called the raid race-based discrimination.⁴⁷ According to historian James Gray, "Wood raised what was probably the first public outcry in Regina against racial discrimination."⁴⁸

Later, in Saskatoon in 1912, five Black women were targeted by police when they stopped in the city to take in the fair.⁴⁹ The police began surveillance as soon as they noticed the women, believing they intended to sell sex out of the boarding room they rented. Following a raid that found them all sleeping, the women were charged with being "common prostitutes and street walkers." They maintained they were not. When they appealed to the magistrate, he warned them that "If you don't get out of the city the police will get you." The treatment of Black women tourists and Black property owners stands in stark contrast to the treatment of other immigrants and newcomers. For example, in his characterization of non-sex-working property owners in Winnipeg's segregated district, Justice Robson referred to them as "highly respectable citizens" "of foreign birth."⁵⁰

3. Affective Analysis: Narratives and Emotions

As I explore in the previous chapter on the journalistic field, three primary narratives emerge in the Anglo-Canadian press of the late nineteenth century—those of the typical

⁴⁶ S. W. Horall, "The (Royal) North-West Mounted Police and Prostitution on the Canadian Prairies," in Gregory P. Marchildon (Ed) *History of the Prairie West Series: Immigration and Settlement, 1870-1939* (Regina: CPRC Press, 2009) 135.

⁴⁷ Horrall, "The (Royal) North-West Mounted Police and Prostitution on the Canadian Prairies," 135.

⁴⁸ Gray, *Red Lights*, 82.

⁴⁹ *Saskatoon Star*, 6 August 1912.

⁵⁰ *Robson Report*, 16.

prostitute, of sexual exploitation, and of sexual danger. These narratives are also evident in the twentieth century sources as they continued to hold utility, extending imperial ways of relating. By the twentieth century, the white slavery narrative was entrenched in popular culture and moral reform movements. White slavery narratives were a popular genre in the twentieth century, with works that came in the form of plays, films, books, pamphlets, and magazine articles. At least fifteen white slavery plays and six white slavery movies were produced in the early twentieth century. In 1913, over 30,000 people viewed the white slavery film *Traffic in Souls* during its opening week in New York City.⁵¹ In the American context, historian Kevin Mumford writes that "the ideology of white slavery was in fact a staple of early-twentieth-century American culture."⁵² And that was the case for Canada as well. White slavery narratives brought together narratives of the typical prostitute, of sexual exploitation, and sexual danger to affirm the necessity of patriarchal power as white women's and girls' freedom of mobility increased in the emerging twentieth century economy. As Gayle Rubin writes about the United States, white slavery narratives in tandem with desires to control sexual commerce resulted in the passing of the Mann Act which transformed the Federal Bureau of Investigation from a "modest agency" to a "nationally recognized institution."⁵³ "This was sexual surveillance of women on a grand scale and must have involved a considerable infrastructure of personnel and information storage," writes Rubin. "It may have been an early template for the elaborate systems used in later decades by the FBI to spy on politicians and homosexuals."

Narratives of the typical prostitute distinguish sex working women from other women by presenting prostitutes as unsupervised, family-less nomads, migrants, and strangers. This view of sex workers is evident in the ways sex working women are discussed in the *Robson Report*.

⁵¹ Shelley Stamp, "'Oil upon the Flames of Vice': The Battle over White Slave Films in New York City," *Film History* 9 (1997): 351-64.

⁵² Kevin Mumford, *Interzones: Black/White Sex Districts in Chicago and New York in the Early Twentieth Century* (New York: Columbia University Press, 1997).

⁵³"The Trouble with Trafficking: Afterthoughts on 'The Traffic in Women'," *Deviations: A Gayle Rubin Reader* (Durham & London: Duke University Press, 2011), 74.

For example, Winnipeg's Chief of Police said that the segregated district attracted "immoral women" to Winnipeg "from all over the Continent."⁵⁴ They were difficult to track because "they move about from place to place." Inspector Knox of Winnipeg observed that "many of these offenders are transient characters." Winnipeg morality officer Leach reported sex workers came to the city from "the States and other outside places."⁵⁵ The *Robson Report* held that those offering sex workers' sureties were all "foreigners."⁵⁶ According to Robson's interpretation of testimony by those living in Winnipeg's segregated district, "good" immigrants who purchased affordable homes in the neighbourhood were negatively impacted by sharing space with sex workers because "domestic privacy was intruded upon by men seeking for the evil houses" and "respectable women were accosted on the street" making conditions "unbearable for respectable people[.]"⁵⁷ He judged that "The example of conditions tolerated [in Winnipeg's segregated district] as set before the foreign element is most pernicious."⁵⁸

As demonstrated in the comments regarding sex working women versus "respectable women," narratives of the typical prostitute have an ordering effect. In addition, they often represent the sex-working woman as responsible for men's downfall and the destruction of domestic happiness. Reverend Nicolls was among those in the west who framed men as victims of sex workers' presence and influence. He claimed it was a cause of "annoyance" for his congregation and "a terrible curse to the men of the town."⁵⁹ Similar sentiments were expressed in Humboldt, Saskatchewan in 1908, by an anonymous writer who wrote to Saskatchewan's attorney general, stating "Night after night our young men (in dozens) spend their money and

⁵⁴ *Robson Report*, 13.

⁵⁵ *Robson Report*, 10.

⁵⁶ *Robson Report*, 14

⁵⁷ *Robson Report*, 16.

⁵⁸ *Robson Report*, 17.

⁵⁹ Reverend W. Nicolls to NWMP Superintendent R. B. Deane, 4 December 1902.

strength and manliness with the harlots.”⁶⁰ The writer was referring to Stella West’s brothel outside the town’s limits.

Moral reformers were especially concerned about sexual commerce’s impacts on youth. Concern about girls is evident, though, sometimes women involved in sexual commerce were referred to as “girls” regardless of their age. For example, after fining a keeper “\$50 and costs,” Edmonton’s Magistrate Massie warned “the woman” and her inmates that, “The next girl that is brought before me, charged with soliciting and stopping men on the street, will be severely dealt with. I intend to put a stop to this.” At other times, “girl” referred to “juvenile offenders.” Reverend Shearer inspired Robson’s investigation of Winnipeg’s segregated district following Shearer’s claim that “Some half a dozen of white slave victims have been marketed within the past year in the vice district of Winnipeg” because the segregated district “offered a ready market for the white slave trade.”⁶¹ According to Winnipeg’s Police Magistrate Daly there was, in fact, an increase of “young girls” in the Juvenile Court.⁶² Justice Robson asserted that Winnipeg’s segregated district “flaunted” sexual commerce “before young children[.]” “Nothing could be more likely to produce the ‘juvenile offender,’” he advised.

Concerns over danger and exploitation did not extend to Black men like Geo Phillips, however. Although Superintendent Deane claimed that brothel-keeper Frankie Jarvis was “responsible for [Geo Phillips]” and that “she use[d] the colour of his face as an advertisement” for “her business,” no one expressed concern for Geo Phillips’ wellbeing or questioned how he was exploited.⁶³ As I note above, Phillips’ perspective is not included in the sources and his role in the brothel is not clear. What is clear is that he lived in the brothel and that some, such as Superintendent Deane, saw Phillips as a draw for Frankie Jarvis’ business.

⁶⁰ “Anonymous letter to Attorney General regarding Humboldt house of ill fame,” Royal North-West Mounted Police Criminal Investigations, 1908-09, R - 986, I.G.C., PAS.

⁶¹ *Toronto Globe*, 12 November 1910.

⁶² *Robson Report*, 8.

⁶³ Superintendent Deane to Sergeant Macleod 10 June 1903.

Jason Okundaye writes that “The over-sexualization of Black masculinity has, historically, led to intense surveillance and intervention over our bodies.” Drawing from nineteenth century histories in which English eugenicists, like Francis Galton, sought to typify Black men and white men through anatomical differences to support the notion that white men were morally superior because they were more sexually controlled, Okundaye argues that the historical “[fetishization of Black masculinity] is how white people objectify Black men as more masculine and sexually potent than our white counterparts.”⁶⁴ This fetishization maintains the status quo in spaces dominated by whiteness. “Sexual obsessions function in the fundamental interest of economic exploitation,” according to Oliver Cromwell Cox.⁶⁵ When Reverend Nicolls claimed that “[Geo Phillips’] appearance is a constant reminder and suggestions of wrong,” he alluded to Phillips’ Blackness and associated impropriety.

3.1 Fear and Anxiety

Feelings of fear and anxiety are evident in the sources. Some, such as Reverend Nicolls, pointed to feelings of anxiety when appealing for the “suppression” of sexual commerce. It is “always a matter of anxiety as to whether or not the women or men may be in evidence [...] perhaps in a state of intoxication,” he wrote.⁶⁶ He claimed it was a cause of “annoyance” for his congregation as well. The Reverend believed he was entitled to protection from these feelings, and he believed police were responsible as they could protect him through sustained “suppression” of Jarvis’ brothel. Throughout his correspondence to the NWMP and the Minister of Justice, Nicolls demanded “total suppression,” “complete suppression,” and “absolute suppression” of Jarvis’ brothel, which included preventing her from opening “a similar establishment within the town or district.” In his 16 May 1903 letter to the Minister of Justice,

⁶⁴ Jason Okundaye, “The Fetishisation of Black Masculinity,” *GQ Magazine* (13 October 2020), <https://www.gq-magazine.co.uk/lifestyle/article/fetishisation-Black-masculinity>.

⁶⁵ Quoted in Anthony J. Lemelle, *Black Masculinity and Sexual Politics* (New York: Routledge, 2010), 5.

⁶⁶ Nicolls to Deane, 4 December 1902.

Nicolls demanded “full suppression” of Jarvis’ brothel four times in the first paragraph. He pointed to his feelings as bodily knowledge that held legal supremacy.

Sources also reflect a fear of participating in investigations. For example, during the 1914 Edmonton Vice Commission the *Edmonton Bulletin* reported that “a frantic effort has been made by certain parties this week to prevent men and women of the underworld from giving evidence before Mr. Justice Scott during the police investigation and several persons were spirited out of town yesterday, although their whereabouts are known, and they will be brought back to the city on bench warrants.”⁶⁷ According to Justice Scott, thirty-three people did not show to give evidence. Of those thirty-three, twenty-one “were reputed to be prostitutes.” One woman told the *Bulletin* that “she had been informed that if she told the truth certain things would happen to her. She said she was afraid to tell what she knew for that reason, although she consented to make a sworn statement on being assured that she had nothing to fear.” If she was offered special protection for giving testimony, it is not discussed in the *Scott Report*.

3.2 Suspicion

Feelings of suspicion instigated the official investigations and reports. Social actors drew from evidence, ranging from rumour to official reports, and used the language of the law to make charges of corruption and misconduct.⁶⁸ For example, Reverend Nicolls instrumentalized E. Griffin’s overdose death in Frankie Jarvis’ brothel by framing it as “unnatural” and occurring “under suspicious circumstances.” Nicolls wrote to the federal Minister of Justice and enclosed correspondence between NWMP Superintendent Deane, NWMP Commissioner Perry, and Sergeant Macleod. “I submit the same for your consideration and action, appealing to you to cause the local authorities to entirely suppress the place [Frankie Jarvis’ brothel], and vindicate

⁶⁷ *Edmonton Bulletin*, 12 June 1914.

⁶⁸ For example, in Edmonton the language of “charges” was included in the citizen’s resolution that was passed unanimously: “In view of the wide and serious charges [...]”. See the 25 May 1914 issue of the *Edmonton Bulletin*.

the supremacy of law and order, in seeing that my request [...] is carried out.”⁶⁹ Nicolls alerted the minister that “a man was found dead at this house under suspicious circumstances” and stated that the “absolute suppression” of the brothel was directly linked to the “welfare” of the community. An inquest into Griffin’s death ensued and Jarvis’ brothel received more unwanted attention.⁷⁰ When feelings of suspicion were invoked in the primary sources, the resulting investigations and reports served to address suspicion and to develop an official narrative.

Social actors in the primary sources believed that feelings of suspicion were serious impediments to confidence in governments and law enforcement. For example, in Edmonton on 24 May 1914 “a large number of citizens assembled in McDougall Church” for a city council meeting and unanimously passed a resolution that an official investigation of the police take place to “put the police department above even the breath of suspicion.”⁷¹ In the Edmonton case, feelings of suspicion moved from concerned citizens to Justice David Lynch Scott. After five weeks of examining over one hundred witnesses under oath, Justice Scott expressed “the gravest suspicion” of the Edmonton police in the conclusion of his report.⁷² His suspicion came from the finding that local police had been working with a “fixer” named William Wheeler who collected funds from sex workers in exchange for protection from police raids. In addition, thirty-three subpoenaed witnesses vanished from the city during the investigation. Scott judged that “Their leaving at that time leads to the suspicion that they were got out of the way by others who might have been implicated by their evidence.” He concluded that a tribunal was needed to throw “the fullest possible light upon the subject” as the evidence suggested “the gravest possible misconduct” among Edmonton’s police.

⁶⁹ Nicolls to the Minister of Justice, 16 May 1903.

⁷⁰ In Macleod to Deane, 16 May 1903, it is reported that Frankie Jarvis informed the police that she intended to move away as quickly as she could. In an 18 May 1903 letter from Jarvis’ lawyer to NWMP Commissioner Perry, Jarvis’ lawyer informed Commissioner Perry of her intentions to leave Medicine Hat, but noted that she needed a few months to pay off her debts to businesses in town.

⁷¹ The resolution was published in full in the 25 May 1914 issue of the *Edmonton Bulletin*.

⁷² Scott Report, *Edmonton Bulletin*, 22 July 1914

Feelings of suspicion are integral to the logic of laws criminalizing sexual commerce. Suspicion is also an important affective foundation for the practice of segregation, as is evident in the sources that discuss segregated “red light” districts. As established above, the region’s provincial period included a growing population and concern mounted over immigration. As per the narrative of the typical prostitute, if women appeared to have their own money and if they traveled unaccompanied, they were suspicious. “Many of these offenders are transient characters,” Winnipeg’s Inspector Knox testified.⁷³ Justice Robson asserted “That offenders of this class are crafty and astute at eluding justice [...]” because “they generally have the money necessary to strongly resist prosecution and take advantage of every technicality.”⁷⁴ In Edmonton, sex workers’ craftiness reportedly included the practice of hanging lace curtains in their windows to advertise.⁷⁵ The *Robson Report* shows that segregation was perceived by Winnipeg’s police and city council as helpful in managing these “crafty” offenders because the method fixed them in space. “No man in Winnipeg can tell how many prostitutes there are outside the [segregated] area,” according to Inspector Knox.⁷⁶ Police hoped that the segregated district could help men be sure that the women they encountered in the district were immoral.⁷⁷

3.3 Shame and Disgust

⁷³ *Robson Report*, 13.

⁷⁴ *Robson Report*, 20. As I have already noted above, it was common for sex workers to have the capital to absorb fines. They perceived pleading “guilty” and paying fines as showing cooperation to police and the quickest way to get back to work.

⁷⁵ Scott Report, *Edmonton Bulletin*, 22 July 1914

⁷⁶ *Robson Report*, 13.

⁷⁷ According to Canadian law, Winnipeg’s segregated district was illegal. In his report on sexual commerce in Winnipeg, Chief Justice Hugh Amos Robson agreed that “[the] evil can never be wholly eradicated in any City” (*Robson Report*, 20). He instructed that “a rigorous application of the law” would reduce it “to the lowest possible point.” Both British and Canadian law “clearly agreed that keeping a bawdy house is a common nuisance as it endangers the public peace by drawing together dissolute and debauched persons and also has an apparent tendency to corrupt the manners of both sexes by such an open profession of lewdness.” This view of sexual commerce was “embodied in the Statute Law of Canada.” Since Parliament oversees criminal law, “no provincial authority may alter or suspend the Criminal Law of Canada.” Further, Winnipeg’s City Charter and its bylaws affirmed the statute and “the special duty of preserving the peace” was in the purview of city police. No one involved with the police force, or the Board of Commissioners had the authority to withhold enforcement “against any class of offenders,” according to Justice Robson.

Metaphors for sexual commerce often reflect and invoke feelings of shame and disgust. Reverend Shearer told central Canadian newspapers that “Winnipeg has the rottenest condition of things[.]”⁷⁸ He blamed city officials for the “criminal, disgraceful and debasing condition of things [...] [Because they] are responsible for the permission, if not the careful protection, of this moral cesspool, the stench of which is making itself felt to the discredit of Winnipeg throughout the Dominion and elsewhere.”⁷⁹ The *Robson Report* explained that Winnipeg’s segregated district held utility for police because, “instead of having these festering sores all over the City,” police organized it into “one open wound in one locality” to “gradually close it up by degrees.” In Edmonton, Mayor McNamara testified that he was aware the city police force was “rotten” when he was elected.⁸⁰ Reverend Stewart also drew on imagery of cesspools, sores, and wounds. As Stewart worried about Edmonton’s reputation, he stated:

“I hope we will not have to hang our heads in shame when we are confronted with the reports of conditions in Edmonton, but that we will be able to say that it is just a sore upon the body, and that there is enough moral backbone and enough pure blood and squareheadedness in Edmonton to cut out this virus.”⁸¹

He advised that, “If you are going to discover the seat and source of the trouble [...] you must go higher up, where you will find the fountain head of this corrupt stream that is flowing through our streets and forming cesspools of iniquity that are sending out their damnable malaria, uncleanness, impurity, vice and foulness.”

Sentiments of disgust were sometimes followed by calls to “clean up”; however, there was no consensus on what “cleaning up” entailed. In Edmonton, Commissioner Booth had been appointed to the health and safety department with the special duty to review the police department and to “clean up the city,” but his understanding of a “clean” city included sex workers.

⁷⁸ *Robson Report*, 1.

⁷⁹ *Robson Report*, 4.

⁸⁰ Scott Report, *Edmonton Bulletin*, 22 July 1914.

⁸¹ Dr. W. L. Armstrong in the *Edmonton Bulletin*, 25 May 1914.

Booth had given contradicting instructions to Edmonton's police. First, he advised they "arrest or drive away" all "madams"; then he told them smaller establishments with "one woman or two" were fine. Alderman Dr. Smith reminded concerned citizens that they had been promised "Edmonton would become a clean city." Under Booth, though, the "city has grown more unclean every day." Professor Bland advised that Edmonton would not be "cleaned up" unless the citizens made their own vigilance committee.

When Justice Robson heard testimony from residents living in Winnipeg's segregated district, he suggested that interested parties should read the "shocking" transcripts for themselves because he refused to "use the language necessary to describe in detail."⁸² Explicit discussion of "the evil," as prostitution was called, was considered shameful. In Edmonton Dr. J. R. Ridell said he was "appalled" by the situation. Alderman Sheppard confessed he was "ashamed to be a member of council" given their record on social vice. And Reverend Stewart stated that he was "deeply humiliated" by the level of social vice in Edmonton.⁸³ Feelings of humiliation could also be found in the police force, according to the *Edmonton Bulletin*. It reported that one city police constable said, "it is humiliating to have to acknowledge connection with the force."⁸⁴ But not all police in the sources felt embarrassed. When Superintendent Deane found his approach to managing sexual commerce under fire by Reverend Nicolls, he deflected by accusing Nicolls of disgusting behaviour.

Deane was disgusted by Reverend Nicolls' demands, and he made it known. He wrote that:

Your church wardens had no complaint to make on the subject, and did not seem to know that any particular reason for complaint existed. The R.C. [Roman Catholic] priest has made no complaint, and, so far as I could judge, public opinion did not call for repressive

⁸² *Robson Report*, 16.

⁸³ *Edmonton Bulletin*, 25 May 1914.

⁸⁴ *Edmonton Bulletin*, 25 May 1914.

measures. I was informed by a prominent resident of Medicine Hat that you are a 'crank' on this subject.⁸⁵

Deane accused Nicolls of not caring for the downtrodden. "So long as they do not come 'betwixt the wind and your nobility' you do not care what becomes of them." And concluded his letter to Nicolls stating, "I am disgusted to find such a want of Christian charity and lack of the milk of human kindness in a minister of the Church of England." Deane's father was a Church of England chaplain for the East India Company and Deane went on to become a warden and lay reader in the Anglican church.⁸⁶ His comments to Nicolls show disagreement over sexual commerce within closely tied Protestant church communities.

3.4 Suffering

Sources characterize property-owning settlers in the region as experiencing suffering due to sexual commerce. In the *Robson Report*, Justice Robson named non-sex-working residents of the segregated districts "sufferers" whose "domestic privacy was intruded upon by men seeking for the evil houses[.]" Robson claimed that "these sufferers are not wealthy. In some cases all their property is their home. Such depreciation has resulted from conditions described that their property has become almost valueless and unsaleable." Robson explained that Canada's Criminal Code defined a bawdy house as a nuisance because "it endangers the public peace by drawing together dissolute and debauched persons." It was civil society's duty to "protect its members in the enjoyment of their rights, both of person and property."⁸⁷ Following his investigation of the veracity of Reverend Shearer's claims about Winnipeg, Robson concluded "that the result of the above state of affairs has been the disturbance of peace and good order in the locality, a menace to morals and great depreciation in value of property of the neighbouring

⁸⁵ Deane to Nicolls, 26 December 1902; note that Deane is not clear what "this subject" means.

