

Introduction

He did not wear his scarlet coat,
For blood and wine are red,
And blood and wine were on his hands
When they found him with the dead,
The poor dead woman whom he loved,
And murdered in her bed.¹

Oscar Wilde's 1897 poem, "The Ballad of Reading Gaol," is a work of poetic paradox that is an apt metaphor for the phenomenon of family violence in nineteenth century Montreal. A poem that depicts the last days of a wife murdered sentenced to death, the account of that "monstrous paricide" nonetheless is a deeply sympathetic account of a man who murdered the woman he loved. Rife with allegory about the dehumanizing effects of incarceration, the hands of inexorable justice appear no less bloody than those of the condemned murderers who were subjected to the law's ultimate sanction. It is also a deeply unsettling work premised on the notion that "each man kills the thing he loves." It is strange to think of the person one loves in terms that objectify; it is stranger still to contemplate a love that kills, in whatever manner, the object of its affections.

It is perhaps equally strange, but no less accurate, to observe that the family remains one of the most dangerous places in society. One simply cannot study the modern family or its antecedents without also studying domestic violence. This thesis is an attempt to contribute to our awareness of that issue in the nineteenth century

¹ Oscar Wilde, *The Ballad of Reading Gaol* (New York: Brentano's, 1904).

Canadian family, by examining the criminal justice system's response to family violence in Montreal during the period 1825 to 1850.

This work focuses on two family relationships: the parent-child relationship; and the spousal relationship.² An expansive definition of those relationships has been used, one that takes into account the richness and diversity of personal associations without including those that cannot cogently be included under the rubric of "family." It does not purport to be an encyclopaedic analysis of the social phenomenon of family violence, nor have I attempted to canvass every conceivable form of legal or quasi-legal response to such conflict.

The causes, commonalities, and conclusions of acts of family discord are central of the thesis, but those conclusions were reached through examination of the sources. Essentially, this thesis examines domestic violence as seen through the lens of the law. Nineteenth century domestic violence, in all its forms, has been immortalized in few sources other than judicial archives. As Kathryn Harvey has astutely stated, "[d]omestic violence has evaded the historian partly because it has left few written traces. It has left more marks on the body than the body politic."³ This thesis seeks to reclaim the legal response to family violence by examining four related areas. Chapter I deals with

² Only cases in which the marital or family relationship could be substantiated were included. A complicating factor is that married women in Quebec tended to retain their maiden names. Relationships between parties that fit those parameters were included (*e.g.* people in cognizable parent-guardian relationships, and cohabiting partners). In any event, those types of relationships made up only a minute percentage of the cases examined.

³ Kathryn Harvey, "To love, Honour and Obey': Wife-Battering in Working-Class Montreal, 1869-1879" (Université de Montréal, Ph.D. Thesis, 1991) 26.

violence directed at the youngest of family members, examining the phenomenon of infanticide. Chapter II provides a continuation of that theme, discussing the role of courts in addressing child abuse. Chapter III examines the issue of spousal violence, while Chapter IV considers the most extreme incidents of spousal violence, those culminating in the death of an abused partner.⁴

To keep the scope of the thesis manageable, it does not address the role of violence in the extended family, nor does it dissect violence directed towards parents by their adult children.⁵ It should also be emphasized that this is, first and foremost, a study of related forms of social pathology, not a study of nineteenth century relations writ large.⁶

⁴ That structure mirrors, in large part, Linda Gordon's seminal study of nineteenth century family violence in Boston, examining child neglect, child abuse, incest, and wife battering. See generally Linda Gordon, *Heroes of Their Own Lives: The Politics and History of Family Violence* (New York: Viking Penguin Books, 1988). At a time prior to the formation of "the Cruelty," the issue of child neglect could not be examined in the same manner. The issue of spousal murder is a logical adjunct to the study of spousal battery, however, and was therefore included in this study.

⁵ Adult children are only discussed when incidental to cases of spousal violence.

⁶ As Doggett has noted, such complaints may not have much correlation with marriages in general. See Maeve E. Doggett, *Marriage, Wife-Beating and the Law in Victorian England* (London: Weidenfeld and Nicolson, 1992) 120. See also A. James Hammerton, *Cruelty and Companionship, Conflict in Nineteenth-Century Married Life* (London & New York: Routledge, 1992) 3:

Some will no doubt regard all this an exercise in futility. An examination of marriage through its 'hard cases,' especially...when marital litigation involved such a tiny proportion of all marriages, runs obvious risks of judging the mainstream from the experience of the exceptional. To some extent all social history which draws on legal case histories encounters similar problems.