⁸⁶ "Deane, Richard Burton," in *Dictionary of Canadian Biography*, vol. 15, University of Toronto/Université Laval, 2003–, accessed September 30, 2020, http://www.biographi.ca/en/bio/deane_richard_burton_15E.html.

⁸⁷ *Robson Report*, 17.

residents.” Such a “state of affairs” violated the imperial legislative values of “peace and good order.”

Privileging property ownership did not always work given how sex working women were among the few who could afford to purchase property. At times sex workers collaborated with the police, such as when Winnipeg Chief of Police McRae “met with a prominent keeper” who then convinced others to buy homes in the segregated district.⁸⁸ Sex workers also contributed to infrastructure. For example, Frankie Jarvis had her lawyer write NWMP Commissioner Perry to advocate for her as a valued member of Medicine Hat’s community. The lawyer, D. G. White, argued that Nicolls was alone in his complaint, that “the house has always been conducted in a perfectly orderly and quiet manner,” and that the brothel keeper had spent large sums improving the house and fixing the road “so that the people who are represented as complaining have really been materially benefitted by having their road so improved.”⁸⁹ The same day as the last raid, 11 June 1903, Frankie Jarvis went to Deane to self-advocate. She asked him “why her house should be raided and another similar house in Medicine Hat left alone?”⁹⁰ She objected to being singled out.

NWMP Superintendent Deane wrote to his superiors stating that he “regretted” he “could not hold out any comfort [to Frankie Jarvis], but that persistent complaints were being made about her and that the Police could do nothing else than prosecute her for breaking the law.”⁹¹ Deane was not the only member of police in the early twentieth century to express regret over his involvement with campaigns to suppress sexual commerce and the suffering such campaigns brought. Chief of Police J. Gillespie of Lethbridge’s municipal force reported to town council that:

I find that all these women were driven out of other cities. What good one city does in driving these unfortunate women into another city, only to be driven out again, I fail to see.

⁸⁸ *Robson Report*, 9.

⁸⁹ D. G. White to Perry, 10 February 1903.

⁹⁰ Deane to Perry, 11 June 1903.

⁹¹ Deane to Perry, 11 June 1903.

Probably it is a cause of self-preservation being the first law of nature. I have no hesitation in saying that the system is wrong. Some day I hope that instead of one city driving these unfortunate creatures into another city, only to be driven out again, an effort will be made so that every city will adopt a policy of looking after its own unfortunates, instead of hounding them from one city to another.⁹²

With all this concern over suffering, it is noteworthy that E. Griffin's suffering preceding his overdose death in Frankie Jarvis' brothel is not considered relevant in the sources.

According to statements by those working in the brothel, Griffin was a regular who had become increasingly depressed in the prior months. His arrest during Nicolls campaign against the brothel was followed by total despair. The sex workers who knew him reported that Griffin was lonely, that he had been drinking whisky for days, and that he "was getting despondent as he stated that he had no friends and it would be his last night on earth, but nothing was thought of it as the persons present put it down to drink."⁹³ In his final hours he asked the sex worker whose room he was in not to leave his side. She stayed until 4 AM when his snoring became so loud she moved to a different room. When she returned, he was dead. "He seemed to have just gone to sleep," Macleod reported. It is unclear if Griffin overdosed on purpose or by accident. Regardless, the sources indicate that his suffering worsened following his arrest.

4. Conclusion

The investigation in Medicine Hat, and commissions in Winnipeg and Edmonton demonstrate a range of disagreements and alignments around sexual commerce in emergent western Canadian social space. Some saw the turn of the twentieth century and increased immigration to the region as an opportunity to assert their vision of what the area should be. In their effort to be exemplary colonial worldmakers, Protestant Christian agitators put forward a binary of good and evil to argue for the suppression or total eradication of sex workers in settler

⁹² Lethbridge Herald, 4 May 1910.

⁹³ Sergeant Macleod, "Crime Report: The Griffin Inquest," 12 May 1903.

communities. When successful, their campaigns influenced what styles of relationships would be permitted and shaped the appearance of western Canadian communities. However, the labour of “suppressing” sexual commerce was intensive and required increased police resources. Further, the campaigns caused suffering and targeted some more than others.

In Medicine Hat, Reverend Nicolls’ persistent agitation and his commitment to escalating his complaints demonstrates how a Protestant religious leader could assert the legal supremacy of his feelings regardless of the available resources. Anti-Black sentiments informed the mobilization of additional resources to acquiesce to the Reverend’s demands. When brothel frequenter E. Griffin died by overdose shortly after he was arrested and fined for frequenting Frankie Jarvis’ brothel, Nicolls instrumentalized Griffin’s death and escalated his complaints against Jarvis’ brothel all the way to the Minister of Justice. An inquest of Griffin’s death ensued, and, despite NWMP Superintendent Deane’s feelings of regret, the police followed orders to suppress the brothel. The sources do not show what happened to Jarvis or Phillips.

In Winnipeg, Justice Robson found that the city’s police force had violated municipal and federal legislation by establishing a segregated district. The investigation followed Reverend Shearer’s claims, published in the *Globe*, that Winnipeg had “the rottenest condition of things” because the segregated district was full of white slaves. Following his investigation, Robson found that the segregated district amounted to the disturbance of “peace and good order.” Though he believed sexual commerce could never be completely eradicated from Winnipeg, if police followed his advice and maintained pressure via raids and surveillance, sexual commerce could be brought down to its “lowest possible point.”

In Edmonton, Justice Scott began his investigation after concerned Protestant men passed a resolution at McDougall Church due to suspicions that police and elected municipal leaders were imbricated in sexual commerce. Scott found that this suspicion was founded. When Scott questioned City of Edmonton Alderman Joe Clarke about the city’s “toleration policy,” which involved brothelkeepers paying off police to avoid being targeted during raids, Clarke asserted

that he “approved of it as the least unsatisfactory way of dealing with prostitution.”⁹⁴ Justice Scott advised a tribunal and suggested that the findings of his investigation “revealed” a “general condition” that “is of the most serious possible character.”

Like the narratives mobilized in the journalistic field, the typification of prostitutes and notions of sexual exploitation and danger are evident in narratives of the early twentieth century, though the bounds of the narratives are murkier as popular western white slavery narratives contained elements of the earlier narratives. The narratives and their ordering effects become clearer through an affective analysis, showing who was considered worthy of concern and who was not or whose concerns were considered important and whose were not. Fears over western Canadian community’s reputations and the makeup of their citizenry trumped the suffering of so-called undesirables.

⁹⁴ Scott Report, *Edmonton Bulletin*, 22 July 1914.

Chapter Six

Satisfaction Through Law? The Affective Basis of Judgments in the Early-Twentieth Century

“[A]t a very early stage in the history of our law in the Territories,” Alberta Justice Charles Stuart advised, “it was recognized that women should be put in a new position.”¹ After all, common law’s purpose was to practice “reason and good sense as applied to new conditions.”² Stuart was weighing in on an appeal by a sex worker’s attorney who argued that if women could work in public offices as magistrates, the courts should recognize other forms of women’s labour such as prostitution as a “visible means of maintenance,” like any other job. Historically, “individual” women had been admitted to public office “by way of exception,” Stuart advised.³ He defined a “visible means of maintenance” as “a source of livelihood which is not only lawful, in the sense of not being forbidden by law, but also honest and reputable, [...and] generally recognized as not subject to condemnation by the ordinary moral standards of the community.”⁴ Therefore, legitimizing sex work as a “means of maintenance” was “utterly untenable.”

Though judges of the early twentieth century supported protective legislation that suspended the civil rights of Chinese-Canadian businessmen broadly characterized as white slave traffickers, they also purveyed the view from English common law that “Courts of Justice [...] cannot make men virtuous.”⁵ The double standards, stratified through technologies of race and gender, were clear from the outset of Canada’s *Criminal Code*, which codified men’s satisfaction into law in section 238 by requiring women in public to give “satisfactory” accounts of themselves to police or risk arrest and charges as vagrants and prostitutes. The same courts of justice that could not make men virtuous punished women for their perceived lack of virtue. Such a legal culture reflects the sex/gender system, a pervasive system that organizes sexuality for social reproduction, which Gayle Rubin famously outlined in her 1975 essay “The Traffic in

¹ *Cyr*, 611.

² *Cyr*, 611.

³ *Cyr*, 605.

⁴ *Cyr*, 613.

⁵ Quoted in *Samail* at para 88.

Women: Notes on the Political Economy of Sex.”⁶ According to Rubin, the sex/gender system is organized in a way that benefits men and prevents women from realizing the benefits of their own circulation in social organization.

In the context of twentieth-century western Canadian settler colonialism, settlers desired and felt entitled to satisfaction, contentment, happiness, safety, and peace. In his work on moral injury cases in Quebec, Eric Reiter writes that plaintiffs in the late nineteenth to mid-twentieth century cases he examines felt entitled to satisfaction and judges often sided with plaintiffs along class lines by upholding upper class satisfaction over lower classes.⁷ He argues that entitlement to satisfaction preceded and laid the foundations for rights-based discourse and frameworks. In the western Canadian context, settlers understood Canadian law as a tool to achieve and protect feelings of satisfaction and the conditions that encouraged them. Judges believed their role in the region was to bring “peace and good order” through colonial law. The provinces of Manitoba, Saskatchewan, and Alberta established a colonial justice system modeled after British and Canadian, particularly Ontarian, justice systems and legal cultures.⁸

This is not to say that judges were a monolithic group. Judges in Canada’s western territories and provinces were expected to build a legal regime which conformed to the wider system of British imperial justice. In John McLaren’s history of British colonial judges of the nineteenth century, McLaren historicizes judicial independence and accountability in the context of the British empire, noting that the American Revolution and anxieties about civil unrest and rebellion situated the Canadas as “flag ships’ for how the British government intended to create

⁶ Rubin, Gayle. “The Traffic in Women: Notes on the ‘Political Economy’ of Sex.” In Rayna Reiter (ed.) *Toward an Anthropology of Women* (New York: Monthly View Press, 1975).

⁷ Eric H. Reiter, *Wounded Feelings: Litigating Emotions in Quebec, 1870-1950*, (Toronto: Published for the Osgoode Society for Canadian Legal History by University of Toronto Press, 2019).

⁸ Ontario was central to the formation of the north-west’s emerging system. Of the twenty-three judges who decided the cases investigated in this chapter almost all were born, raised, and educated in Ontario with a few hailing from the Atlantic provinces, England, and the north-west. The majority completed their legal education at Osgoode Hall in Toronto, Ontario before moving to the north-west where they established territorial and provincial justice systems, law societies, and post-secondary education institutions.

and organize settler colonies to avoid the mistake made in the thirteen American colonies.”⁹ The lesson from the American colonies was that they had enjoyed too much freedom.

Colonial judges were appointed “at the pleasure of the crown” and the longevity of their tenure was influenced by their loyalties and whichever “elite political grouping was in the ascendant in Westminster.”¹⁰ “Although the individual’s politics was not necessarily a deciding factor, it no doubt helped, if it matched that of the government in power in Westminster.”¹¹ If and when colonial judges conformed to the British and Canadian systems, they had significant worldmaking power. The judges who decided the cases in this chapter were involved in municipal, territorial, provincial, and federal politics.¹² Their social status and their legal education enabled their colonial worldmaking as they transplanted British and Canadian legal structures and cultures while shaping distinct provincial legal cultures and justice systems in the early twentieth century.¹³

An affective reading of fourteen early twentieth century cases concerning sexual commerce in the west reveals affective expressions, projections, and hauntings that informed the

⁹ John McLaren, *Dewigged, Bothered, and Bewildered: British Colonial Judges on Trial, 1800-1900* (Toronto [Ont: Published for the Osgoode Society for Canadian Legal History by University of Toronto Press, 2011), 13.

¹⁰ McLaren, *Dewigged, Bothered, and Bewildered*, 13.

¹¹ (Or Ottawa after 1867); McLaren, *Dewigged, Bothered, and Bewildered*, 50.

¹² The judges of Manitoba are Hector Mansfield Howell CJM, Stephen Elswood Richards JA, William Egerton Perdue JA, John Donald Cameron JA, and Alexander Haggart JA. The judges in Saskatchewan are Sir Frederick W. A. G. Haultain CJS, Henry William Newlands JA, John Henderson Lamont JA, Edward Lindsay Elwood JA, S. Tupper Bigelow J, and Taylor J. The judges in Alberta are William A. Walsh J, Nicolas Dubois Dominic Beck JA, David Lynch Scott CJ, Charles Stuart JA, William Simmons J, James Hyndman JA, Alfred Henry Clarke JA, Horace Harvey CJ. And the Supreme Court of Canada judges are Charles Fitzpatrick CJ, Louis Henry Davies J, John Idington J, Lyman Poore Duff J, and Francis Alexander Anglin J.

¹³ Pierre Bourdieu argues that the juridical field is concerned with the “practical activity of ‘worldmaking’” which encourages and discourages different types of social unions and relationships. Part of the way the field wields “symbolic power,” is by socially distributing “differing amounts of different kinds of capital to the different actors (or institutions) in society [...]” See Pierre Bourdieu, “The Force of Law: Toward a Sociology of the Juridical Field,” trans. Richard Terdiman, *The Hastings Law Journal* 38 (1986-1987): 838. In the histories investigated here, it is relevant to note that judges both distributed capital and had access to large amounts and multiple types of capital (economic, cultural, etc.). Their access to capital and their social status permitted judges multiple avenues for colonial worldmaking. For example, no less than two judges whose decisions were reviewed for this chapter served as mayors of Orangeville, Ontario before moving to the north-west. Justice William L. Walsh of the Alberta Supreme Court acted as the mayor of Orangeville, Ontario on two occasions in the 1890s and Justice David Lynch Scott served as mayor of Orangeville in the late 1870s before becoming Regina’s first mayor.

gendered, racialized, and sexual worldmaking of a fledgling justice system and legal culture. Judges' decisions have an affective structure, moving from uncertainty to a verdict—a process Bourdieu argues is represented as “an ordered progression toward the truth.”¹⁴ The emotional journey of a decision holds layers of feelings and emotions, all filtered through individual judges who may find themselves in agreement or disagreement with their peers. Judges were required to express satisfaction or dissatisfaction as part of their intellectual evaluation of evidence and the law. Therefore, their expressions of satisfaction were not always based on personal satisfaction. The qualifications bestowed by colonial legal education and experience in central Canada enabled a sense of cultural and structural continuity during westward expansion that benefitted Canada and made its cultural and legal expansion possible. Though, as the twentieth century went on, provincial and federal judges asserted that provinces were distinct with their own needs and views.

White, largely Anglo-Canadian men's feelings are centered and legally supported in the emerging colonial world through the language of the law, and juridical actors' interpretations and applications of the law. While judges were trained to maintain emotional distance through reason, at times they expressed feelings such as fear, horror, and pity over both real and imagined suffering. However, they also understood that suffering is legal and could be the result of their decisions as they carried the authority to subject people to fines and unfreedom. Judges were often uncertain about how best to proceed. When encountering cases of sexual commerce or cases haunted by concerns about sexual commerce, judges struggled to differentiate between the broad unfreedom women experienced in settler-colonial culture, through marriage and economic dependence on men, and sexual commerce in general. What becomes clear is that feelings over sex work and sex workers held central positions in the settler-colonial worldmaking of the north-west.

¹⁴ Bourdieu, “The Force of Law,” 830.

1. Twentieth Century Cases in the Provincial Era

In this chapter, I draw from fourteen cases.¹⁵ The majority can be found in Dominion Law Reports which feature foundational civil and criminal cases from the provinces of Manitoba, Saskatchewan, and Alberta. One case was heard in the Supreme Court of Canada and the rest were heard in the Supreme and Appellate Courts of Manitoba, Saskatchewan, and Alberta. These cases are ideal sources for affective readings regarding sexual commerce because they hold details and interactions among levels of the north-west's colonial justice systems, from police to local magistrates to provincial courts and federal courts.¹⁶ Decisions on appeals hold a long and affect-informed "chain of legitimation" managing sexual commerce in settler-colonial contexts.¹⁷ Through the process of finding their decisions, judges deployed their powerful social status and their field's internal logic to create a neutralizing distance between themselves and those at their mercy.

I selected the fourteen cases because they are concerned with sexual commerce or invoke the figure of the prostitute. The cases engage laws governing "Offences Against Religion, Morals and Public Convenience," or *Part V of Canada's Criminal Code*.¹⁸ The *Code* was enacted in 1892. It provided Canada a new level of accomplishment because it distinguished Canada from England in two important ways: (1) it codified common law while England remained without a criminal code and (2) it advanced Canada's independence from England while basing the code's foundation in

¹⁵ These cases are all available online through the Canadian Legal Information Institute (CanLII) website, which is funded by the Federation of Law Societies of Canada. CanLII is a founding member of the Free Access to Law Movement and offers online access to legal cases, legislation, and commentary free of charge.

¹⁶ Appellants and plaintiffs had access to enough economic resources to pursue appeals and petitions for divorce. The cases here do not offer an understanding of poor and under-resourced peoples' experiences in the courts. Rather, they offer an understanding of the affective basis of decisions and narratives surrounding sexual commerce in the north-west's emerging settler colonial justice system.

¹⁷ The Bourdieusian concept of "a chain of legitimation" holds that the power structures of the juridical field require a chain of legitimation to manage the violence the field enacts. A chain of legitimation ties the police magistrate, judge, or Mounted Police constable to the authority of "the pure legal theorist" and "specialist," removing the acts of law enforcement from the category of "arbitrary violence." [Bourdieu, "The Force of Law, 824]. I argue that "a chain of legitimation" is informed by affect, such as the feelings and emotions of legislators, law enforcement, and judges.

¹⁸ *Criminal Code*, 1892, S.C. 1892, c. 29.

British law. The figure of the prostitute was part of British law. Canada inherited that figure and pursued her using the language of the British *Vagrancy Act 1824* which aimed to keep public places free of “undesirables.” These cases are *Re Effie Brady* (1913), *R. v. Knowles* (1913), *R. v. Cardell* (1914), *R. v. Sands* (1915), *R. v. Davidson* (1917), *R. v. Cyr* (1917), *R. v. Bobyck* (1919), *R. v. Nishimura* (1920), *R. v. Jones* (1921), and *R. v. Graman* (1921).

Quong Wing v. The King (1914) engages Saskatchewan’s *Act to Prevent Employment of Female Labour in Certain Capacities* which was in effect from 1912 to 1969.¹⁹ Two divorce cases, *Samail v. Samail* (1922) and *Jones v. Jones* (1925), engage Canadian divorce law in the post-World War I context, revealing the struggle to differentiate between sexual commerce and other types of relations between men and women, such as marriage. Access to divorce was limited and many Canadian settlers considered peaceful, lifelong, heterosexual monogamous marriage as a defining feature of their cultural values and identity which differentiated Canada from the United States.²⁰ Access to divorce steadily increased following the First and Second World Wars, though it was not until 1968 when the federal government passed Canada’s first unified divorce law.²¹ And, finally, *R. v. Flannery* (1923) confronts violence against a sex worker, engaging section 264 of Canada’s *Criminal Code*, which is concerned with “attempt to murder.”²²

As I will demonstrate, affect informs law’s invention and the process of its application. Judges asserted that the common law and *Criminal Code* reflected the feelings of most people in the north-west. People who work in or are otherwise caught up in the juridical field, such as police, legal counsel, magistrates, appellants, plaintiffs, and witnesses express and project feelings and emotions. Thus, each case contains layers of affect, though it is through judges’ decisions that the layers are interpreted and become satisfactorily synthesized into a verdict. In their decisions,

¹⁹ S.S. 1912, c. 17.

²⁰ See Sarah Carter, *Importance of Being Monogamous: Marriage and Nation Building in Western Canada to 1915* (Edmonton: The University of Alberta Press, 2008), 56-58.

²¹ *Divorce Act*, SC 1967-68 c. 24.

²² *Criminal Code*, 1892, 55-56 Vic., c. 29, s. 264.

Judges express and project emotions about a) the law, b) their labour and working conditions, c) the emotions of those connected to the case, and d) the case itself. “By mapping out the “totality of objective relations” across fields of power, I was able to learn about relations at the time of the decisions *and* how the cases and judgments have been taken up since.”²³

The cases under investigation attempt to socially and legally differentiate between a wife, or one woman legally married to one man, a mistress, or one woman in a sexual relationship with one man who is not her husband, and a “prostitute,” or a woman who is paid for sex by multiple men as a method of livelihood.²⁴ In the north-west in the twentieth century, women were organized in space and socially and legally differentiated based on their relationships with men, though all women were made economically dependent on relations with men to varying degrees. It is the judge who carries the most consequential authority legitimized by the state. When a judge names a woman a “prostitute,” the judge is not merely insulting her but defining her in legal terms that hold severe consequences for *all* women’s sexual and economic freedoms and their freedom of mobility.²⁵ Given the gendered organization of colonial society in this period and the relationship between satisfaction and rights-based discourses and frameworks, judicial expressions of satisfaction laid the groundwork for a colonial regime of sex-based privilege.

2. Affective Analysis of Cases

Two primary emotions emerged in the decisions: feelings of uncertainty and expressions of satisfaction. These emotions often existed on opposite ends of the decision-making process, with cases beginning in uncertainty and ending in judges’ expression of satisfaction through law.

²³ Constance Backhouse, “The White Women’s Labor Laws: Anti-Chinese Racism in Early Twentieth-Century Canada.” *Law and History Review* 14 no. 2 (Fall 1996), 315-68.

²⁴ In the context of settler colonial law in the north-west, laws criminalizing *being* a “prostitute,” “nightwalker,” or an “inmate” of a “house of ill-fame” were applied to women exclusively. In the 1913 case of *R. v. Knowles*, Justice Beck clarified that the appellant could not be an inmate because he was a man. “Unnatural offenses,” Beck wrote, were covered in a different section of the *Criminal Code* [12 DLR 340 at 640, 1913 CanLII 237 (AB QB)]. He was alluding to Canada’s laws targeting men who have sex with men.

²⁵ In “The Force of Law,” Bourdieu argues that actors in the juridical field “adopt a mode of expression and discussion implying the renunciation of physical violence and of elementary forms of symbolic violence, such as insults” [831]. This differentiates insults “uttered by a private person as private speech” from the public “*acts of naming*” that occur in a courtroom [emphasis original, 838].

Judges' expressions of satisfaction did not always reflect their personal satisfaction. Rather, their expressions were linked to intellectual satisfaction. In some cases, judges expressed a lack of personal satisfaction while asserting intellectual satisfaction. In such cases, judges absorbed the dissonance and invoked their interpretation of the law as the most correct way to proceed. Noticing this discrepancy and dissonance attends to the embodied experience of the mind/body divide in western law.

Secondary feelings such as fear, horror, and pity were present in the decisions and were often informed by anxiety over unfreedom. Feelings surrounding unfreedom emerged from imagined and potential unfreedom, providing justification for the creation of protective and paternalistic legislation such as the *Act to Prevent Employment of Female Labour in Certain Capacities*. Concerns over unfreedom also emerged due to the effects of the law, which restricted the freedoms of Chinese business owners. Along the same vein, human suffering was evident and, at times, evidence—particularly in decisions regarding divorce. At times suffering inspired judges' pity. However, suffering could also be a consequence of judges' verdicts and, by extension, the satisfaction of the judges' and the communities they represented. Judges assessed and fixed guilt onto particular actors, reflecting their understanding of the law and their values.²⁶

2.1 Satisfaction

Feelings and expressions of satisfaction, or lack of satisfaction, can be found in all the sources. Satisfaction held several related physical, emotional, and legal meanings. First, satisfaction was related to meeting established legal thresholds. In this first meaning, judges' expressions of satisfaction were related to their intellectual experience and interpretation of legal standards. Second, judges also expressed personal certainty, or uncertainty, in their decisions which related to a sense of personal satisfaction. These two sometimes competing forms of being

²⁶ Though I do not explore guilt and hope in depth, expressions and feelings of guilt were evident in both legal and affective terms. Appellants rejected feelings of guilt and the label of "guilty"; hence their applications to appeal original verdicts. While not explicit, feelings of hope informed these cases as appellants and divorce plaintiffs attempted to self-advocate and change their situations.

satisfied in the context of sexual commerce cases were complicated by the wider social organization of the sex/gender system, “the set of arrangements by which a society transforms biological sexual arrangements into products of human activity and in which his [men's] transformed sexual needs are satisfied[.]”²⁷ This analysis is thus particularly interested in the ways satisfaction, or lack thereof, was personally expressed by judges even as the language of satisfaction might also be used to reflect a judge’s adherence to a legal imperative. These feelings and expressions reflect the expectation that the conflicts brought before the courts were satisfactorily resolved through law. As the arbiters of legal disputes, judges’ expressions of satisfaction were integral to legitimizing, protecting, and producing settler colonial worldmaking, including its gendered and racialized order. However, judges also put limits on what behaviours were appropriate to achieve satisfaction. Given that the cases under review are concerned with sexual commerce, sexual satisfaction is an important theme throughout though rarely explicitly discussed.

2.1-1 Satisfaction through Law

Judges acknowledged the power their expressions of satisfaction held in their decision-making process. Alberta judge, Justice Stuart, noted in the 1917 case *R. v. Davidson* that he and his colleagues could amend the appellant’s conviction “if ‘satisfied’ ourselves.”²⁸ Ideally, judges achieved intellectual satisfaction by applying colonial law to legal disputes. An example of this process can be found in the 1918 case *R. v. Cyr*, when Justice Stuart wrote over eleven pages on the subject of women as holders of public office. Because settler women’s social positions in the north-west were distinct and shifting, Stuart thought it was “advisable” “for this Court to decide the point directly.”²⁹ He acknowledged that “at a very early stage in the history of our law in the

²⁷ Rubin, “The Traffic in Women,” 34.

²⁸ 35 DLR 82 at 84, 1917 CanLII 415 (AB CA) [*Davidson*].

²⁹ 38 DLR 601 at 602, 1917 CanLII 429 (AB CA) [*Cyr*].

Territories it was recognized that women should be put in a new position.”³⁰ Alberta’s Lieutenant-Governor-in-Council had appointed two women Police Magistrates, one in Edmonton and one in Calgary, and both had experienced a backlash to their appointments.³¹

Justice Stuart drew from American, British, and Canadian precedent, arguing that “individual” women had been admitted to public office “by way of exception.”³² Therefore women’s work in public office was “unusual but not absolutely illegal.”³³ He expressed “doubt” that English common law had ever “disqualified” women as a category from “holding any public office.”³⁴ Further, he argued, “we are at liberty to take cognizance of the different conditions here, not merely physical conditions, but the general conditions of our public affairs and the general attitude of the community in regard to the particular matter in question.”³⁵ His view was supported by his understanding of common law’s purpose; it was to practice “reason and good sense as applied to new conditions.”³⁶ By that same logic, the defence’s argument that sex work was a “visible means of maintenance” like any other job was “utterly untenable” because “visible means of maintenance” refers to “a source of livelihood which is not only lawful, in the sense of not being forbidden by law, but also honest and reputable, [...and] generally recognized as not subject to condemnation by the ordinary moral standards of the community.”³⁷ In his decision, Stuart

³⁰ Cyr, 611. It is important to note here that Justice Stuart, who was making his arguments in Treaty 6 territory, contributed to the erasure of Indigenous women’s authority and leadership with this statement. As Sharon Venne (Cree) writes, “It is sometimes assumed that Indigenous women held the same inferior status as non-Indigenous women of the same time period. Nothing could be further from the truth” [191]. In society, “it is the women who own the land” and men are the helpers, “not the other way around” [191]. See the section on Indigenous women’s authority in relation to treaty in Sharon Venne’s chapter “Understanding Treaty 6: An Indigenous Perspective,” in ed. Michael Asch, *Aboriginal and Treaty Rights in Canada: Essays on Law, Equity, and Respect for Difference* (Vancouver, UBC Press, 1997), 173-207.

³¹ The effect of a backlash over women appointed to positions of police magistrate impacted Alberta judges of superior courts as they would experience an increase of appeals over the women workers’ decisions and, therefore, experience an increase in their workload. Further, if broad and public feelings of dissatisfaction over women police magistrates were not addressed, faith in the whole justice system was at risk. Therefore, Justice Stuart had multiple reasons to go to bat for police magistrate Alice J. Jamieson.

³² Cyr, 605.

³³ Cyr, 608.

³⁴ Cyr, 608.

³⁵ Cyr, 610.

³⁶ Cyr, 611.

³⁷ Cyr, 613.

distinguished between women who could hold public office and women involved in sexual commerce through politics of exceptionalism and respectability. In conclusion, Stuart wrote that the process he followed and the research he conducted was “sufficient evidence to justify the magistrate in her conclusion.”³⁸ He upheld Jamieson’s verdict that the appellant was a “keeper” and subject to six months of hard labour in Fort Macleod’s jail.

Throughout the cases, judges expressed satisfaction by concurring with the reasoning, interpretation, and verdict of their colleagues. At times, judges so concurred with their peers that they did not lay out their views or reasons for their verdict and instead simply stated they “concurred with” or “agreed with” other Justices. At other times, judges expressed alignment with their peers and expanded by sharing their personal preference on the disputes before them. For example, Justice Beck wrote in *R. v. Jones* that he concurred with “my brothers Stuart and Clarke,” but added that he would feel more “personal satisfaction” if police brought him higher-level criminals, such as landlords, rather than women who sold sex in Calgary’s rental properties.³⁹

Judges did not always personally agree with the law. In the *Samail v. Samail* divorce case, Justice Bigelow acknowledged that, “In some cases it seems to me that it would be better in the interests of society, as well as the parties, to exercise the discretion by granting the divorce.”⁴⁰ Justice Bigelow did not feel satisfied by his decision, though he had followed and applied the law as he understood it. “I am not here to change the law,” he reflected.⁴¹ It was, instead, his role to “interpret [the law] in accordance with the decisions of the English Act and our own decisions.” The Samails would not be granted a divorce despite their mutual desire for one.

2.1-2 Satisfaction as Gendered and Racialized

³⁸ *Cyr*, 613.

³⁹ 62 DLR 413 at 415, 1921 CanLII 373 (AB CA) [*Jones*].

⁴⁰ 1922 CanLII 151 (SK QB(TD)), at para 20 [*Samail*].

⁴¹ *Samail* at para 21.

The sources reveal a gendered and racialized order and the ways colonial law enforced and produced that order. Bourdieu asserts that a “chain of legitimation” is required to convert the power of the juridical field into state-sanctioned violence that is not perceived as “arbitrary violence.”⁴² In these sources, the chain of legitimation is textured by white men’s satisfaction. In 1892, Canada codified men’s satisfaction into law in section 238 of the *Criminal Code* which defined a vagrant. The *Code* required women in public to give “satisfactory” accounts of themselves to police or risk arrest and charges. In 1913, Justice Walsh affirmed police powers to arrest women based on the police’s judgments. Even when police did not ask the women to account for themselves, women could be understood as failing to give a satisfactory account if, in court, a police magistrate agreed with the arresting police’s judgments. “The conviction [by a police magistrate] says that she did not give a satisfactory account of herself,” Walsh reasoned.⁴³ “Why should not the same meaning be given to these words in the conviction as in the statute?”⁴⁴ The consequences of Justice Walsh’s decision weighed heavily on women in public spaces and restricted their freedoms along lines of gender.

The racialized order is evident in Quong Wing’s appeal to Canada’s Supreme Court. Saskatchewan’s law did not hold white women and girls responsible if found residing, lodging, or working in Chinese-owned businesses. Rather, it was men of Chinese descent who were “liable to a penalty,” which included a fine of up to \$100 or “imprisonment for a term not exceeding two months.” In their decisions on the case, judges revealed their view of the racial order of Canada and Saskatchewan, centering white settlers as the standard race in the north-west. By upholding Saskatchewan’s law, the Supreme Court of Canada denied white women and girls access to jobs and housing and denied Chinese businesses workers.⁴⁵ The law, and the Supreme Court of

⁴² Bourdieu, “The Force of Law, 831.

⁴³ *Re. Effie Brady* (1913), 10 DLR 423 at 427, 1913 CanLII (AB QB) [Brady].

⁴⁴ Walsh’s decision occurred prior to the appointment of women magistrates. Therefore, the chain of legitimation he enforced included men’s feelings of satisfaction and their judgments exclusively.

⁴⁵ In order to prevent people of Chinese descent from settling and building families in Canada, Canadian legislators and political leaders made it difficult for Chinese women to immigrate to Canada.

Canada's decision to uphold it, is a strong example of the ways Canada's juridical field aided in the ascendance of whiteness by socially distributing "differing amounts of different kinds of capital to the different actors (or institutions) in society."⁴⁶

2.1-3 The Spectre of Sexual Satisfaction

Men's sexual satisfaction was rarely explicitly discussed in the sources. As I write above, the federal and provincial governments were interested in curbing Chinese men's access to white women. Chinese men's desires for sex and companionship were of concern for white settlers due to the low population of Chinese women in Canada and the broader goal of Canadian citizenry remaining British and white. In comparison, white men's desires for sex and companionship were often protected in the court. In *R. v. Cardell* in 1914, the appellant challenged that he did nothing illegal by pursuing a woman as a mistress and the judges concurred that men had such freedoms as long as they did not attempt to "bring about sexual connection between the woman and other men."⁴⁷ When white men admitted to paying for sex, they did not experience legal consequences. In fact, they shared these experiences as evidence and did so as a matter of fact. In *R. v. Davidson*, *R. v. Bobyck*, and *R. v. Graman*, men who paid for sex testified in court and their

Chinese women were perceived by Canadians as sexually promiscuous, prostitutes, and slaves. They were "more injurious to the community" than "white abandoned women" [quoted in Peter Ward, *White Canada Forever: Popular Attitudes and Public Policy toward Orientals in British Columbia*, (Montreal: McGill-Queen's University Press, 2002): 8-9]. In the late nineteenth and early twentieth centuries, prominent politicians and legislators held the view that white people and people of Chinese descent were too racially different to share a country. In House of Commons debates, Prime Minister John A. Macdonald argued that the "Mongolian" and white races could never combine [see *House of Commons Debates*, 12 May 1882, 147; *House of Commons Debates*, 30 April 1883, 905]. On the question of Chinese immigration, Prime Minister William Lyon Mackenzie King asserted that, "[...] it is a great economic law that the lower civilization will, if permitted to compete with the higher, tend to drive the higher out of existence, or drag down the lower level, then we see the magnitude of the question viewed as a great national problem" [*House of Commons Debates*, 8 May 1922, 155-156]. King held the view white people and Canada in general would be negatively impacted by Chinese immigrants. Yet, Chinese men were desired as workers in dangerous, low paying, and feminized jobs. Others were resourced enough to establish their own businesses. The population of Chinese men and the absence of Chinese women made white settlers uncomfortable and anxious. In Saskatchewan, white settlers successfully agitated for protective legislation that would prevent white women and girls from taking Chinese women's place in the homes and businesses of Chinese men.

⁴⁶ Bourdieu, "The Force of Law, 838.

⁴⁷ 19 DLR 411 at 412, 1014 CanLII 410 (AB CA) [*Cardell*].

experiences with sex workers were used as evidence.⁴⁸ In fact, Ernest Roberts testified in *R. v. Davidson* that he had bartered with a sex worker after she asked him for a loan. “He refused but said if she wanted to earn five dollars it would be all right. She proposed going to a room somewhere.”⁴⁹

Judges drew from their worldviews and morals to set limits and distinguish what was appropriate behaviour and what was illegal. In *R. v. Davidson*, Justice Stuart stated that it would be permissible if the appellant, a hotel clerk, had, “on receiving a wink, shut his eyes to his friend’s proposed escapade and allow[ed] him to take a woman to his room on one occasion without protest, and yet not be guilty at all of habitually allowing any casual guest to do so.”⁵⁰ However, Davidson had acted beyond those limits because his friendship was with the sex worker whom Ernest Roberts had paid for sex. The appellant and the sex worker were coworkers at the hotel where she was a “manicure girl.”⁵¹ According to the judges, the appellant’s behaviour converted him into a “keeper” under the law.

Sexual satisfaction was an important theme and area of conflict throughout the sources, particularly those concerned with marriage. At times, judges made revealing comments about their expectations of marital life. They held the view that marriage was a site of happiness, contentment, and peace. For example, in 1921 Justice Beck took issue with the “keeping” charge against a married woman in *R. v. Graman*. A police constable alleged that the woman had been a prostitute in the past and a witness claimed he paid for sex in the woman’s home. Beck wrote that the charge against the married woman should be dismissed, in part, because she was “a

⁴⁸ However, as found in *R. v. Sands*, coordinating with police by paying for sex and using that as evidence was found to “not support a charge” against a sex worker. See 28 DLR 375, 1915 CanLII 630 (MB CA).

⁴⁹ *Davidson*, 88; When Roberts was robbed by a sex worker, the law intervened on his behalf. Roberts paid for a room in a hotel. Following sex, he fell asleep. He woke up alone and found his money had been stolen. The hotel clerk was charged as a “keeper” for allowing such a thing to go on in his workplace. Judges did not consider Roberts responsible.

⁵⁰ *Davidson*, 92.

⁵¹ *Davidson*, 89.

married woman” and “her husband was at home every night.”⁵² “There is nothing to rebut the natural inference that such would be the case,” Beck affirmed.

In the divorce cases, *Samail v. Samail* and *Jones v. Jones*, husbands demonstrated that they felt entitled to sexual satisfaction. In *Jones v. Jones*, Jennie Jones presented a letter from her husband as evidence in her effort to win a divorce. In the letter he confessed that “he did not consider marriage a barrier to his pursuit of pleasure.”⁵³ Before granting Jennie Jones a divorce, Justice Taylor found that her husband “intended to compel the plaintiff to submit to his way of living, to use his money to support his mistress, to seek his pleasure more or less publicly, notwithstanding the affront to his wife, whilst his wife was compelled to work to provide the home.”⁵⁴ For settler women, as revealed by the cases under review, it was difficult to distinguish between relationships with men and work. For working-class women, such as sex workers and housekeepers, ending relationships did not require a judge. For example, when Mr. Samail hired a housekeeper and the two carried on a sexual relationship, “she left him because he told her he could not marry her and she would have to work for nothing.”⁵⁵

2.2 Fear and Horror

Feelings and expressions of fear and horror are linked to anxieties about human suffering and unfreedom. These anxieties are related, in part, to the powers of the juridical field. As Justice Stuart warned, interpreting the law had its “dangers.”⁵⁶ The power of the law was rife with potential for abuse. To legitimize the fledgling colonial system, judges had to publicly perform processes of reasoning to encourage and protect faith in the system. At times this meant calling police to task. Like in 1921 when Justice Clarke noted that a woman’s admission that she was a “keeper” of a bawdy house appeared to be “the results of threats or promises by the police officer” who

⁵² *R. v. Graman* (1921), 66 DLR 507 at 508, 1921 CanLII 607 (AB CA) [Graman].

⁵³ 1925 CanLII 98 (SK QB (TD)), at para 8 [*Jones v. Jones*].

⁵⁴ *Jones v. Jones* at para 8.

⁵⁵ *Jones v. Jones* at para 5.

⁵⁶ *R. v. Flannery* (1923), 3 DLR 689 at 691, 1923 CanLII 403 (AB CA) [*Flannery*].

arrested her.⁵⁷ Clarke reminded the court that an admission of guilt under duress or in exchange was a violation of English criminal law. The Calgary police officer's behaviour contributed to the woman's successful appeal.⁵⁸

Justice Idington invoked the horrors of slavery when his colleagues affirmed Saskatchewan's legislation banning men of Chinese descent from employing white women and girls. Idington wrote that, "This legislation is but a piece of the product of the mode of thought that begot and maintained slavery; not long ago fiercely claimed to be laudable system of governing those incapable of governing themselves."⁵⁹ The requirements of becoming a naturalized British citizen included "good character" and Quong Wing, having become a "British subject, has presumably been certified to as a man of good character[...]," Idington reasoned.⁶⁰ He "wholly dissented" with the verdict that Saskatchewan's law could apply to Quong Wing who, like other settlers, had left his homeland behind to make a life in the north-west.⁶¹

2.2-1 Fear, Horror, and Anti-Asian Sentiment

Anti-Asian sentiment was entrenched in western Canadian colonial culture and preceded the formation of Alberta's and Saskatchewan's provincial justice systems. White settlers used a variety of methods to express and assert their anti-Asian feelings. It was Asian immigrants who

⁵⁷ *Jones*, 418.

⁵⁸ At other times, performances of accountability and concern over police behaviour appeared to be empty gestures. For example, in *Re. Effie Brady*, Justice Walsh responded to the claim that Calgary police had arrested a woman without asking her to give a satisfactory account of herself. He expressed horror, writing that, "[I]t would be monstrous to suppose that even a woman of the under-world could be sent to gaol for six months for not giving a satisfactory account of herself when no one had ever asked her to do so" [426]. "She is under no compulsion to volunteer information explanatory of her wanderings to every one whom she meets," he continued. "She is obliged to satisfactorily account for her wanderings when and only when she is asked to do so and it is her failure then to comply with this demand that stamps her as a vagrant." However, as previously discussed in the section on satisfaction, Justice Walsh decided to uphold the police magistrate's conviction of the woman, arguing that the magistrate's decision was tantamount to police finding she had not given a satisfactory account of herself. Justice Walsh's 1913 decision and Justice Clarke's 1921 decision show different outcomes for women targeted by Calgary police in Alberta's Appellate court. The cases may also show some change in judge's feelings about women, sex workers, and police work in an eight-year period.

⁵⁹ *Quong Wing v. The King* (1914), Vol XLIX SCC 440 at 452, 1914 CanLII 57 (SCC) [*Wing*].

⁶⁰ *Wing* at 455.

⁶¹ *Wing* at 457.

endured the violent and economic impacts of anti-Asian views. During the Pacific Coast race riots of 1907, riots in Vancouver targeting Japanese immigrants spanned multiple days, from 7 to 9 September 1907. Members of the Anti-Asiatic League “made some sensational statements [...] going the length of prophesying the secession of British Columbia.”⁶² Further east, the *Saskatchewan Labour Realm* also warned readers of the “yellow invasion” of British Columbia and framed Asian immigration to Canada as an issue of race, labour, national identity and citizenship.⁶³ The paper made unfavourable comparisons, writing that:

A vast number of immigrants of Europe bring with them their wives and families, poor though they be, they suffer the hardships of homestead life, they till the soil, they work early and late, bravely facing adversity and misfortune until they at last conquer toll and become producers, contributors to a nation’s wealth, an asset not to be lightly discarded. And our Mongolian friends – what do they produce – as yet, nothing at all – unless opium dens and houses of ill fame can be called productions, and the money they earn, is that spent in the country? Why no.⁶⁴

The paper suggested that Asian men “posed great danger to the white worker.”⁶⁵ “He is capable of worming himself into the affections of any employer whose object is the acquirement of cheap labor regardless of the morality or the living standard of the man,” the *Labour Realm* warned. A strong, white working class, required European immigration and “union marriages.” “There should be no scab marriages.”⁶⁶ According to the *Saskatchewan Labour Realm*, Chinese men should not have access to white women, especially as wives. That would certainly constitute a “scab marriage,” in their view.⁶⁷

⁶² 26 September 1907, *Calgary Herald*.

⁶³ 13 September 1907, *Saskatchewan Labour Realm*.

⁶⁴ 13 September 1907, *Saskatchewan Labour Realm*.

⁶⁵ 27 September 1907, *Saskatchewan Labour Realm*.

⁶⁶ 20 December 1907, *Saskatchewan Labour Realm*.

⁶⁷ It was not just Asian men and white women who should be kept apart. The *Labour Realm* also noted that Asian women worked in lumber camps. According to the *Labour Realm*, the presence of Asian women was a distraction for white men and endangered white marriage. See 20 December 1907,

The 15 January 1908 issue of the *Calgary Herald* reported that western Canadians were “agitated” over a proposed colony of Japanese sugar beet farmers “in the Calgary irrigation district.” Like the *Saskatchewan Labour Realm*, concerned Calgarians saw a “‘grave danger’ to confederation” and viewed “with alarm any addition to what they call the ‘indigestible blocks’” of non-British immigrants.⁶⁸ In response, editors of the *Herald* reasoned that they were “quite in sympathy with those who want to keep this a ‘white man’s’ country” but “no white labor of any description is willing in sufficient quantity to knuckle down to the work.”⁶⁹ The editors told their readers that Indigenous communities “have been tried without success.” “We have millions of acres of fertile land in Alberta which might lie untilled till Doomsday if we undertake to taboo on account of their color, men, women and children who are willing to come and perform the hard and menial work which is necessary to make our idle soil produce wealth in the shape of sugary beets.” As white settlers of the north-west debated Asian immigration, the Canadian federal government made a treaty with Japan that restricted annual immigration of Japanese people to only 400 and only as “labourers and domestic servants.”⁷⁰ The treaty between Canada and Japan proved relevant in Saskatchewan’s White Women’s Labour Law. The initial legislation targeted “any Japanese, Chinaman, or other Oriental person,” but it was amended in 1913 so that it only applied to Chinese men.⁷¹

Saskatchewan Labour Realm. The article, titled “Orientals in Vancouver” by Ernest Cawcroft, disturbingly “predicts that there is no solution for this Vancouver phase of the Oriental menace but the removal or extermination of these aliens. Little as it accords with our Christian conception of the brotherhood of all races, the men who have moved westward to enjoy the liberty, democracy and opportunities of that boundless province, are not going to tolerate the presence of peoples who menace the institutions and morals of the occident, even though it be true that these aliens were brought thither because of the very needs of British Columbia.”

⁶⁸ 15 January 1908, *Calgary Herald*.

⁶⁹ 15 January 1908, *Calgary Herald*.

⁷⁰ Erika Lee, “The ‘Yellow Peril’ and Asian Exclusion in the Americas,” *Pacific Historical Review* 74.4 (2007), 551.

⁷¹ Constance Backhouse notes that members of the Chinese and Japanese communities immediately protested the legislation. Due to the early treaties restricting immigration from Japan there was a low number of Japanese immigrants. Japanese settlers and the Japanese government argued they were exempt due to their low numbers and their treaties with Canada. Japan was an imperial power and a desirable trading partner. India also challenged the legislation. The legislation was amended 11 January 1913 to reduce its focus to Chinese people exclusively (Backhouse, 346-348). This is the context in which

2.2-2 Fear and Horror over “White Slavery”

White settlers agitated for such legislation to prevent relationships like that of Gee Lee and Dora Milestine. According to the *Lethbridge News*, Milestine was a “pretty, trim and apparently well educated little French girl, speaking good English with only the slightest foreign accent.”⁷² She was seventeen years old and had lived in Winnipeg before meeting Gee Lee. Police found Milestine in a Lethbridge store owned by a man of Chinese descent on 4 February 1908. Initially, Milestine asserted that she was Gee Lee’s wife and she was with him of her own accord. Lethbridge Police Chief Gillespie suspected Milestine was a “white slave” and strategized “that if the girl was taken away from the Chinaman and shown that she had nothing more to fear from them and nothing from the police she would then tell a much different story and that story would confirm his suspicions.”⁷³ He had Milestine arrested and charged as a common prostitute and he charged Gee Lee for procuring. She was refused bail while Gee Lee was released on sureties of \$2000.00. When Gee Lee tried to see Milestine after he made bail, Chief Gillespie had him arrested as a vagrant. Alone in the police barracks, and reportedly experiencing opium withdrawal, Milestine signed a statement she made to Mounted Police Corporal Humby as Chief Gillespie witnessed.⁷⁴

Saskatchewan’s Supreme Court heard an appeal in a case involving a Japanese hotel worker who was found guilty “living wholly or in part on the earnings of prostitution” by District Court Judge Ottseley in Moose Jaw in 1920. A sex worker staying and working in a Moose Jaw hotel from 20 April 1920 to 29 April 1920 provided the hotel worker, a “bellboy,” with generous tips for “taking up meals and ice water to her room” and “for bringing up [two men] to her room.” Chief Justice Haultain and Justices of Appeal Newlands, Lamont and Elwood quashed the conviction because they found that the appellant did not have a habit of living off of a sex worker’s earnings. The case reveals differences of opinion at the levels of a district court versus the provincial supreme court on the subject of Asian men in proximity to sex workers. It is possible that the appellant’s status as a Japanese immigrant worker, rather than a Chinese immigrant worker, played a factor in the Saskatchewan’s Supreme Court ruling. The case may also show differences of opinion between provincial supreme courts as Alberta’s Court of Appeal ruled differently in *R. v. Davidson*, when a hotel clerk was found guilty of “keeping” because he rented a room to a sex worker he knew. See *R. v. Nishimura* (1920), 1920 CanLII 157 (SK CA).

⁷² 11 December 1908, *Lethbridge News*.

⁷³ 11 December 1908, *Lethbridge News*.

⁷⁴ 11 December 1908, *Lethbridge News*.

Dora Milestine's statement was published on the front page of the *Lethbridge News*.⁷⁵ "I first met Gee Lee in a chop-suey restaurant in Alexandria street, Winnipeg," Milestine's statement read. She had been staying at the Salvation Army, where her parents had sent her, when she met him.⁷⁶ "Two ladies that I was staying with in Winnipeg left while I was away and took my clothes with them." She was on her own and Gee Lee offered her resources. The statement went on to describe a typical "white slave" narrative. Dora Milestine and Gee Lee began a relationship and she sold sex to men he would send to her room. The two shared profits from Milestine's sex work. While in Winnipeg, Gee Lee proposed marriage. "I said 'Yes,'" Milestine stated. They moved to Brandon where they lived in "a Chinese den." From Brandon they went to another "Chinese joint" in Regina. From Regina they went to Moose Jaw, then Calgary where they stayed for 3 months. "From Calgary we came to Lethbridge and went into a Chinese store on Ford street." That is when she told Gee Lee, "I wanted to go home." He told her that she could "hustle" her ticket back to Winnipeg but then kept her earnings and shared the earnings with the Lethbridge store owner. "They kept me there against my will. I wanted to go home but they would not let me go." "Several Chinamen have threatened they would kill me if I told the police. One of them struck me. I could point those Chinamen out, every one of them," the statement dramatically concluded.

The day before the trial, the newspaper sent a representative to the store where Milestine was found. The representative reported that the store contained "repulsive looking Chinamen" "lounging" and playing games.⁷⁷ "The whole interior was blue with a foul reeking, sickly smoke." And a "weird shrieking noise" played on a gramophone. "Lying on low board benches or tables which surrounded the room the bodies of four or five Chinamen could dimly be discerned. Their hideous chattering ceased at the sight of a police uniform, but the weird gramophone continued

⁷⁵ 11 December 1908, *Lethbridge News*.

⁷⁶ According to Milestine's statement, she was estranged from her parents. They had sent her to Salvation Army after she started using drugs. Though she was estranged from her parents, police asserted that she should be returned to her mother and father as soon as possible as the family home was the appropriate, safe place for young women.

⁷⁷ 11 December 1908, *Lethbridge News*.

to grind out its awful noises.” The *Lethbridge News* representative employed a style of investigative journalism pioneered by W.T. Stead in his famous series on “white slavery” in the *Pall Mall Gazette*.⁷⁸ The writer conveyed disgust and horror at the sights, sounds, and smells of Chinese men. When he spotted a sign in the dwelling advertising “This room for rent,” the writer assumed the ad to be “a speaking invitation to some poor fallen woman who might chance to pass that way.”

At the 8 December 1908 trial, eleven Asian men faced charges. At the start of the court proceedings, defense attorney Charles F. Harris “demanded that the public and press be excluded from the court room, ‘not so much on the point of public morals but for public safety,’ with the present uneasy feeling abroad against Chinamen it would be dangerous to allow the public to have the particulars of the case given them.”⁷⁹ Police Magistrate Humphries, who had reportedly broken up an anti-Chinese riot in Lethbridge on Christmas day the year before, agreed with Harris.⁸⁰ After the first two sessions, Harris opened the court to the press when he began his argument that Milestine was simply telling the story police wanted to hear. In response, Chief Gillespie admitted Milestine’s story was not corroborated, but asked the court “did you ever know of a case where corroborated evidence could be produced in court to prove a woman’s shame?” The chief argued that “99 out of every 100 men would deny a woman’s shame in court to save the woman but these Chinamen swore to save themselves.” The chief appealed that Magistrate Humphries:

must be satisfied from the evidence that the girl was in the power of these Chinamen absolutely afraid to make a move, made to understand that the police would punish her if they caught her, threatened her with death if she ever sought the aid of the police [...] I am sure you will agree that no woman whatever she might be would tell such a story of

⁷⁸ See Judith R. Walkowitz, *City of Dreadful Delight: Narratives of Sexual Danger in Late-Victorian London* (Chicago: The University of Chicago Press, 1992).

⁷⁹ 11 December 1908, *Lethbridge News*.

⁸⁰ 26 December 1907, *The Albertan*.

shame without it being true. Such a revolting tale of human depravity could not be concocted [sic] out of nothing by that girl. [...] I ask your worship in the name of Christianity to inflict the heaviest punishment upon them that it is in your power to do.⁸¹

Magistrate Humphries convicted Lee of living off the avails of prostitution and sentenced him to three months of hard labour.⁸² Gee Lee appealed Humphries decision and won. The *Lethbridge Herald* acknowledged that Milestine's evidence was "not tending to make the case against Gee Lee as Black as at first appeared."⁸³

Like other parts of the British Empire, fears of "white slavery" shaped the affective landscape of the north-west's settler colonial culture. These fears held an important space in the psyches of white settlers and encouraged their vigilance. They imagined horrible abuse befalling white women and girls at the hands of Asian men and neglected the harm anti-Asian sentiment caused. The above history reveals the significance of affect in the north-west's economic worldmaking as fear over "white slavery" was mobilized to order the economy and shore up white men's economic dominance.

Though stories of "white slavery" elicited shock and horror, settlers had a strong appetite for them. Newspapers fed that appetite with reports that transplanted those stories to the north-west. The *Red Deer News* reported that "white slavery" was a rampant issue in western Canada. Rural girls were "snatched from lives of decency and comparative peace and dragged under the slime of an existence in the white slave world [...]."⁸⁴ Further, white slavery was worse than any other experience of slavery. "[T]hings are done everyday in the white slave traffic which would, by contrast, make the Congo slave traders of the old days appear like good Samaritans," the *Red*

⁸¹ 11 December 1908, *Lethbridge News*.

⁸² Belinda Crowson, "Ethnic [sic] diversity in Lethbridge's red light district, 1880s to 1944," *Alberta History* 57.4 (Autumn 2009).

⁸³ 30 January 1909, *Lethbridge Herald*; it is noteworthy that local newspapers published Dora Milestine's statement on the front page, but when Gee Lee won his appeal, the *Lethbridge Herald* published the news item on the paper's sixth page.

⁸⁴ 19 January 1910, *Red Deer News*.

Deer News advised.⁸⁵ Cultural influencers, like Toronto's Rev. Dr. John Shearer, purveyed the image of a widespread "white slavery" issue in the north-west. He warned that Winnipeg's segregated red-light district "offered a ready market for the white slave trade" and "some half a dozen of white slave victims have been marketed within the past year in the vice district of Winnipeg."⁸⁶ "Our friends in several western cities have evidence 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. The vice districts in all of these western districts are always alongside or in the midst of the Oriental quarter." In the affective landscape of the emerging settler communities of the north-west, white people's horror was mapped onto Asian communities through local newspapers and by influential figures.

In 1912, with white workers, business owners, and moral reformers agitating on the cause of keeping white women and Asian men apart, the Saskatchewan government passed its *Act to Prevent the Employment of Female Labour in Certain Capacities*. In his decision of Quong Wing's appeal, Chief Justice Fitzpatrick argued that the legislation was like factory Acts "to safeguard the bodily health, but also the morals of Canadian workers."⁸⁷ "This legislation may affect the civil rights of Chinamen, but it is primarily directed to the protection of women and girls."⁸⁸ Justice Davies also believed the legislation's "object and purpose is the protection of white women and girls; and the prohibition of their employment or residence, or lodging, or working, etc., in any place of business or amusement owned, kept or managed by any Chinaman is for the purpose to ensure that protection."⁸⁹ Davies concluded that the legislation "will be upheld even though it may operate prejudicially to one class or race of people."⁹⁰

⁸⁵ 19 January 1910, *Red Deer News*.

⁸⁶ 12 November 1910, *The Globe*.

⁸⁷ *Wing*, 444.

⁸⁸ *Wing*, 444.

⁸⁹ *Wing*, 448-449.

⁹⁰ Judges of Saskatchewan's Court of Appeal encountered a case in 1919 that fit the definition of so-called "white slave traffic," though it did not involve anyone of Asian descent. *In R. v. Bobyck* (1919), the appellant, a returned World War I soldier, was convicted of "aiding or compelling" a girl to "prostitution

Judges imagined women and girls involved in sexual commerce as the most unfortunate and miserable women in society. The figure of the prostitute haunted their imaginations as they expected sex workers to experience the worst kinds of abuse. Judges turned to the figure as an example to measure horror and suffering in married women seeking divorce. Of the decisions Bigelow consulted in *Samail v. Samail*, one included a successful petition for a divorce by a woman who “had been compelled by her husband to prostitute herself.”⁹¹ In *Jones v. Jones*, Justice Taylor referenced *Milner v. Milner* (1861), a case in which a husband took his wife “by the shoulders, and using the most filthy language, pushed her against a wall, thrust his umbrella against her person in a way which led a passer-by to believe she was a prostitute.”⁹² The passerby “caught her by the leg, and apparently the husband took no steps to protect her. It was held to be a case of the grossest and most abominable cruelty.” Yet, when granted the direct opportunity to address violence against sex workers, judges of the north-west took a lenient approach.

In *R. v. Flannery*, a 1923 case in Alberta, the appellant had broken into a sex workers’ home and nearly killed her. He was charged with attempted murder but Justice Stuart argued that “burglary was the really serious offence [...], if the evidence is correct, because the woman was in her own dwelling house, to the shelter and protection of which she was under the law absolutely entitled.”⁹³ She remained in hospital as a result of her injuries, yet Justice Stuart repeatedly downplayed the severity of the violence because it occurred in the context of “a drunken row between a prostitute and the accused.”⁹⁴ “I think the proper discretion to exercise is simply to discharge the accused and I would so order,” he concluded.⁹⁵ The appellant had already been through enough having spent three months in jail.

generally” so he could “gain, exercise control over” her “movements.” When white men were the source of violence against white women and girls, their race was not considered relevant to the issue. See 1919 CanLII 333 (SK CA).

⁹¹ *Samail* at para 16.

⁹² *Jones v. Jones* para at 67.

⁹³ *Flannery*, 695.

⁹⁴ *Flannery*, 691 and 695.

⁹⁵ *Flannery*, 695.

2.3 Suffering and Pity

Judges of the north-west imagined women and girls involved in sexual commerce as people who experienced the worst kinds of harm, suffering, and hardship. In the late nineteenth and early twentieth centuries, pity became a primary emotion directed toward women and girls involved in sexual commerce. Widespread feelings of pity emerged, in part, due to early feminist and labour movements' critiques of broad gendered and racialized economic structures. Pity for sex workers enabled broad social moves to "rescue" and "rehabilitate" women and girls working in the sex trades. In 1921, one Alberta judge, Justice Beck articulated pity for "the miserable women" who police pursued and charged when it was their landlords who "occupying a position of more or less respectability in the community, are morally more guilty" because they acted "coldly and deliberately" by profiting off of poor women's and girls' sex work.⁹⁶

Judges were well acquainted with human suffering. They encountered it regularly in their work and doled it out as punishment for or as a deterrent from certain criminalized acts.⁹⁷ Those with the most resources were somewhat shielded from the suffering judges doled out. For example, when defence objected that a police magistrate had overstepped by directing imprisonment with hard labour on default of paying a fine and costs, Alberta's Justice Stuart concluded that, "if the offender chooses not to pay the fine and prefers to go to gaol surely he is suffering punishment for his offence and not merely for non-payment of the fine."⁹⁸ The fact of the

⁹⁶ *Jones*, 414; Justice Beck encouraged police to shift their approach from targeting sex workers to focusing on the most powerful who financially benefited from sexual commerce. However, that same year, Justice Clarke argued that police were within their authority to target any woman they wanted, writing that a "peace officer who on reasonable and probable grounds believes that an offence for which the offender may be arrested without warrant has been committed whether it has been committed or not and who on reasonable and probable grounds believe that any person has committed that offence is justified in arresting such person without warrant whether such person is guilty or not." (*Graman*, 511).

⁹⁷ Certain judges had reputations of subjecting people in their court to suffering. Justice Walsh, who decided the *Re. Effie Brady* case and was one of the judges deciding *R. v. Cyr* and *R. v. Davidson*, had the nickname "The Hanging Judge" due to the high number of people he sentenced to hanging. Calgary's Police Magistrate Colonel G. E. Sanders practiced severe corporal punishment, administering whipping himself to those he sentenced to such punishment. Sanders made the initial ruling in the *R. v. Jones* (1921) case.

⁹⁸ *Davidson*, 87.

appellant's economic capacity as a hotel clerk did not factor into Stuart's opinion; though, clearly, people with economic resources avoided the same suffering and unfreedom as those incarcerated due to an inability to pay fines.

Judges in the north-west had a long history of established law and procedure to draw from when they encountered suffering in cases involving sexual commerce. Widespread narratives about sexual commerce, and those involved in it, aided judges in their decisions. By deploying reason and feelings reflected in established narratives about sex work, judges could be confident that their decisions were informed by general feelings and attitudes. This reflection of broad norms followed the logic of common law. However, judges struggled to make decisions when women's suffering occurred in the context of family and marriage. As discussed in previous chapters, marriage and family were supposed to be the sites of comfort, peace, satisfaction, safety, and happiness. Not suffering. For many women, family and marriage did not meet those expectations.

2.3-1 Suffering in Marriage and the Problem of Pity

As he commented on women's suffering in marriage, English judge and baron, Lord Stowell stated in 1790 that, "Courts of Justice do not pretend to furnish cures for all the miseries of human life, [...] They cannot make men virtuous."⁹⁹ English matrimonial law was criticized as causing injustice, suffering, and misery, particularly for women. Judges managed their feelings of pity for women by drawing from case law and following the established processes of decision making. For example, in Saskatchewan in 1922, Justice Bigelow considered the suffering Mrs. Samail experienced due to her husband's neglect. Divorce cases were new to Saskatchewan's courts and they required the approval of the province's attorney general. The Samails' divorce had already been granted, but the attorney general intervened, and Bigelow was tasked with review of the case. He found that Mr. Samail, the plaintiff in the divorce case, "drove the defendant

⁹⁹ Quoted in *Samail* at para 88.

[Mrs. Samail] away from his home without reasonable excuse” and “he never properly supported her or their child.”¹⁰⁰

To understand how best to proceed, Bigelow drew from English precedent and quoted English judge Sir Thomas Townsend Bucknill for guidance on how to manage emotions in divorce cases:

“Each case, must, of course, be determined according to its facts; no feeling of sympathy, as, for instance, on behalf of an ill-treated woman, as in this case, can be entertained; nor may I listen to the appeal that she made to me, that if she can obtain her divorce to-day, another man is ready to marry her and take her child. The only question is this: Was her misconduct caused directly by her husband’s cruelty and adultery?”¹⁰¹

Though judges felt pity and sympathy for women’s suffering in the courts, English law instructed that those feelings should not inform decisions. This instruction demonstrates the emotion work involved in practicing English and Canadian law. Emotion work refers to “the act of trying to change in degree or quality an emotion or feeling.”¹⁰² It includes “the act of evoking or shaping, as well as suppressing [emotions] in oneself.”¹⁰³ According to Justice Bucknill, the emotion work of judges applying English divorce law required suppressing sympathy for women. As Arlie Hochschild writes, emotion work that requires suppression includes a “cognitive focus on an undesirable feeling which is initially present.”¹⁰⁴ “Emotion work becomes an object of awareness most often, perhaps, when the individual’s feelings do not fit the situation, that is, when the latter

¹⁰⁰ *Samail* at para 10; Bigelow reasoned that Mrs. Samail’s subsequent adultery was not a good enough reason for granting a divorce because she had few options but to seek support from another man. That, and Mr. Samail had also been unfaithful. Mrs. Samail’s suffering and the Samails shared desire for a divorce were not enough to grant it, according to Justice Bigelow. Though she had been harmed by her husband, Mrs. Samail was not the plaintiff, Mr. Samail was. These were some of the legal and procedural barriers to granting a divorce in the period as the defendant had to be found responsible for a matrimonial offence.

¹⁰¹ Quoted in *Samail* at para 17.

¹⁰² Arlie Hochschild, “Emotion Work, Feeling Rules, and Social Structure,” *American Journal of Sociology* 85.3 (Nov., 1979), 561.

¹⁰³ Hochschild, 561.

¹⁰⁴ Hochschild, 561.

does not account for or legitimate feelings in the situation.”¹⁰⁵ The feeling rules of English law dictated that sympathy for suffering women must be set aside by judges deciding whether or not to grant a divorce.

As men returned changed from World War I, women’s and girl’s suffering in the north-west increased. Feelings about white women’s and girl’s suffering opened avenues for ending marriages when wives, as plaintiffs, could prove severe cruelty. Jennie and Philip Jones were married “during the Great War, in 1916, at Saskatoon, where they lived together for a short time before he went overseas on active service.”¹⁰⁶ When Philip returned, he struggled while Jennie worked full time as a stenographer to “maintain the home.”¹⁰⁷ Matters came to a head in July 1922 when he began “drinking and gambling more or less.”¹⁰⁸ By September, “there would not be a week in which he was not out all night, or nearly all night, at least three nights altogether.”¹⁰⁹ Then she discovered he had a mistress whom he financially supported. That is when the couple started to have physical altercations. She found him with his mistress in the middle of the night 3 June 1923.

He told me to get out of the room, and I was not going, and he said something to the effect that if I didn’t get out or something, and leave him alone, interfering with him or something to that effect, that he would kill me. I was to stop interfering with his affairs, stop following him around and interfering with his affairs, or he would kill me.¹¹⁰

Judge Taylor of the Saskatchewan Supreme Court compared the evidence before him, including Jennie’s “poor condition,” and English and Canadian cases of divorce granted on the grounds of cruelty. Taylor found it difficult to assess Jennie’s suffering because, “conduct that may cause

¹⁰⁵ Hochschild, 563.

¹⁰⁶ *Jones v. Jones* at para 1.

¹⁰⁷ *Jones v. Jones* at para 1.

¹⁰⁸ *Jones v. Jones* at para 2.

¹⁰⁹ *Jones v. Jones* at para 2.

¹¹⁰ *Jones v. Jones* at para 4; Based on Taylor’s observations of Jennie and his understanding of the Jones couples’ history, he concluded that Philip’s “threat to kill the plaintiff should be taken *cum grano salis*” (*Jones v. Jones* at para 8).

pain and anguish, no less keen because mental, in one person, might little offend the sensibilities of another person.”¹¹¹ He had no experience with divorce and, after acquainting himself, wrote that “it would seem that some supersense is required” to navigate matrimonial law.¹¹²

2.3-2 White Women’s Embodiment and Suffering in Marriage

Justice Taylor reviewed the leading decision on the matters of interpersonal violence and cruelty in marriage, such as the 1856 case *Tomkins v. Tomkins* in which English judge Sir C. Cresswell advised that:

There must be bodily hurt—not trifling or temporary pain; or a reasonable apprehension of bodily hurt. It will be for you, on a consideration of the evidence you have heard, to determine whether the husband has so treated his wife and so manifested his feelings towards her as to have inflicted bodily injury, to have caused reasonable apprehension of bodily suffering, or to have injured health. It is for her to make out the affirmative of what she alleges.¹¹³

In such cases, women’s bodies became evidence as they had to demonstrate physical suffering. Jennie Jones was physically impacted by her husband’s treatment. Her physician testified that “she was not exactly sick,” but “she was in poor health” due to “the mental strain to which she was subjected.”¹¹⁴ If her situation did not improve, she “would get worse, and [it] might shorten her life.”

As Taylor reviewed the case law, he found that Jones was not alone in becoming ill due to her husband’s treatment. In the 1863 *Hudson v. Hudson* case, Mrs. Hudson “suffered much

¹¹¹ *Jones v. Jones* at para 11.

¹¹² *Jones v. Jones* at para 11.

¹¹³ Quoted in *Jones v. Jones* at para 18; Taylor created a “system” by dividing the most frequently quoted matrimonial cases into three categories: (1) Those in which the wife (or husband in some cases) claimed to be in jeopardy from personal violence. (2) Those in which the question was whether a course of conduct which did not include adultery amounted to cruelty; and (3) Those cases in which adultery and other conduct was charged as cruelty.

¹¹⁴ Quoted in *Jones v. Jones* at para 7.

from weak health and distress of mind” due to “her husband’s conduct.”¹¹⁵ In 1864, Mrs. Pickard experienced “much mental and bodily suffering” because of her marriage.¹¹⁶ And Mrs. Chessnutt, of the 1854 *Chessnutt v. Chessnutt* case, endured “great mental and bodily ill health” as a result of her husband’s verbal abuse and his binge drinking.¹¹⁷ In 1893, Mrs. Walmesley “suffered great mental agony” due to her husband’s treatment.¹¹⁸ It impacted her appearance and her health. “A doctor who attended her was of the opinion that, if subjected to a longer continuation of this course of ill-treatment, she would develop melancholia.” In 1916, Mrs. Moss’s health also “suffered” as a consequence of her marriage.¹¹⁹

Some of the above women were granted divorces, but not all. Their marriages had to exhibit recognizable characteristics that met the criteria English matrimonial law laid out for divorce. A husband’s drinking and abuse, and a wife’s mental and physical suffering, did not constitute cruelty unless the conflict escalated to legal standards of violence or threats of violence. For example, in *Chessnutt v. Chessnut*, British Justice Lushington reasoned that legal cruelty did not include practicing social vices like gaming or overspending, even if it led to the ruin of a wife and family and contributed to the wife’s ill health. “Mental anxiety, excitement, bodily illness, though occasioned to the wife by the conduct of the husband, does not constitute cruelty, except such conduct was accompanied with violence or threats of violence.”¹²⁰ With Philip’s threats, his treatment of Jennie, and Jennie’s ill health, the Joneses met all the requirements for a divorce on the grounds of cruelty. Taylor wrote that the evidence “indicated a future in which life for the plaintiff, as the defendants wife, could no longer be tolerable, and would be so full of misery and unhappiness that her health could not stand under it; a breakdown of some nature would be

¹¹⁵ Quoted in *Jones v. Jones* at para 33.

¹¹⁶ Quoted in *Jones v. Jones* at para 34.

¹¹⁷ Quoted in *Jones v. Jones* at para 65.

¹¹⁸ Quoted in *Jones v. Jones* at para 74.

¹¹⁹ Quoted in *Jones v. Jones* at para 39.

¹²⁰ Quoted in *Jones v. Jones* at para 65.

inevitable, in my opinion.”¹²¹ He concluded that, “I can find a warrant for granting to the plaintiff the relief she seeks from a marriage which to her was intolerable, and would be to any decent woman.”¹²²

2.4 Uncertainty

Uncertainty is detectable in every decision. Feelings of uncertainty and confusion reflect the nature of the work judges perform, assessing conflicts and evidence in a process that has been imagined as “an ordered progression toward the truth.”¹²³ This truth-finding mission is represented as emotionally distant, scientific, and reliant on reason. It is not divorced from human emotion, however, as Judges’ perform emotional labour and emotion work while making their decisions.¹²⁴ Feelings of uncertainty show up in the sources in two ways: (1) as a feeling projected onto juridical actors and (2) as an expression by judges in their decisions. Uncertainty-induced anxiety is also evident.

2.4-1 Uncertainty as a Projected Feeling

In the earliest decisions, judges empathized with fellow juridical actors, imagining oversteps and mistakes in lower courts and by police as honest errors due to a lack of knowledge and proper training. For example, in 1913, Justice Walsh upheld a woman’s conviction in a lower court despite evidence that the police overstepped during her arrest. Walsh also recognized that the police magistrate made errors in the proceedings, but passed those errors off to a workforce administering the law “without legal training or experience of any kind.”¹²⁵ Drawing on the field’s internal logic that common law and the *Criminal Code*’s purpose was to reduce anxiety for those administering the law, Justice Walsh wrote that:

¹²¹ Quoted in *Jones v. Jones* at para 8.

¹²² *Jones v. Jones* at para 91.

¹²³ Bourdieu, “The Force of Law,” 830.

¹²⁴ As discussed in the section on suffering and pity, emotion work was central in the cases under review. Emotional labour involves managing and eliciting the feelings of others. One may imagine judges emotional labour in the instance when they demand “order” in their courts.

¹²⁵ *Brady*, 428.

the Code was enacted so that a justice of the peace might not worry over the phraseology [...] Not being a Judge or a lawyer, he is not used to picking hidden meanings out of the plain language or status nor should he be asked to do so. It surely must be mystifying to a justice of the peace after being told by the Code that he will be all right if he describes an offence in the language of the section enacting it to be told by a Judge that he was all wrong in so describing it and his conviction is [...] no good [...]¹²⁶

Justice Walsh prioritized ease in colonial law's application and protected Justices of the Peace from potential worry. His decision was at the expense of Effie Brady's freedom.

Judges projected uncertainty onto their peers when they disagreed about a decision. In 1921, Justice Beck wrote that his colleagues' reasoning skills were "quite faulty" when they decided that a woman's reputation was admissible evidence in prostitution cases.¹²⁷ In some instances, Judges projected uncertainty onto legal actors referenced in case law. For example, in 1918 Justice Stuart wrote that the reasoning of a judge he referenced "seem[ed] rather illogical."¹²⁸ Judges also projected confusion onto juridical actors as a method of argument and posturing that situated judges as authorities and experts on the law. Judges argued defence attorneys did not understand the law and their grounds for appeal were not valid.¹²⁹ Projected feelings of confusion did not flow exclusively in one direction, from higher courts to lower courts. For example, in *R. v. Jones*, Calgary's Police Magistrate Gilbert E. Sanders is quoted as stating, "I do not want things to go clouded to the other Court and this is what I want to stop because they are so easily confused."¹³⁰

2.4-2 Uncertainty as an Expressed Feeling

¹²⁶ *Brady*, 428.

¹²⁷ *Graman*, 509.

¹²⁸ *Cyr*, 608.

¹²⁹ Judges projected confusion onto the defence in *R. v. Davidson*, 35 and *R. v. Flannery*, 690.

¹³⁰ *Jones*, 418.

Unsurprisingly, expressions of uncertainty could be found in decisions that included the queries of judges from lower courts. For example, in 1919 the District Court Judge Dickinson asked his superiors, “was I right [...]?” in making his original verdict.¹³¹ His expression was appropriate as the judges hearing the appeal represented a higher authority. Judges also expressed uncertainty over how to proceed in cases that were outside their range of knowledge and expertise. “I confess that I approach the enquiry as a novice,” Justice Taylor wrote in 1925.¹³² “Matrimonial cases in Western practice have, until recent years, been rare, and there has been no opportunity, at least for me, to absorb from practice, the legal lore surrounding such actions.” In 1914, Justice Beck expressed uncertainty when deciding “whether a man can be convicted of being an inmate” of a “house of ill-fame.” “I think, looking at all the associated provisions of the Code, the meaning to be attached to the word inmate is an inmate for the purposes of prostitution and therefore a female.”¹³³ However, Beck had not “been referred to” “decisions upon the point in Canada or elsewhere” and noted that, after a “casual search” of laws criminalizing men as inmates, he found that “there is no corresponding provision in England or the United States of America.”¹³⁴ “I am therefore left to form unaided the best judgment I can upon the point,” he confided.¹³⁵

When judges struggled with a decision that held deep social consequences, they made expressions in their decisions indicating anxiety and uncertainty. In *Quong Wing v. the King*, Justice Davies expressed uncertainty over how to proceed when faced with the suffering Saskatchewan’s law inflicted on Chinese settlers. He wrote that “there is no doubt that, as enacted, it seriously affects the civil rights of the Chinamen in Saskatchewan, whether they are

¹³¹ *Bobyck* at para 11.

¹³² *Jones v. Jones* at para 11.

¹³³ *Knowles*, 640.

¹³⁴ *Knowles*, 640.

¹³⁵ In the cases under review, Justice Beck routinely interpreted the law to protect the freedom of the appellant (Besides *R. v. Knowles* (1913), see *R. v. Graman* (1921), *R. v. Jones* (1921), and *Jones v Jones* (1925) at para 57). In this case, his decision has gendered effects that solidify a cis-hetero-patriarchal understanding of sexual commerce and the *Criminal Code*.

aliens or naturalized British subjects.”¹³⁶ He stated that, “I would feel some difficulty in upholding the legislation now under review.”¹³⁷ However, by drawing on his understanding of the *British North America Act (BNA Act)* and *Cunningham v. Tomey Homma* (1902), Davies reasoned that the provinces were not responsible for the consequences of the *BNA Act* and “there is no inherent right in any class of the community to employ women and children which the legislature may not modify or take away altogether.”¹³⁸ Legislation on the subject of employment of white women was within the powers of the provincial legislatures. “The right to guarantee and ensure their protection from a moral standpoint is, in my opinion, within such provincial powers and, if the legislation is bona fide for that purpose, it will be upheld even though it may operate prejudicially to one class or race of people.”¹³⁹ While laying out his reasoning, Davies wrote that “I am relieved from the difficulty I would otherwise feel.”¹⁴⁰

3. Conclusion

A brotherhood of judges expanded Canada’s colonial world by transplanting British and Canadian legal structures, cultures, and feelings into the north-west. The fledgling justice system inherited the criminalized figure of the prostitute, the associated feelings about her, and ways to discipline her. She was perceived and pursued as an “undesirable” member of the community and, simultaneously, perceived and pursued as socially and sexually desirable. In the above cases, Judges’ public functions were to shape and reproduce the figure of the prostitute and colonial perspectives on sexual commerce by interpreting and applying the law. Federal and provincial judges participated in the practical activity of worldmaking by legalizing and criminalizing certain sex acts and relationships and by transforming ordinary acts and relations, such as between a Chinese naturalized British citizen and his white women employees, into

¹³⁶ *Wing*, 449.

¹³⁷ *Wing*, 445.

¹³⁸ *Wing*, 449.

¹³⁹ *Wing*, 449.

¹⁴⁰ *Wing*, 447.

confrontations to be assessed by “a superior power.”¹⁴¹ That colonial worldmaking included socially distributing “different amounts of different kinds of capital to the different actors (or institutions) in society.”¹⁴² They assessed the gendered and racialized flow of capital and made decisions that encouraged white men’s monopoly on all types of capital.

Some women in the north-west turned to sex work as a method of livelihood. Women advanced in settler society by demonstrating their difference from sex workers and, therefore, their respectability. The figure of the prostitute was also used as an example of misery and suffering against which other women’s pain was measured. The figure held such pervasive meaning that men oriented their behaviour toward women based on the women’s proximity to the prostitute. She could be any woman. And some women found themselves, often rather suddenly, experiencing the stigma, suffering, pity, violence, and unfreedom, colonial culture reserved for sex workers.

Canada’s *Criminal Code* codified men’s satisfaction into law in section 238 requiring women in public to give “satisfactory” accounts of themselves to police or risk arrest and charges as vagrants. The code organized women in public space so that their freedom of movement depended on the judgment of police.¹⁴³ Across the sources, men demonstrated that they felt entitled to satisfaction in all facets of their lives. Women’s access to satisfaction was much less socially and structurally enabled and it was difficult to distinguish between relationships with men and work. But both men and women settlers desired and felt entitled to feelings of satisfaction, contentment, happiness, safety, and peace. These feelings were often perceived as coming from reproductive hetero-patriarchal monogamous Christian marriage and families, which aligned with the goals and vision of the colonial state. The above cases show that judges were confronted with

¹⁴¹ Bourdieu, “The Force of Law,” 831.

¹⁴² Bourdieu, “The Force of Law,” 838.

¹⁴³ For some women, even private space was under police surveillance as in the case of *R. v. Graman* (1921) when a woman was accused by police of being a keeper and having been a former prostitute. While the woman faced charges, the man who reportedly paid for sex in her home faced no legal consequences aside from providing testimony at trial.

the gaps between expectations of harmonious marriages versus reality. They attempted to separate their feelings about women's suffering from their decisions, but feelings and emotions animated and structured their decisions. Emotion work was integral to the legitimacy and respectability of a judge's decision. The juridical field required judges to walk a tight rope of feelings in order to maintain the semblance that what occurred in the courtroom was not illegitimately violent.

Conclusion

Tracing Emotional Through-lines

On May 23, 1908, an anonymous letter “on behalf of Edmonton women” appeared in the *Saturday News*. The letter, signed by “Madam D’Alberta,” responded to a petition for the maintenance of a segregated red-light district in the rapidly growing city. The letter attacked the “cold-blooded” and “rational method” of segregation—a patriarchal logic that divided women and reserved “safety” for some at the expense of others. “We hate to speak or write of it but nevertheless, we rack and edged our brain to think of [how] indulging in lust makes men safer for respectable women to encounter and entertain.” The maintenance of a segregated district would “poison the minds of our men and boys and fill their imaginations with licentious dreams.” D’Alberta wrote that “it is surely the devil’s own deadly philosophy that a man must commit one degradation to keep him from committing another.” Further, who would work in the segregated district? “Are the maidens to be selected from their own [the petition’s signatories’] daughters? Do tell us!”

Madam D’Alberta’s letter preceded Edmonton’s 1914 Vice Commission—the Scott Report—though the letter expressed similar sentiments as those that instigated Justice Scott’s investigation, particularly disgust.

There are today in Edmonton men so polluted by unmentionable diseases that they are walking contagion. If they were cattle instead of human beings the public authorities on behalf of the public safety, would demand that they be killed and their polluted carcasses burned or buried out of the reach of buzzards. It would not be safe to tan their hides for shoe leather.¹

In response to the segregation of women to support men’s sexual satisfaction in western Canadian cities, Madam D’Alberta flipped the script by mobilizing metaphors of contagion against men rather than sex workers. That same year, the President of the Canadian Suffrage Association, Flora Macdonald Denison, advocated complete economic independence for both

¹ *Saturday News*, 23 May 1908.

married and unmarried women.² Sex workers in Winnipeg's segregated district also deviated from the status quo by leaving the district to venture beyond its confines. Justice Robson concluded in 1911 that "the women have become defiant."³

In comparison to other British Dominions, Canada had an aggressive pro-immigration policy that aimed to compete with the policies of the United States. As millions immigrated to Manitoba, Saskatchewan, and Alberta, eugenicists worried that Canada's national character and fitness were under threat as "the best stock was dwindling."⁴ "It is all very well to talk about pumping in the population," Toronto Asylum Superintendent Dr. C. K. Clarke complained, "but surely the streams tapped should not be those reeking with degeneracy, crime and insanity."⁵ First wave feminist and Canada's first woman magistrate, Emily Murphy, warned in *The Black Candle* that

Chinamen, Negroes and Jews thrive by reasons of the (drug) traffic [...] One becomes especially disquieted - almost terrified - in the face of these things, for it sometimes seems as if the white race lacks both the physical and moral stamina to protect itself, and that maybe the Black and yellow races may yet obtain the ascendancy.⁶

In the early 1900s, Canadian legislation began to attach eugenic objectives to immigration restrictions. A 1906 amendment granted the Department of Immigration the ability to expel undesirables. Women were more likely than men to be deported on moral or medical grounds. Even those not found to be positive for sexually transmitted infections were singled out: "she is

² Carol L. Bacchi, "First Wave' Feminism in Canada: The Ideas of the English-Canadian Suffragists, 1877-1918," *Women's Studies International Forum* 5 no. 6 (1982), 577.

³ Manitoba, *Commission [on Charges re Social Vice in Winnipeg], Robson Report*, 1911, Provincial Archives of Manitoba, 20.

⁴ Jennifer A. Stephen and Carolyn Strange, "Eugenics in Canada: A Checkered History, 1850s-1990s," in *The Oxford Handbook of the History of Eugenics* (Oxford University Press, 2010), p. 528.

⁵ C. K. Clarke, "Defective and Insane Immigration," *Sessional Papers of Canada*, vol. 40, part 8 (Session 1908).

⁶ Emily Murphy, *The Black Candle* 1922 (Toronto: Coles, 1973).

presumably healthy enough, except that, being a prostitute, she is likely to spread sexual disorder,” one doctor advised.⁷

In this dissertation, I show how colonial powers from differing, yet interconnected, fields mobilized emotions for white ascendance in a region that was previously understood as Indigenous peoples’ territories. Across the empire, Britain tied legislative powers to feelings that reflected its goals, ideal social order, and the habitus of its peoples. Like a mathematical equation, peace in the colonies would emerge through order and good government and law-abiding citizens would be its beneficiaries. I historicized the emotionology of this equation by centring sexual commerce as a site of colonial worldmaking and resistance in what are currently the provinces of Manitoba, Saskatchewan, and Alberta. I do so by tracing emotion in oft-cited, and not-so-oft-cited primary sources that discuss concerns about and responses to sexual commerce.

When I first began this research, I aimed to find the off-ramp out of discursive ruts by “tracing narrative otherwise” to learn “what horror forecloses.”⁸ In the prologue of this dissertation, I reflect on a moment of affective rupture that occurred following my master’s thesis defence when a committee member asserted that the sex-working women in my thesis “had no agency.” This method, which Hemmings names “situated horror,” troubles the idea of heroism and invites inquiry that is not interested in settling disputes but in engaging with process and asking after the terms under which only certain arguments can occur and recur. As I historicize the emotionology of narratives and judgments surrounding sexual commerce in this dissertation, I affirm what many sex work and critical trafficking studies scholars already know: discursive ruts about agency and sexual commerce have framed the conversation for hundreds of years.

In her chapter historicizing the “rescue industry” and examining its early-twenty-first century forms, Laura Agustín argues that entrenched discourses surrounding sexual commerce

⁷ Quoted in Fiona Alice Miller, “Making Citizens, Banishing Immigrants: The Discipline of Deportation Investigations, 1908– 1913,” *Left History* 7 no.1 (2000), 79.

⁸ Clare Hemmings, *Why Stories Matter: The Political Grammar of Feminist Theory* (Durham & London: Duke University Press, 2011), 224.

often impose a victim identity on sex workers “making helpers themselves disturbingly important figures.”⁹ She writes:

Victims become passive receptacles and mute sufferers who must be saved, and helpers become saviours, a colonialist operation warned against in discussions of western feminism’s treatment of third-world women and now common in discussion of migrant women who sell sex. [...] The ‘trafficking’ discourse relies on the notion that poorer women are better off staying at home than leaving and possibly getting into trouble; men are routinely expected to encounter and overcome trouble, but women may be irreparably damaged by it.¹⁰

Narratives, such as those under analysis in this dissertation, do not leave room for complex and messy experiences that hold elements of exploitation as well as agency under less-than-ideal circumstances. Like Agustín argues regarding contemporary trafficking discourse, narratives that typify sex workers and/or explain their experiences through narratives of sexual danger and sexual exploitation “deny the agency of a large number of working-class migrants” and Indigenous women. Such discourse is mobilized to support carceral approaches which affirm the ascendance of whiteness.

Under western Canadian settler colonialism, women sex workers are deviants because they exist in public and they do not reserve their sexuality and sexual labour for one man, nor for reproduction, nor for the private sphere. Agustín notes that “women who cross borders have long been viewed as deviant.” Deviant means turning out of the way.¹¹ On first wave feminists, Carol Bacchi writes, “Temperance, the Canadianizing of the foreigner, the battle against prostitution, the campaign to rescue delinquents--all reveal a common desire to restore a degree of control

⁹ Laura Maria Agustín, *Sex at the Margins: Migration, Labour Markets and the Rescue Industry* (London and New York: Zed Books, 2007), 8.

¹⁰ Agustín, *Sex at the Margins*, 39.

¹¹ *The Canadian Oxford Dictionary* (2 ed.).

over society and chiefly over its deviants.”¹² Other historiography on Canada’s first wave of feminism establishes that representations of largely working-class sex workers, and the concomitant assumption of the importance of middle-class women and their hegemonic femininity, was closely linked to middle-class women carving out an employment sphere. For example, Mariana Valverde explores Canada’s social-purity movement, and first wave feminists’ role in constructing discursive realities through allegories and narratives, demonstrating that efforts to control sex workers reflected the sexual and moral components of Canadian racism.¹³ While some took on the state’s agenda for worldmaking, other migrant women, and Indigenous women refused to be fixed in space.

In *Poor People’s Movements*, Frances Fox Piven and Richard A. Cloward analyze poor and working-class social movements in the United States.¹⁴ The power of such movements come from mass defiance. Defiance, which is the “renouncing of allegiance,” is the only recourse the lower classes have in response to the consolidation of power and coercive forces that control the means of production.¹⁵ Piven and Cloward write that:

even some forms of defiance which appear to be individual acts, such as crime or school truancy or incendiarism, while more ambiguous, may have a collective dimension, for those who engage in these acts may consider themselves to be part of a larger movement. Such apparently atomized acts of defiance can be considered movement events when those involved perceive themselves to be acting as members of a group[.]¹⁶

Patriarchy, which means “the law of the fathers,” ushers migrant and Indigenous women into socially controlled and economically limited roles that use them for social reproduction. For those

¹² Bacchi, “First Wave’ Feminism in Canada,” 580.

¹³ Mariana Valverde, *The Age of Light, Soap, and Water: Moral Reform in English Canada, 1885, 1925* (Toronto: Mclelland & Stewart, 1991).

¹⁴ Frances Fox Piven and Richard A. Cloward, *Poor People’s Movements: Why They Succeed, How They Fail*, (New York: Vintage books, 1979).

¹⁵ *The Canadian Oxford Dictionary* (2 ed.).

¹⁶ Piven and Cloward, *Poor People’s Movements*, 4.

deviant women who do not acquiesce to white settler colonial patriarchy, defiance was their only recourse.

1. Cognitive Justice

When I began writing this dissertation, I expected to develop emotions histories, organizing chapters into themes like disgust, horror, and desire. However, I found that these themes are not discrete but represent the affective texture and structure of western Canadian settler colonialism. The early expectations I held for this dissertation came to mind while reading Carol Lynne D’Arcangelis’ metanarrative analysis of self-reflexivity as a white settler woman scholar-activist.¹⁷ D’Arcangelis draws from her doctoral dissertation on the “solidarity encounter” and intersubjective relations in Indigenous/non-Indigenous solidarity, and reflects on a moment of realization when she asked Belinda, an Indigenous woman participant, to recount “whether she had seen any ‘little bursts’ of the ‘colonial story repeating itself’ in the solidarity encounter.”¹⁸ Other participants had responded to the question with accounts of tensions or challenges related to colonialism as manifest in solidarity work. But Belinda refused the framing of “little bursts,” stating: “It’s constant [laughs]. Maybe there’s bursts of awareness of it, but it’s always there.” In the Canadian context, settler colonialism is always there—structuring everything.

Cognitive justice is based on the principle that all knowledges should co-exist in a dialogic relationship to each other.¹⁹ Cognitive imperialism necessitates cognitive justice. Shiv Visvanathan, who coined the term “cognitive justice,” defines it as the right of a plurality of knowledge structures to co-exist.²⁰ Boaventura de Sousa Santos acknowledges the ways the

¹⁷ Carol Lynne D’Arcangelis, “Revelations of a White Settler Woman Scholar-Activist: The Fraught Promise of Self-Reflexivity,” *Cultural Studies, Critical Methodologies* 18 no. 5 (2018).

¹⁸ D’Arcangelis, “Revelations of a White Settler Woman Scholar-Activist,” 348.

¹⁹ Ceri Jayne Davies, “Whose Knowledge Counts?: Exploring Cognitive Justice in Community-University Collaborations,” *ProQuest Dissertations Publishing* (2016), 63.

²⁰ Shiv Visvanathan, “Cognitive Justice’ as Possible Solution,” in *Western Science, Power and the Marginalisation of Indigenous Modes of Knowledge Production*, interpretative minutes of the discussion held on Debates about Knowledge: Developing Country Perspectives (1999).

concept supports ecologies of epistemological diversity.²¹ It offers a language to connect efforts in producing, mobilising, and legitimating different types of knowledge. It sensitises practitioners to relations of power, different forms of knowledge, and different ways of problem solving.

Settler colonial studies, a field of scholarship that informs this dissertation, has recently grappled with criticism that it centres whiteness and ignores its dependence on Indigenous knowledges and scholarship. In 2021, the *Postcolonial Studies* journal published a critical forum on the uses of settler colonial studies.²² Lorenzo Veracini offered his answer to the question “is settler colonial studies even useful?” by unpacking various analogies used to critique settler colonial studies and by offering his own analogies to defend the subfield. According to Alice Te Punga Somerville (Te Ātiawa/Taranaki), settler colonial studies’ use comes from its theorization of colonialism as a structure and not an event, as well as its framework for understanding how differently marginalized peoples benefit from or are dispossessed by ‘settlement.’ Yet, as Te Punga Somerville writes, “settler colonial studies enjoys the privilege of whiteness in the academy” because it is an approach “connected to white men, as objects of study or as researchers,” which “travel[s] along the arteries of our academic world in very different ways than, for example, the work of (and about) Indigenous peoples.”²³ Veracini offered a defense of settler colonial studies as an intellectual endeavour “from and as a result of Indigenous studies and struggles.”²⁴ He stated that he “see[s] global Indigenous studies and settler colonial studies contributing separately to a shared anticolonial end.”²⁵ In response, Robert Warrior—a member

²¹ Boaventura de Sousa Santos, *Another Knowledge is Possible: Beyond Northern Epistemologies* (London: Verso, 2007).

²² Of which include Lorenzo Veracini, “Is settler colonial studies even useful?,” *Postcolonial Studies* 24 no. 2 (2021), 270-277; Alice Te Punga Somerville (Te Ātiawa/Taranaki), “OMG settler colonial studies: response to Lorenzo Veracini: ‘Is Settler Colonial Studies Even Useful?’,” *Postcolonial Studies* 24 no. 2 (2021), 278-282; Robert Warrior, “Settler sidekick solidarity?: response to Lorenzo Veracini: ‘Is settler colonial studies even useful?’,” *Postcolonial Studies* 24 no. 2 (2021), 283-289; and J. Kēhaulani Kauanui, “False dilemmas and settler colonial studies: response to Lorenzo Veracini: ‘Is Settler Colonial Studies Even Useful?’,” *Postcolonial Studies* 24 no. 2 (2021), 290-296.

²³ Te Punga Somerville (Te Ātiawa/ Taranaki), “OMG settler colonial studies,” 279, 280.

²⁴ Lorenzo Veracini, “Is settler colonial studies even useful?,” 270.

²⁵ Veracini, “Is settler colonial studies even useful?,” 275.

of the American Studies Association and one of the six founders of the Native American and Indigenous Studies Association—advised that Veracini’s vision may be “a sort of sidekick solidarity” reminiscent of “the Lone Ranger and Tonto.”²⁶

I am mindful of these important discussions and the ways this dissertation is implicated in the production of research focused on whiteness and white men. Though I did not initially intend to focus on white men, my method led me to do so because it is largely—in fact, almost exclusively—white men’s emotions that animate the primary sources I reviewed. I also acknowledge that, though cognitive justice is an important aim in my approach, it is likely that those who hold a sex work abolitionist perspective—a perspective I believe harms sex workers—will not agree that I succeeded in this aim. My hope is that this dissertation will offer its readers new ways of thinking about how emotions inform discourse and responses to sex work in the past and in the present. Most of all, I hope that readers with sex work experience, regardless of how much freedom they had in their labour, do not experience further social isolation, stigma, and whorephobia because of this research—that would not be cognitively just. Below, I outline the main findings of this research, and supportive scholarship, tracing the narrative and emotional through-lines that are evident in this dissertation. I begin with narratives and then turn to emotions.

2. Narratives

During Canada’s westward expansion in the late-nineteenth and early-twentieth centuries, narratives surrounding sexual commerce were transplanted and mobilized across fields in social space. Three main narratives emerge in my reading of primary and secondary sources: narratives of the typical prostitute, of sexual exploitation, and of sexual danger. Narratives of the typical prostitute distinguish sex working women from other women by presenting prostitutes as unsupervised, family-less nomads, migrants, and strangers who may behave boldly in public space. Narratives of the typical prostitute have an ordering effect and often represent the sex-

²⁶ Warrior, “Settler sidekick solidarity?,” 288.

working woman as responsible for men's downfall and the destruction of domestic happiness. Narratives of sexual exploitation situate sexual commerce within a broader economic context. Paternalistic and gendered-racialized power relations were reified by socio-legal responses to narratives of sexual exploitation in this period.²⁷ Narratives of sexual danger do not focus on a broader context. Generally, narratives of sexual danger affirm men's authority, their monopoly on space, and function as cautionary tales. Below, I highlight the main findings in each chapter that examines fields in social space and I draw links between the findings, historiography, and the three main narratives.

Chapter four, "'Principals in the nefarious traffic': Late-Nineteenth Century Narratives and Emotions in the Journalistic Field," focuses on discourses surrounding Indigenous women's and girls' experiences. In 1879, the Dominion amended the *Indian Act* to include protective legislation that criminalized the "prostitution of" Indigenous women.²⁸ The legislation situated Indigenous women as dependents and charges who were prostituted and trafficked. Those in proximity to Indigenous women were made criminally responsible for Indigenous women's intentions and behaviour, particularly their intended sexual behaviour. The *Indian Act's* laws criminalizing the "prostitution of" Indigenous women were added to the *Criminal Code* in 1892 and amended again in 1906.²⁹ Such laws show how Canada mechanized race and sexuality to shape social space and fields of power to support settler colonial worldmaking and to usher white Anglo-Canadian men into a dominant position. Under the new Canadian gendered-racialized order Indigenous communities were made responsible for maintaining a gender binary, which attempted to erase Two-Spirit experience and to control Indigenous women's and girls' mobility and their

²⁷ For recent work drawing links between these legacies and contemporary anti-trafficking work, see Kamala Kempadoo, & Elena Shih, *White Supremacy, Racism and the Coloniality of Anti-trafficking* (Routledge, Taylor & Francis Group, 2023).

²⁸ *An Act to amend "The Indian Act, 1876,"* 15 May 1879, c. 34, s. 7-8.

²⁹ S. C. 1892, c. 29, s. 190. R.S.C. 1906, c. 146, s. 220.

sexualities.³⁰ According to Canadian Justice George Wheelock Burbidge, it would be best if Indigenous women and girls “remained with the band to which they belong” rather than practice the mobility on which they relied for survival.³¹

Efforts to fix Indigenous women and girls into space marked a shift. As Sylvia Van Kirk established in *Many Tender Ties*, the fur trade economy depended on Indigenous women and “Both the attitudes of the Indians and the needs of the traders dictated an important social and economic role for the native woman that militated against her being simply an object of sexual exploitation.”³² Indigenous women’s roles were eroded through the settler colonial economy and the concomitant migration of white women. The settler-centred economy relied on the ascendance of whiteness and defined Indigenous women’s and girls’ experiences through the established narratives of the typical prostitute, of sexual exploitation, and of sexual danger.

Leaders, like those whose open letter in the *Edmonton Bulletin* to John A. Macdonald, mobilized narratives of sexual exploitation. They argued that the Dominion’s starvation policy forced Indigenous women to sell sex to white men—“a thing unheard of before amongst ourselves[.]” Canadian expansionists viewed women’s economic dependence on men as natural and indicative of civilization. As moral panic over white men’s trafficking of Indigenous women and girls circulated, the Privy Council concluded that Indigenous marriage practices were the

³⁰ See Sandra Slater and Fay A Yarbrough, *Gender and Sexuality in Indigenous North America, 1400-1850* (Columbia: University of South Carolina Press, 2012) for a book focusing on Indigenous peoples in what is currently called Canada, the United States, and Mexico. See Gregory D. Smithers and Raven E. Heavy Runner, *Reclaiming Two-Spirits: Sexuality, Spiritual Renewal, & Sovereignty in Native America* (Boston, Massachusetts: Beacon Press, 2022) for a recently published history of Indigenous traditions of gender and sexuality. For an exploration of “trans* temporal kinship” and Ojibwe and Cree language revitalization, see Kai Pyle, “Naming and Claiming: Recovering Ojibwe and Plains Cree Two-Spirit Language,” *Transgender Studies Quarterly* 5, no. 4 (November 1, 2018): 574–88. doi:10.1215/23289252-7090045. For a speculative fiction anthology of Two-Spirit and Indigiqueer futurities and utopian narratives, see Joshua Whitehead, *Love after the End: An Anthology of Two-Spirit and Indigiqueer Speculative Fiction* (Arsenal Pulp Press, 2020).

³¹ Letter, George Burbidge to L. Vankoughnet, 5 October 1886, file 32345, vol. 3762, RG 10, Library and Archives Canada (LAC).

³² *Many Tender Ties: Women in Fur-Trade Society, 1670-1870* (Norman, Oklahoma: University of Oklahoma Press, 1983).

problem. The Privy Council theorized that colonization would teach Indigenous families “women’s true position in the family,” labouring in the home under the authority of male relatives.³³

The relationship between the Indigenization of narratives surrounding sexual commerce and the ascendance of whiteness is evident in the *Macleod Gazette* when editor Charles Edward Dudley Wood responded to reports that white men trafficked and sexually exploited Indigenous women and girls. Wood claimed that: “Many of these women were prostitutes before they went to live with the white men.”³⁴ He added that since “the civilizing influence of white women was felt” in the region, the necessity of marriage between white men and Indigenous women would decrease. Wood’s claim demonstrates how British imperial and Canadian whiteness was produced through gendered-racialized processes of differentiation and hierarchy. British and Canadian views on peace, capital, and their notions of disorderly figures were normalized and extended through relations in fields across social space. The Canadian colonial imaginary postulated that disorderly figures would benefit from criminalization and characterized Indigenous women and girls as suspect.

Narratives of sexual danger, like “Calgary’s Jack the Ripper” case and the Anglican missionary H. T. Bourne’s account in the *Evangelical Churchman*, offered imperial audiences emotional frameworks for relating to Indigenous women and girls. Like W. T. Stead’s stated intention in publishing the “Maiden Tribute” series, narratives of sexual danger “rouse[d] the nation” by purifying “the heart with the emotion of pity and horror.”³⁵ According to Judith Walkowitz, imperial narratives of sexual danger positioned victims as “unsympathetic objects of pity” who elicited “feelings of fear and loathing” in readers. The narrative of sexual danger in “Calgary’s Jack the Ripper case” held necropolitical utility in settler colonial worldmaking as white settlers

³³ Certified copy of a report of a committee of the Honourable the Privy Council approved by His Excellency the Governor General in Council on the 31 October 1887, file 32345, vol. 3762, RG 10, LAC.

³⁴ *Macleod Gazette*, 16 March 1886.

³⁵ Stead quoted in Walkowitz, *City of Dreadful Delight* (Chicago: University of Chicago Press, 1992), 84.

imagined Indigenous peoples as a dying race. It was also used to affirm segregation between Indigenous and non-Indigenous communities as, according to the *Calgary Herald*, the lesson from Fisk's killing of Rosalie was to "keep the Indians out of town."³⁶

Indigenous women's voices are not represented in most of the sources under investigation in this study. However, O-cha-nah-kis' statement in the Supreme Court of the North-West Territories *R. v Ford* case offers some insight about her experience living with her family in their camp near Regina's railroad tracks. She and her husband Que-qua-ah made sworn statements and engaged with colonial law to self-advocate.³⁷ They both risked criminalization. The evidence of their statements in the *R. v Ford* case diverges from colonial narratives and characterizations, like the claim that Indigenous men force Indigenous women to sell sex. Their statements also trouble the paternalistic relations undergirding Canadian law, the helpfulness of the police, and colonial ideas about disorderly figures.

In chapter five, "So long as they do not come 'betwixt the wind and your nobility': Sexual Commerce and Twentieth Century Colonial Worldmaking in Medicine Hat, Winnipeg, and Edmonton," an examination of a Medicine Hat Reverend's persistent complaints about a Black man and a brothel on the outskirts of town, the 1911 Winnipeg Vice Commission, and the 1914 Edmonton Vice Commission shows that narratives of the typical prostitute, of sexual exploitation, and of sexual danger were less discrete in the early-twentieth century as the popular concept of white slavery conflated them.³⁸ As I discuss below regarding affective themes, the narratives reflect who was, and who was not, considered worthy of concern in emergent western Canada. While young white women, like Dora Milestine, were deemed worthy of "rescue" by police in

³⁶ *Calgary Herald*, 8 March 1889

³⁷ Provincial Archives of Saskatchewan, Supreme Court of the North-West Territories (Crim.) 29 A.D. 1889; *R. v Ford*; 1889, Collection Number 1286, File 11; Manitoba, *Commission [on Charges re Social Vice in Winnipeg]*, *Robson Report*, 1911, Provincial Archives of Manitoba.

³⁸ Reverend W. Nicolls to NWMP Superintendent R. B. Deane, 23 December 1902, Government, 1902/12-1903/06, RG 13 A-2, "Rev. W. Nicolls – Medicine Hat North West Territories – Request that a house of prostitution be suppressed," LAC; Manitoba, *Commission [on Charges re Social Vice in Winnipeg]*, *Robson Report*, 1911, Provincial Archives of Manitoba; *Edmonton Bulletin*, *Scott Report*, 22 July 1914.

Lethbridge, Black women visiting Saskatoon who police suspected were sex workers were offered no help and told to leave the city “or the police will get you.”³⁹

Each chapter exploring affects and relations in the journalistic, political, and juridical fields show how the juridical field had the final word on judgments and narratives surrounding sexual commerce in the region. Chapter six, “Satisfaction Through Law? The Affective Basis of Judgments in the Early Twentieth Century” takes a close look at the emotional journey of judges’ decisions. As narratives circulated across fields judges weighed in and crafted their own narratives, representing them as “an ordered progression toward the truth.”⁴⁰ Narratives about sexual commerce, and those involved in it, aided judges in their decisions. By deploying reason and feelings that reflected established narratives about sexual commerce, judges could be confident that their decisions were informed by general feelings and attitudes. This reflection of broad norms followed the logic of common law. However, such narratives belie relations between sex workers and those who benefit from their criminalization.

3. Emotions

In this section of my concluding chapter, I trace the emotional through-lines that appeared in my affective reading of primary sources containing judgments and narratives surrounding sexual commerce. I begin by outlining the emotional findings that were evident across the journalistic, political, and juridical fields. These emotions are anxiety, fear, suffering, satisfaction, and horror. I then turn to emotions that are evident in specific fields. Emotions evident in some fields and not others may reflect the habitus and conventions of that field. These field-specific emotions are disgust, shame, and shock. Following a short discussion of field-specific emotions, I outline emergent relationships between emotions such as pity and horror, anxiety/suspicion/uncertainty and satisfaction.

³⁹ 11 December 1908, *Lethbridge News*; *Saskatoon Star*, 6 August 1912.

⁴⁰ Pierre Bourdieu, “The Force of Law: Toward a Sociology of the Juridical Field” Translated by Richard Terdiman, *The Hastings Law Journal* 38 (1986-1987), 830.

3.1 Anxiety

The anxiety of colonial worldmaking and relating is evident in each of the fields. Histories of such anxiety can be traced in both European imperial and Canadian historiography. For example, Stoler and Cooper note that anxiety was characteristic of European imperialists in the *Tensions of Empire*. Elites marketed the colonies as spaces where colonizing men “could indulge their sexual fantasies.”⁴¹ For British imperialists, part of that sexual fantasy involved seeing “prostitution wherever they looked.”⁴² They named many relationships outside of heterosexual, monogamous, Christian marriage “prostitution,” which justified colonizing men’s sexual license as well as their civilizing mission. Those same elites were also “intent to mark the boundaries of a colonizing population” to curb mixed-race populations and to prevent colonizing men from “going native.”⁴³ They believed they needed to maintain racial hegemony to support colonial control.

Gendered-racialization and racist sexualization are part of the ways Europeans worked out their anxieties about Indigenous peoples. See, for example, DePasquale’s chapter examining the travel accounts of those participating in Martin Frobisher’s voyages to Nunavut in the 1570s. DePasquale demonstrates that, though the English craved a sense of superiority and confidence in their interactions with Inuit, travel accounts reflect feelings of “ambivalence and anxiety.”⁴⁴ Frobisher’s crews’ assumptions about gendered ways of relating and the role of women in Inuit society are evident in the accounts. After abducting a man, woman, and her infant son, the crew offered the woman to the man for his “comfort” while the crew watched. DePasquale writes that the passage documenting the treatment of Inuit on Frobisher’s ship “illuminates the apparent desires of ‘euery man’ who gazed in expectant silence as if the Arctic peepshow would inevitably

⁴¹ *Tensions of Empire: Colonial Cultures in a Bourgeois World* (University of California Press, 1997), 5.

⁴² Philippa Levine, “‘A Multitude of Unchaste Women’: Prostitution in the British Empire,” *Indiana University Press*, 15 4 (Winter, 2004), 159.

⁴³ Stoler and Cooper, *Tensions of Empire* (University of California Press, 1997), 5.

⁴⁴ “‘Worth the Noting’: European Ambivalence and Aboriginal Agency in Meta Incognita, 1576-1578” in Jennifer Brown and Elizabeth Vibert’s (eds) *Reading Beyond Words: Context for Native History*, 2nd Edition (Toronto: University of Toronto Press, 2003), 6.

result in the copulation of the man and woman.”⁴⁵ Sexual intercourse did not occur. Rather, the man and woman cried and sang their songs to each other. The account’s author registered surprise, writing it was “worth the noting.”⁴⁶

Following the Dominion’s so-called purchase of Rupert’s Land, anxiety is evident at the highest level of the Dominion government. For example, in 1871 Prime Minister Macdonald wrote to the governor of the Hudson Bay Company that he was “very anxious” to “deal with the Indians upon satisfactory terms.”⁴⁷ Mutually satisfactory terms were not achieved. Fifteen years later, following the 1885 Indigenous resistance uprising, the *Macleod Gazette* articulated anxiety over the possibility that another uprising could happen. It claimed that “constant vigilance and watchfulness are the price of safety in any Indian country.”⁴⁸

The government’s and settlers’ anxieties about potential Indigenous uprisings shaped their approach to claims that Indigenous women and girls were sexually exploited by white men. In the context of Treaty No. 7 territory, the *Macleod Gazette* argued that Indigenous women were already prostitutes. He claimed that Indigenous peoples were “treacherous, and may be quiet today and raise the mischief tomorrow.”⁴⁹ When Canadian actors, such as Father Scollen and Liberal Member of Parliament Malcolm Cameron, drew attention to the inhumane treatment of Indigenous peoples by the Dominion and the sexual exploitation of Indigenous women and girls, they were accused of desiring to incite an Indigenous uprising.⁵⁰

After European immigration to the region increased at the turn of the twentieth century, Protestant Anglo-Canadian agitators, particularly religious leaders, mobilized feelings and

⁴⁵ “Worth the Noting,” 27.

⁴⁶ DePasquale, 29

⁴⁷ Quoted in A.J. Ray, *The Canadian Fur Trade in the Industrial Age*, (Toronto: University of Toronto Press, 1990) p. 4.

⁴⁸ *Macleod Gazette*, 2 February 1886.

⁴⁹ *Macleod Gazette*, 16 March 1886; 2 February 1886.

⁵⁰ *Official Report of the Debates of the House of Commons of the Dominion of Canada*. Fourth Session of the Fifth Parliament, Volume XXI (15 April, 1886), 718-730 (Malcolm Cameron); LAC, RG10, reel C-10118, vol. 3673, file 10986, “Anderson to Dewdney” February 1883, Northwest Territories – Charges Against Reverend Father Constantine Scollen. 1883-1884; Ottawa: Department of Indian Affairs. Available online at: <https://www.canadiana.ca/view/occihm.54700/2?r=0&s=1>

narratives to shape the appearance of communities and influence law enforcement, politicians, and judges to challenge the tolerance of sex workers in western Canada. I explore the affective basis of three campaigns by Protestant Anglo-Canadians against sex workers and their colleagues in chapter five. The agitators were anxious that the west would be overtaken by “evil” forces and demanded that colonial law be enforced. For some, Blackness constituted the “evil” of which they were afraid. Reverend Nicolls of Medicine Hat claimed that when he attended the graveyard that shared a road to Frankie Jarvis’ brothel it was “always a matter of anxiety” for him. Geo Phillips’ appearance—his Blackness—was, according to Nicolls, a “constant reminder and suggestion of wrong.”⁵¹ Like the colonizing men who felt entitled to sex, Reverend Nicolls felt entitled to a white and sex worker-free space. He requested that the police carry out the law to “protect” him, “a decent citizen,” from “annoyance.”⁵²

Evidence such as Nicolls letters to police and the minister of justice suggests that colonial law was viewed by settlers and the Dominion as a tool for resolving anxiety. Law has been integral to the process of normalizing and enforcing British and Canadian views. As mounted police Commissioner Macleod articulated in his report published in the *Globe*, a Blackfoot man’s “wholesome dread of Canadian law” had positive effects in “Blackfeet country” as fear of colonial law spread and deterred criminalized practices such as horse stealing.⁵³ Indigenous peoples’ anxiety over colonial law was a desired outcome of the Dominion’s westward expansion. Ideally, those who administered colonial law would feel little anxiety from their work. For example, in 1913, Justice Walsh drew on the juridical field’s logic that common law and the Criminal Code’s purpose was to reduce anxiety for those administering it, writing that: “the Code was enacted so that a justice of the peace might not worry over the phraseology [...]”⁵⁴ In comparison, women attempting

⁵¹ Nicolls to Deane, 4 December 1902; Nicolls to Minister of Justice, 16 May 1903.

⁵² Nicolls to Deane, 4 December 1902.

⁵³ *Globe*, 1 June 1877.

⁵⁴ *Re. Effie Brady*, (1913), 10 DLR 423 at 427, 1913 CanLII (AB QB), p. 428.

to access divorce who exhibited anxiety were not taken seriously; it was deemed not severe enough evidence of suffering to grant divorces by judges.

3.2 Fear

Despite the ideal that those administering colonial law would not feel anxious over their work, discrepancies between narratives and reality, together with the power of colonial law, made administering justice a fraught process. This fraught process is demonstrated throughout this dissertation. In chapter four, the example of the Privy Council report on “the alleged sale of Indian girls to white men in the Canadian North West” reveals the process. As I show, popular narratives that characterized Indigenous marriage as trafficking and slavery, the material realities fostered by the colonial worldmaking mission, and the power of colonial law coalesced and stirred fear in the Privy Council. They worried that “repression” of Indigenous marriage would have “the immediate result [...], it is feared, to convert women, now regarded as reputable, into prostitutes” which would cause “them to lose their own self-respect” and “aggravate the evil which it is desired to cure.”⁵⁵ The Privy Council’s expression of fear links to an important theme in this dissertation: that British and Canadian powers struggled to differentiate between marriage and sex work. This was particularly consequential to Indigenous women and girls.

Though Mounted Police Commissioner Macleod reported that incarceration fostered a “dread of Canadian law” among the Blackfoot Confederacy, Father Scollen warned the Department of Indian Affairs in 1884 that it was ignorant of the administration to believe that Indigenous men in Treaty No. 6 were “afraid of the police” when “they would certainly sooner have chosen to die at the muzzle of a rifle than by starvation[.]”⁵⁶ The 1885 uprising shortly followed. Conditions worsened significantly for Indigenous peoples following the uprising. Some, like Ocha-nah-kis, Que-qua-ah and their family in Treaty No. Four territory, turned to selling items like

⁵⁵ *Privy Council Report*, 31 October 1887.

⁵⁶ LAC, RG10 “Scollen to Dewdney, 17 March 1884,” Northwest Territories – Charges Against Reverend Father Constantine Scollen. 1883-1884.

blankets along the railroad to survive. It is worth noting that Ford's demand for sex was not the primary concern that O-cha-nah-kis' and Que-qua-ah expressed when they gave statements to Inspecting Superintendent John Cotton. Rather, O-cha-nah-kis and Que-qua-ah expressed fear due to the Mounties who threatened to arrest them if they did not give the police all of their money.

Narratives of sexual danger directed readers' feelings of "fear and loathing" toward victims of sexual violence. Walkowitz notes that "this paradoxical response [...] was not unique; it was embedded in the literature of prostitution" including Stead's series, the "Maiden Tribute of Modern Babylon." "[F]ears of racial degeneration" that occupied the minds of "the dominant classes of society" influenced these narratives.⁵⁷ Like other British imperial locations, fears of racial degeneration were part of Canada's First Wave of feminism.

Canada's first female judge, Emily Murphy, mobilized narratives of sexual danger in *The Black Candle*. Of the "amazing phenomenon of an educated gentlewoman, reared in a refined atmosphere, consorting with the lowest classes of yellow and Black men," Murphy argued that the women were addicted to drugs and that Black and Asian men took advantage of such women.⁵⁸ Murphy argued that the women's racial degeneration was facilitated by drugs and their relationship with non-white men, wherein "the woman loses control of herself; her moral senses are blunted, and she becomes 'a victim' in more senses than one." Yet, Murphy rejected white slavery. Drawing from her experience as a judge, she wrote that "much has been said of late, concerning the entrapping of girls by Chinamen [...]" but that "personally, we have never known of such a case [...] It is not true that a white girl or woman who is keeping to her own preserves is hunted like game, stalked to windward, and trapped by the Chinamen in order that she may be bent to his criminal purpose, or minister to his libidinous desire."⁵⁹

⁵⁷ *City of Dreadful Delight*, 211.

⁵⁸ *The Black Candle*, 17.

⁵⁹ *Black Candle*, p. 233.

Murphy's writing brings to mind the 1908 *Lethbridge News* story of Gee Lee and Dora Milestine, discussed in chapter six. Lethbridge Chief of Police Gillespie characterized the relationship between Lee and Milestine as white slave trafficking. As he confronted Milestine's unwillingness to give a statement reflecting this narrative, Gillespie tried to assure Milestine that she "had nothing more to fear" of the Chinese men who "trafficked" her.⁶⁰ Milestine was reportedly experiencing opium withdrawal when she signed the statement that characterized her relationship with Lee as white slavery. Her statement was published in the *Lethbridge News*. Lee was convicted of living off the avails of prostitution and sentenced to three months of hard labour.⁶¹ However, Lee appealed the decision and won.⁶² The *Lethbridge Herald* acknowledged that Milestine's evidence was "not tending to make the case against Gee Lee as Black as at first appeared."⁶³ The case demonstrates the pressure sex-working women face to adopt trafficking narratives when arrested by police. The case also reflects how fear of trafficking is often mobilized to target specific men.

3.3 Suffering

Suffering is a prominent and paradoxical theme in the sources and throughout the fields during this period of study. Concern over suffering, particularly the suffering brought by unfreedom, mobilized actors in each field. However, suffering and unfreedom are legal and doled out through policy, practices, and the judges' decisions. Drawing from Agamben's work on the state of exception, Mbembe links the paradox of suffering brought on by the settler colonial state to necropower and necropolitics. Mbembe writes that the "colonies are zones in which war and disorder, internal and external figures of the political, stand side by side or alternate with each other. As such, the colonies are [...] the zone where the violence of the state of exception is

⁶⁰ 11 December 1908, *Lethbridge News*.

⁶¹ Alex Johnston and Andy den Otter, *Lethbridge, A Centennial History* (Lethbridge: City of Lethbridge and Whoop Up Country Historical Society, 1985), XXX.

⁶² Belinda Crowson, "Ethnic [sic] diversity in Lethbridge's red light district, 1880s to 1944," *Alberta History* 57.4 (Autumn 2009).

⁶³ 30 January 1909, *Lethbridge Herald*.

deemed to operate in the service of ‘civilization.’”⁶⁴ According to Agamben, *homo sacer*—which defines a person or group set apart by the patriarch to be sacrificed—is essential to the logic of western law.⁶⁵ In this dissertation, Indigenous peoples, sex workers, Black people, and Asian people can be understood as groups who are sacrificed or are made to suffer to maintain the Dominion of Canada’s state of exception.

As I show throughout this dissertation, paternalism emerges in response to suffering or concerns over potential suffering. In chapter four, I consider the amendment to the *Indian Act* criminalizing the “prostitution of” Indigenous women by keepers of “any house” who “suffers an Indian woman to be or remain in such a house [...] knowing or having probable cause for believing, that such Indian woman is in or remains in such house with the intention of prostituting herself therein.”⁶⁶ Paternalistic and protective legislation held economic utility that supported the ascendance of whiteness by controlling women in social space. The *Act to Prevent Employment of Female Labour in Certain Capacities* is another example of the relationship between settler colonial paternalism and white ascendance via protective legislation is. The legislation, which I discuss in chapter six, banned the employment of white women by Chinese employers and punished both if it happened—even if the employer was a naturalized citizen.

In each field I map, sex workers were represented as causing suffering. Sources characterize property-owning settlers in the region as experiencing suffering due to the presence of sex workers. For example, in the *Robson Report*, which I review in chapter five, Justice Robson named non-sex-working residents of the segregated districts “sufferers” whose “domestic privacy was intruded upon by men seeking the evil houses[.]”⁶⁷ While Robson was concerned about the “sufferers” of the segregated district in Winnipeg, men like Geo Phillips and E. Griffin of Medicine

⁶⁴ Achille Mbembe, *Necropolitics*, translated by Steve Corcoran (Durham: Duke University Press, 2019), p. 24.

⁶⁵ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford: Stanford University Press, 1998).

⁶⁶ *An Act to amend “The Indian Act, 1876,”* 15 May 1879, c. 34, s. 7-8.

⁶⁷ *Robson Report*, 17

Hat were not afforded much sympathy for the suffering they endured as targets of Reverend Nicolls' campaign to shut down Frankie Jarvis' brothel.

Suffering was also economically distributed by the application of fines. As I discuss in chapter six, Justice Stuart argued that the appellant, a hotel clerk, brought suffering on himself by associating with his co-worker who sold sex in addition to being a "manicure girl" at the hotel. The appellant's attorney claimed that the appellant risked incarceration because of his inability to pay the large fine the court demanded of him. Those with financial resources avoided the same suffering and unfreedom as those incarcerated due to an inability to pay fines.

While some seemed dismissive of the suffering and unfreedom they doled out, other law enforcement and judges expressed regret over the suffering campaigns against sex workers caused. In chapter five, I quote mounted police Superintendent Deane and Chief of Police J. Gillespie of Lethbridge's municipal force to demonstrate such expressions. While Dean wrote to his superiors stating that he "regretted" he could not do more to mitigate the suffering Reverend Nicolls campaign against Geo Phillips and Frankie Jarvis caused, Gillespie reported to Lethbridge town council that, "I find that all these women were driven out of other cities. What good one city does in driving these unfortunate women into another city, only to be driven out again, I fail to see. Probably it is a cause of self-preservation being the first law of nature. I have no hesitation in saying that the system is wrong."⁶⁸ Similar feelings are expressed by Justice Beck in *R. v. Jones* when Beck acknowledged he would feel more "personal satisfaction" if police brought him higher-level criminals, such as landlords, rather than the poor and suffering women who sold sex in Calgary's rental properties.⁶⁹

As I show throughout this dissertation, the figure of the prostitute was used as an example of suffering against which other women's suffering was measured. The figure held such pervasive meaning that men oriented their behaviour toward women based on the women's proximity to the

⁶⁸ Lethbridge Herald, 4 May 1910.

⁶⁹ 62 DLR 413 at 415, 1921 CanLII 373 (AB CA) [*Jones*].

prostitute. Across fields social actors struggled to differentiate between the broad unfreedom women experienced in settler-colonial culture, through marriage and economic dependence on men, and sexual commerce in general. At times, women's suffering inspired pity. However, suffering could also be a consequence of judges' verdicts and, by extension, the satisfaction of the judges' and the communities they represented. The feeling rules of English law dictated that sympathy for suffering women must be set aside by judges. Navigating such affective complexities inspired Saskatchewan's Judge Taylor to express that "it would seem that some supersense is required[.]"⁷⁰

3.4 Satisfaction

White men's satisfaction dominated as a force for settler colonial worldmaking in Canada's westward expansion. Drawing from Bourdieu's theorization of habitus and fields in social space, I show how white men's satisfaction was part of the "chain of legitimation" that built Canada. Their senses of, as well as drives toward, satisfaction were productive forces in the making of a settler colonial economy that served their interests. This sense of satisfaction was part of the initial visioning for the expansionist project. As Owram writes of westward expansion, men of moderate means were considered ideal settlers because they "seemed most likely to find satisfaction and contentment in the modest life of the independent farmer."⁷¹ Other historiography, like McClintock's *Imperial Leather*, historicizes sexual desire as imbricated in European exploration, imperialism, and colonization.⁷²

Canada's *Criminal Code* codified men's satisfaction into law in section 238 by requiring women in public to give "satisfactory" accounts of themselves to police or risk arrest and charges as vagrants and prostitutes. The *Code* aimed to differentiate women in social space. In part, this

⁷⁰ 1925 CanLII 98 (SK QB (TD)), at para 11 [*Jones v. Jones*].

⁷¹ Doug Owram, *The Promise of Eden: The Canadian Expansionist Movement and the Idea of the West* (Toronto: University of Toronto Press, 1992), 137.

⁷² Anne McClintock, *Imperial Leather: Race, Gender and Sexuality in the Colonial Contest* (Routledge, 1995).

differentiation supported ease in men's relating to each other and to women. As discussed in chapter five, the *Robson Report* shows that segregation was perceived by Winnipeg's police and city council as helpful in managing sexual commerce because the method fixed sex workers in space.⁷³ Police hoped that the segregated district could help men be sure that the women they encountered in the district were immoral. White men's logic of segregation informed colonial approaches to shaping social space. A system of segregation was employed by police forces and government agencies as they attempted to manage disorderly figures. There were efforts to keep Indigenous peoples and non-Indigenous settlers apart, with an emphasis of keeping Indigenous peoples out of settler towns and away from settler resources.

Although men's sexual satisfaction was rarely explicitly discussed, sources show that white men's desires for sex and companionship were often protected and enabled. In *R. v. Cardell* in 1914, discussed in chapter six, the appellant challenged that he did nothing illegal by pursuing a woman as a mistress and the judges concurred that men had such freedoms as long as they did not attempt to "bring about sexual connection between the woman and other men."⁷⁴ In *R. v. Davidson*, also discussed in chapter six, Justice Stuart stated that it would be permissible if the appellant, "on receiving a wink, shut his eyes to his friend's proposed escapade and allow[ed] him to take a woman to his room on one occasion without protest."⁷⁵ However, white men's sexual license was also challenged throughout the period of study.

Narratives of the typical prostitute, of sexual exploitation, and of sexual danger reflect that women's access to sexual satisfaction was fraught. The inequitable distribution of sexual satisfaction was at the forefront of Emma Goldman's response to white slavery panic. "We have long ago taken it as a self-evident fact that the boy may follow the call of the wild," Goldman

⁷³ *Robson Report*, 13.

⁷⁴ 19 DLR 411 at 412, 1014 CanLII 410 (AB CA) [*Cardell*].

⁷⁵ *R. v. Davidson* (1917), 35 DLR 82 at 84, 1917 CanLII 415 (AB CA), 92.

observed.⁷⁶ “[T]hat is to say, that the boy may, as soon as his sex nature asserts itself, satisfy that nature; but our moralists are scandalized at the very thought that the nature of a girl should assert itself.” According to Goldman, western culture ushered boys into affective states of satisfaction, while girls were “condemned for all eternity” for partaking in the same behaviour.

Both men and women settlers desired and felt entitled to satisfaction, but women’s satisfaction was far less socially and structurally enabled. Indigenous women’s access to satisfaction was especially under attack by colonial forces. As part of the transplant of Christianity in the region, women were encouraged to mistrust their desires. Settlers pointed to the biblical story of Eve to demonstrate women’s nature and settler women drew from the story to rationalize their emotion management. “Do not come [to the north-west] expecting to find Paradise. Eve was the only woman that found one, and she was not contented in it,” Mrs. D. G. Dick warned.⁷⁷ Beverly Hungry Wolf (Sikski-Aki) of the Blackfoot Confederacy draws links between colonization, Christianity, the figure of Eve, and the loss of equal status for Indigenous women, writing, “A new faith was forced upon us, and in that faith we women were forever condemned because of some biblical woman named Eve! We were made to feel somehow responsible for the loss of everlasting happiness.”⁷⁸ Women were expected to find satisfaction in reproductive hetero-patriarchal monogamous Christian marriage, which aligned with the goals and vision of the colonial state. However, as McMaster writes, “the value of women’s work was consistently downplayed” in the

⁷⁶ “The Traffic in Women,” *Anarchism and Other Essays* (New York & London: Mother Earth Publishing Association, 1910).

⁷⁷ Canadian Pacific Railway Company (CPRC), *What Women Say of the Canadian North-West: A Simple Statement of the Experiences of Women Settled in All Parts of Manitoba and the North-West Territories*, (London: H. Blacklock & Co., printers, 1886), <http://peel.library.ualberta.ca/bibliography/1602.html>, 11.

⁷⁸ Beverly Hungry Wolf, “Life in Harmony with Nature,” in *Women of the First Nations: Power, Wisdom, and Strength*, ed. Christine Miller and Patricia Chuchryk (Winnipeg: The University of Manitoba Press, 1996), 78.

Canadian west.⁷⁹ For many women, it was difficult to distinguish between relationships with men and work.

Imperial immigration campaigns targeting British women represented the north-west as a womanless place, erasing Indigenous women's presence. The campaigns harnessed romantic Victorian notions of love, marriage, home, and family transforming the region into a matrimonial destination. "It is a great call for women," Marion Cran appealed.⁸⁰ "There must be some who have the courage and the health to leave the readymade comforts of the old country, and come into this wild beautiful West, giving their best of mind and body for the race and for the Empire." According to Cran, "every healthy normal woman" had the "ultimate goal" of finding a husband and having a family. Their ambition and the promise of future happiness made them Canada's "most romantic of immigrants."⁸¹ However, as McMaster notes in her discussion of bride ships to Canada, British women migrants came from varied situations across a spectrum of freedom and unfreedom. The first bride ship was stocked with young women who had lived in orphan asylums and some women crossed the Atlantic to escape bad marriages and attempt to find better ones.

As Koenig-Sheridan writes, Red River's *Nor-Wester* newspaper transformed Maria Thomas from a "mixed-blood daughter of Red River into a typical Victorian prostitute[.]"⁸² The paper, which was partly owned by the lawyer mounting a case against Thomas, did so while representing her employer's wife a respectable Englishwoman. The coverage reflected white women's ascendance as the model of womanhood in the region. Respectable Englishwomen were "equipped for the work of home-making and race-making," Cran argued.⁸³ Their ascendance

⁷⁹ Lindsey McMaster, "Working Women in the West at the Turn of the Century," *Working Girls in the West: Representations of Wage-Earning Women* (Vancouver: University of British Columbia Press, 2008), 19.

⁸⁰ Mrs. George Cran, *A Woman in Canada* (London: J. Milne, 1910).

⁸¹ McMaster, "Working Women in the West," 42.

⁸² Erika Koenig-Sheridan, "'Gentlemen, This is no Ordinary Trial': Sexual Narratives in the Trial of the Reverend Griffith Owen Corbett, Red River, 1863" in Jennifer Brown and Elizabeth Vibert's (eds) *Reading Beyond Words: Context for Native History, 2nd Edition* (Toronto: University of Toronto Press, 2003), 368.

⁸³ McMaster, "Working Women in the West," 29.

as nation builders and race makers, and the regionally specific feminisms they came to foster and employ, supported their sense of entitlement to the benefits of citizenship including political representation and meaningful participation in the political process. “We want women leaders today as never before,” claimed Emily Murphy. “[L]eaders who are not afraid to be called names and who are willing to go out and fight. I think women can save civilization.”⁸⁴

3.5 Horror

Horror is an important affective theme in this dissertation and the methods I employ. Situated horror, which I discuss in the self-reflexive prologue, is a method put forward by Clare Hemmings that explores the affective basis of discursive ruts in western feminism as well as the privileging of western feminists’ judgments on what constitutes agency.⁸⁵ I reflect on my feelings of horror in relation to judgments and narratives surrounding sexual commerce and I historicize late-nineteenth century and early-twentieth century feelings of horror in fields in social space. I discuss shock and horror in the journalistic field and fear and horror in the juridical field.

As I quote above, W.T. Stead named feelings of “horror” as an affective goal of the white slavery narratives he crafted in the *Pall Mall Gazette*. Stead’s work, his emotional style, and his approach to framing sexual commerce, is evident in some of the newspaper coverage I examine in this dissertation. In the Canadian journalistic field expressions of horror over trafficking were juxtaposed with the utopian vision of emergent settler colonial society in the north-west. For example, in chapter four, the *Globe* is quoted in its 1 February 1886 issue as encouraging its readers to “think of a Christian missionary at this time of day, with all the horrors of the Stead revelations still so recent, gravely counselling that the traffic in Indian girls for the worst purposes has been going on among Canadian officials.” Feelings of horror were compounded as reports of the trafficking of Indigenous women and girls by Canadian men, including elites, revealed that the

⁸⁴ Tracy Kulba, “Citizens, Consumers, Critique-AI Subjects: Rethinking the ‘Statue Controversy’ and Emily Murphy’s *The Black Candle* (1922),” *Tessera (Burnaby)* 31 (2002). 74.

⁸⁵ Hemmings, *Why Stories Matter*.

problems of the metropole also existed in the north-west and calling Canadian exceptionalism into question.

Feelings of horror were also mocked. In response to claims that white men trafficked Indigenous women and girls, the *Macleod Gazette* of Treaty no. 7 made a joke of the slave auction block, writing: “We can imagine their horror struck faces as they listened in fancy to the going, going, – third and last time – are you all done? –gone! Another pure minded Indian maiden sacrificed on the altar of human depravity.”⁸⁶ The *Gazette* met the horror expressed by colleagues in the journalistic field with the horrifying image of the slave auction to argue that white men’s treatment of Indigenous women and girls was not as serious in comparison. And, part of the reason it was less serious, according to the *Gazette*, was because: “Many of these women were prostitutes before they went to live with the white men.” The *Gazette*’s representation mobilized aspects of the narrative of the typical prostitute to dissuade readers from feeling horror over white men’s treatment of Indigenous women and girls.

Horror was also expressed in the juridical field. As arbiters of conflict with the power to subject people to unfreedom and suffering, judges expressed horror over the ways law could harm those who were not deserving. Horror was particularly evident in judges when they confronted the possibility that they could be implicated in producing conditions similar to slavery, such as Justice Idington when he “wholly dissented” from the decision his colleagues made in *Quong Wing v. The King*. Of Saskatchewan’s legislation, Idington wrote that it “is but a piece of the product of the mode of thought that begot and maintained slavery.”⁸⁷ Canadian’s horror over white slavery significantly impacted Asian, particularly Chinese, communities.

3.6 Disgust

Disgust is expressed in the journalistic and political fields as social actors grappled with the presence of undesirables in emergent settler colonial social space. I consider the affective

⁸⁶ *Macleod Gazette*, 16 March 1886.

⁸⁷ *Quong Wing v. The King* (1914), Vol XLIX SCC 440 at 452, 1914 CanLII 57 (SCC) [*Wing*].

theme of disgust in relation to outrage in the journalistic field and shame in the political field. In the late-nineteenth century, journalists directed their disgust toward the reported behaviour of police and government officials; though, as I show in chapter five on the political field of the early-twentieth century, police like Superintendent R. B. Deane expressed disgust over campaigns to remove sex workers from their communities. In the political field, metaphors for sexual commerce often reflected and invoked disgust. When moral reformers expressed disgust, those expressions were sometimes followed by vague calls to “clean up” their communities.

3.7 Shame

Shame is an affective theme discussed in the journalistic and political fields. Shame is also a theme discussed in relation with disgust in the political field. In the journalistic field, shame is expressed as newspapers grapple with the damage to their community’s reputation. For example, on 13 June 1884, *Moose Jaw News* claimed “It is a burning shame to us” that Indigenous peoples were treated so poorly. In the political field, men expressed shame over their community’s reputation due to the presence of sex workers. These expressions of shame appear linked to notions of respectable and paternalistic white masculinity. As Chief of Police Gillespie of Lethbridge argued regarding Dora Milestine’s experience of so-called white slavery by Gee Lee, “99 out of every 100 men would deny a woman’s shame in court to save the woman but these Chinamen swore to save themselves.”⁸⁸ From Gillespie’s view, most men would preserve a woman’s respectability, but Chinese men are not like most.

3.8 Shock

Shock is evident in the journalistic and political fields. The theme is explored together with horror in the journalistic field. Expressions of shock followed discussion of white men’s trafficking of Indigenous women and girls. For example, the *Globe* expressed that “the facts are too shocking and too well established to be any longer either ignored or denied.”⁸⁹ In the context of the late-

⁸⁸ 11 December 1908, *Lethbridge News*.

⁸⁹ 1 February 1886.

nineteenth century, shock was held by the *Globe* as a reason for further investigation. During an investigation in the early-twentieth century, Justice Robson of the Winnipeg Vice Commission expressed that testimony from residents of Winnipeg's segregated district was so "shocking" that he refused to "use the language necessary to describe [the testimony] in detail. Robson's expression of shock was a stand-in for the details shared in testimony.

4. Relationships Between Emotions

4.1 Pity & Horror

The language Stead used to describe his aim in publishing the Maiden Tribute series, that is to "rouse the nation" by purifying "the heart with the emotion of pity and horror," is an instructive example of Victorian emotionology and embodiment.⁹⁰ Walkowitz also argues that "pity" and "fear" characterized responses to reporting on the victims of Jack the Ripper. Bourdieu posits that habitus, and news media's organizational ecology, influence the types of narratives that appear in the news as well as representational politics. Such narratives and representations create an image of social problems for public consumption. Though narratives elicited pity and horror, consumers had a strong appetite for them. Newspapers fed that appetite with reports that transplanted those stories to the north-west. Both the Maiden Tribute series and journalistic representations of Jack the Ripper taught readers how to feel by repeating narratives of sexual danger and its conventions. According to Hemmings, the textual "repetition of the unspeakable" teaches horror to readers and produces agreement "about the limit of who can be considered to possess agency."⁹¹

In the late nineteenth and early twentieth centuries, pity became a primary emotion directed toward women and girls involved in sexual commerce. In the British imperial context widespread feelings of pity emerged partly due to early feminist and labour movements' critiques

⁹⁰ Stead quoted in Walkowitz, *City of Dreadful Delight* (Chicago: University of Chicago Press, 1992), 84.

⁹¹ *Why Stories Matter*, 218

of broad gendered and racialized economic structures. Pity for sex workers also enabled broad social moves to “rescue” and “rehabilitate” women and girls working in the sex trades. As Emma Goldman argued in 1910, “superficial investigations” into “white slavery” and the horror such investigations inspired helped justify job creation for the political and law-making classes and for law enforcement.⁹²

Judges turned to the figure of the prostitute as an example to measure horror and suffering in married women seeking divorce. They imagined women and girls involved in sexual commerce as people who experienced the worst kinds of harm, suffering, and hardship. They managed their feelings of pity for women by drawing from case law and following the established processes of decision making. Though judges felt pity for women suffering in the courts, English law instructed that those feelings should not inform decisions. This instruction demonstrates the emotion work involved in practicing English and Canadian law. Emotion work refers to “the act of trying to change in degree or quality an emotion or feeling.”⁹³ In terms of embodiment, it is satisfying to feel horror and then to cast judgment based on that feeling.⁹⁴ Part of that satisfaction comes from our own subjectivity remaining intact and unchallenged.

4.2 Anxiety/Suspicion/Uncertainty to Satisfaction

Like Stead’s instructive statement on pity and horror, Prime Minister Macdonald’s statement: “I am very anxious, indeed, that we should be able to deal with the Indians upon satisfactory terms” offers a lesson in the relationship between anxiety and satisfaction in settler colonial worldmaking.⁹⁵ Throughout this dissertation, I have found similar affective themes such as anxiety, suspicion, and uncertainty—which all appear to mobilize social actors—and

⁹² “The Traffic in Women,” *Anarchism and Other Essays* (New York & London: Mother Earth Publishing Association, 1910).

⁹³ Arlie Hochschild, “Emotion Work, Feeling Rules, and Social Structure,” *American Journal of Sociology* 85.3 (Nov., 1979), 561.

⁹⁴ Hemmings, *Why Stories Matter*, 222.

⁹⁵ Quoted in A.J. Ray, *The Canadian Fur Trade in the Industrial Age*, (Toronto: University of Toronto Press, 1990) p. 4.

satisfaction. These feelings are integral to the logic of laws criminalizing sexual commerce. They also offer affective foundations for the practices of segregation that shaped emergent settler colonial social space, such as the segregated district and the Reservation system. However, this method of organizing social space produces anxiety as “deviants” become defiant.

Demands for satisfaction informed responses for and against sex workers’ presence in the region. For example, Reverend Nicolls of Medicine Hat demanded total “suppression” of Frankie Jarvis’ brothel because of his feelings of “anxiety” and “annoyance.”⁹⁶ When feelings of suspicion toward Edmonton’s city council and police flooded the city, Justice Scott investigated. He asked Alderman Joe Clarke about Edmonton’s so-called “toleration policy” toward sex workers, which involved brothelkeepers paying off police to avoid being targeted during raids, Clarke tellingly asserted that he “approved of it as the least unsatisfactory way of dealing with prostitution.”⁹⁷ Clarke’s reply reflects a style or convention of communicating that is characteristic of men’s correspondence throughout this study. For example, following conflict with the Department of Indian Affairs, Father Scollen wrote to Superintendent General Dewdney stating that he wanted to “show to your entire satisfaction that I’m not the kind of man which circumstances may have led you to believe.”⁹⁸

Following men’s expressions of anxiety or suspicion, the resulting investigations and reports develop an official narrative. Feelings of uncertainty and satisfaction often existed on opposite ends of the decision-making process, with cases beginning in uncertainty and ending in judges’ satisfaction through law. As the arbiters of conflict, judges’ expressions of satisfaction were integral to legitimizing, protecting, and producing settler colonial worldmaking, including its gendered and racialized order. Through their investigations and decisions, judges put limits on what behaviours were appropriate to achieve satisfaction. When there were major discrepancies

⁹⁶ Nicolls to Deane, 4 December 1902.

⁹⁷ Scott Report, *Edmonton Bulletin*, 22 July 1914.

⁹⁸ LAC, RG10, “Scollen to Dewdney, 17 March 1884,” Northwest Territories – Charges Against Reverend Father Constantine Scollen. 1883-1884.

between personal and intellectual satisfaction, judges absorbed the dissonance and invoked their interpretation of the law as the most correct way to proceed.

Following the turn of the twentieth century, dissatisfied white women were increasingly certain of their ability to resolve issues that directly affected them through suffrage and political representation. With the onset of World War I, thousands of men joined the war effort leaving many women at the helm of families, businesses, and farms. When soldiers returned, women's care work substantially increased, and the effects of war rippled through their homes, families and communities. Combat-induced injuries, including shellshock, addictions, and ailments such as sexually transmitted infections came home with men serving in the war effort. When Alberta's Provincial Council of Women and the Alberta Women's Institutes Delegation met with the Alberta Premier in 1919, the topic of "the invalid husband" was discussed.⁹⁹ The new field of the psychology of marriage improvement drew from eugenics to emphasize the "emotional development" of married couples to stabilize the child-producing family.¹⁰⁰ Women's sexual satisfaction became a popular area of focus in marriage counseling, and their sexual dissatisfaction was treated as a failure to embody ideal femininity.¹⁰¹

⁹⁹ *Lethbridge Herald*, 8 December 1919

¹⁰⁰ Eva Illouz, *Saving the Modern Soul: Therapy, Emotions, and the Culture of Self-Help* (Berkeley: University of California Press, 2008), 150.

¹⁰¹ Teri Chettiar, "Treating Marriage as 'The Sick Entity': Gender, Emotional Life, and the Psychology of Marriage Improvement in Postwar Britain," *History of Psychology* 18 no. 3 (2015), 270–282.

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